<table>
<thead>
<tr>
<th>TITLE 42 - THE PUBLIC HEALTH AND WELFARE</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>CHAPTER 96 - BIOMASS ENERGY AND ALCOHOL FUELS</td>
<td>5</td>
</tr>
<tr>
<td>§ 8801. Congressional findings</td>
<td>5</td>
</tr>
<tr>
<td>§ 8802. Definitions</td>
<td>6</td>
</tr>
<tr>
<td>§ 8803. Funding</td>
<td>8</td>
</tr>
<tr>
<td>§ 8804. Coordination with other authorities and programs</td>
<td>10</td>
</tr>
<tr>
<td>SUBCHAPTER I - GENERAL BIOMASS ENERGY DEVELOPMENT</td>
<td>11</td>
</tr>
<tr>
<td>§ 8811. Biomass energy development plans</td>
<td>11</td>
</tr>
<tr>
<td>§ 8812. Program responsibility and administration and effect on other programs</td>
<td>11</td>
</tr>
<tr>
<td>§ 8813. Insured loans</td>
<td>14</td>
</tr>
<tr>
<td>§ 8814. Loan guarantees</td>
<td>15</td>
</tr>
<tr>
<td>§ 8815. Price guarantees</td>
<td>16</td>
</tr>
<tr>
<td>§ 8816. Purchase agreements</td>
<td>17</td>
</tr>
<tr>
<td>§ 8817. General requirements regarding financial assistance</td>
<td>18</td>
</tr>
<tr>
<td>§ 8818. Reports</td>
<td>20</td>
</tr>
<tr>
<td>§ 8819. Review; reorganization</td>
<td>21</td>
</tr>
<tr>
<td>§ 8820. Office of Alcohol Fuels</td>
<td>21</td>
</tr>
<tr>
<td>§ 8821. Termination of authorities; modification of terms and conditions of conditional commitments for loan guarantees</td>
<td>22</td>
</tr>
<tr>
<td>SUBCHAPTER II - MUNICIPAL WASTE BIOMASS ENERGY</td>
<td>24</td>
</tr>
<tr>
<td>§ 8831. Municipal waste energy development plan</td>
<td>24</td>
</tr>
<tr>
<td>§ 8832. Construction loans</td>
<td>24</td>
</tr>
<tr>
<td>§ 8833. Guaranteed construction loans</td>
<td>25</td>
</tr>
<tr>
<td>§ 8834. Price support loans and price guarantees</td>
<td>26</td>
</tr>
<tr>
<td>§ 8835. General requirements regarding financial assistance</td>
<td>29</td>
</tr>
<tr>
<td>§ 8836. Financial assistance program administration</td>
<td>31</td>
</tr>
<tr>
<td>§ 8837. Commercialization demonstration program pursuant to Federal nonnuclear energy research and development</td>
<td>31</td>
</tr>
<tr>
<td>§ 8838. Jurisdiction of Department of Energy and Environmental Protection Agency</td>
<td>32</td>
</tr>
<tr>
<td>§ 8839. Office of Energy from Municipal Waste</td>
<td>33</td>
</tr>
<tr>
<td>§ 8840. Termination of authorities</td>
<td>33</td>
</tr>
<tr>
<td>SUBCHAPTER III - RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY</td>
<td>34</td>
</tr>
<tr>
<td>§ 8851. Model demonstration biomass energy facilities; establishment, public inspection, etc.; authorization of appropriations</td>
<td>34</td>
</tr>
<tr>
<td>§ 8852. Coordination of research and extension activities; consultative requirements</td>
<td>34</td>
</tr>
<tr>
<td>§ 8853. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives</td>
<td>35</td>
</tr>
<tr>
<td>§ 8854. Utilization of National Forest System in wood energy development projects</td>
<td>35</td>
</tr>
<tr>
<td>§ 8855. Forest Service leases and permits</td>
<td>35</td>
</tr>
<tr>
<td>SUBCHAPTER IV - MISCELLANEOUS BIOMASS PROVISIONS</td>
<td>36</td>
</tr>
<tr>
<td>§ 8871. Use of gasohol in Federal motor vehicles</td>
<td>36</td>
</tr>
</tbody>
</table>
TITLE 42—THE PUBLIC HEALTH AND WELFARE

Chap. ...Sec.
1. The Public Health Service [Mostly Repealed or Omitted, See Chapter 6A] ...1
1A. The Public Health Service; Supplemental Provisions [Transferred or Omitted] ...71
2. Sanitation and Quarantine ...81
3. Leprosy [Repealed] ...121
3A. Cancer [Repealed] ...137
4. Viruses, Serums, Toxins, Antitoxins, etc. [Repealed] ...141
5. Maternity and Infancy Welfare and Hygiene [Repealed] ...161
6. The Children's Bureau ...191
6A. Public Health Service ...201
7. Social Security ...301
7A. Temporary Unemployment Compensation Program [Omitted] ...1400
8. Low-Income Housing ...1401
8A. Slum Clearance, Urban Renewal, and Farm Housing ...1441
8B. Public Works or Facilities [Omitted] ...1491
8C. Open-Space Land [Omitted or Repealed] ...1500
9. Housing of Persons Engaged in National Defense ...1501
10. Federal Security Agency [Transferred or Omitted] ...1601
11. Compensation for Disability or Death to Persons Employed at Military, Air, and Naval Bases Outside United States ...1651
12. Compensation for Injury, Death, or Detention of Employees of Contractors with United States Outside United States ...1701
13. School Lunch Programs ...1751
13A. Child Nutrition ...1771
14. Development and Control of Atomic Energy [Transferred to Chapter 23] ...1801
15. Disaster Relief [Repealed] ...1851
15A. Reciprocal Fire Protection Agreements ...1856
15B. Air Pollution Control [Transferred or Repealed] ...1857
16. National Science Foundation ...1861
16A. Grants for Support of Scientific Research [Repealed] ...1891
16B. Contracts for Scientific and Technological Research ...1900
17. Federal Employment Service [Transferred] ...1901
18. Youth Medals ...1921
19. Saline and Salt Waters [Repealed, Omitted, or Transferred] ...1951
19A. Water Resources Research Program [Repealed] ...1961
19B. Water Resources Planning ...1962
20. Elective Franchise ...1971
20A. Civil Rights Commission ...1975
21. Civil Rights ...1981
21A. Privacy Protection ...2000aa
21B. Religious Freedom Restoration ...2000bb
21C. Protection of Religious Exercise in Land Use and by Institutionalized Persons ...2000cc
21D. Detainee Treatment ...2000dd
21E. Privacy and Civil Liberties Protection and Oversight ...2000ee
21F. Prohibiting Employment Discrimination on the Basis of Genetic Information ...2000ff
22. Indian Hospitals and Health Facilities ...2001
23. Development and Control of Atomic Energy ...2011
24. Disposal of Atomic Energy Communities ...2301
25. Federal Flood Insurance ...2401
26. National Space Program [Repealed, Omitted, or Transferred] ...2451
26A. National Space Grant College and Fellowship Program [Repealed or Transferred] ...2486
26B. Biomedical Research in Space [Repealed or Transferred] ...2487
27. Loan Service of Captioned Films and Educational Media for Handicapped ...2491
28. Area Redevelopment Program [Omitted or Repealed] ...2501
29. Juvenile Delinquency and Youth Offenses Control [Omitted] ...2541
30. Manpower Development and Training Program [Repealed] ...2571
31. Public Works Acceleration Program ...2641
32. Third Party Liability for Hospital and Medical Care ...2651
33. Community Mental Health Centers [Omitted, Transferred, or Repealed] ...2661
34. Economic Opportunity Program ...2701
35. Programs for Older Americans ...3001
35A. Community Service Employment for Older Americans [Repealed] ...3061
36. Compensation of Condemnees in Development Programs [Repealed] ...3071
37. Community Facilities and Advance Land Acquisition ...3101
38. Public Works and Economic Development ...3121
39. Solid Waste Disposal [Omitted or Repealed, See Chapter 82] ...3251
40. Soil Information Assistance for Community Planning and Resource Development ...3271
41. Demonstration Cities and Metropolitan Development Program ...3301
42. Narcotic Addict Rehabilitation ...3401
43. Department of Health and Human Services ...3501
44. Department of Housing and Urban Development ...3531
45. Fair Housing ...3601
46. Justice System Improvement ...3701
47. Juvenile Delinquency Prevention and Control [Omitted or Repealed] ...3801
48. Guarantees for Financing New Community Land Development [Repealed or Omitted] ...3901
49. National Housing Partnerships ...3931
50. National Flood Insurance ...4001
51. Design and Construction of Public Buildings To Accommodate Physically Handicapped ...4151
52. Intergovernmental Cooperation [Repealed, See Chapter 65 of Title 31] ...4201
52A. Joint Funding Simplification [Repealed] ...4251
53. Advisory Commission on Intergovernmental Relations ...4271
54. Cabinet Committee on Opportunities for Spanish-Speaking People [Omitted] ...4301
55. National Environmental Policy ...4321
56. Environmental Quality Improvement ...4371
57. Environmental Pollution Study ...4391
58. Disaster Relief [Repealed or Transferred] ...4401
59. National Urban Policy and New Community Development ...4501
60. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Program ...4541
61. Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs ...4601
62. Intergovernmental Personnel Program ...4701
63. Lead-Based Paint Poisoning Prevention ...4801
63A. Residential Lead-Based Paint Hazard Reduction ...4851
64. Public Service Employment Programs [Omitted] ...4871
65. Noise Control ...4901
66. Domestic Volunteer Services ...4950
67. Child Abuse Prevention and Treatment and Adoption Reform ...5101
68. Disaster Relief ...5121
69. Community Development ...5301
70. Manufactured Home Construction and Safety Standards ...5401
71. Solar Energy ...5501
72. Juvenile Justice and Delinquency Prevention ...5601
73. Development of Energy Sources ...5801
74. Nonnuclear Energy Research and Development ...5901
75. Programs for Individuals With Developmental Disabilities [Repealed] ...6000
76. Age Discrimination in Federally Assisted Programs ...6101
77. Energy Conservation ...6201
78. National Petroleum Reserve in Alaska ...6501
79. Science and Technology Policy, Organization and Priorities ...6601
80. Public Works Employment ...6701
81. Energy Conservation and Resource Renewal ...6801
82. Solid Waste Disposal ...6901
83. Energy Extension Service ...7001
84. Department of Energy ...7101
85. Air Pollution Prevention and Control ...7401
86. Earthquake Hazards Reduction ...7701
87. Water Research and Development [Repealed or Transferred] ...7801
88. Uranium Mill Tailings Radiation Control ...7901
89. Congregate Housing Services ...8001
90. Neighborhood and City Reinvestment, Self-Help and Revitalization ...8101
91. National Energy Conservation Policy ...8201
92. Powerplant and Industrial Fuel Use ...8301
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>93</td>
<td>Emergency Energy Conservation</td>
</tr>
<tr>
<td>94</td>
<td>Low-Income Energy Assistance</td>
</tr>
<tr>
<td>95</td>
<td>United States Synthetic Fuels Corporation [Omitted]</td>
</tr>
<tr>
<td>96</td>
<td>Biomass Energy and Alcohol Fuels</td>
</tr>
<tr>
<td>97</td>
<td>Acid Precipitation Program and Carbon Dioxide Study</td>
</tr>
<tr>
<td>98</td>
<td>Ocean Thermal Energy Conversion Research and Development</td>
</tr>
<tr>
<td>99</td>
<td>Ocean Thermal Energy Conversion</td>
</tr>
<tr>
<td>100</td>
<td>Wind Energy Systems</td>
</tr>
<tr>
<td>101</td>
<td>Magnetic Fusion Energy Engineering</td>
</tr>
<tr>
<td>102</td>
<td>Mental Health Systems</td>
</tr>
<tr>
<td>103</td>
<td>Comprehensive Environmental Response, Compensation, and Liability</td>
</tr>
<tr>
<td>104</td>
<td>Nuclear Safety Research, Development, and Demonstration</td>
</tr>
<tr>
<td>105</td>
<td>Community Services Programs</td>
</tr>
<tr>
<td>106</td>
<td>Community Services Block Grant Program</td>
</tr>
<tr>
<td>107</td>
<td>Consumer-Patient Radiation Health and Safety</td>
</tr>
<tr>
<td>108</td>
<td>Nuclear Waste Policy</td>
</tr>
<tr>
<td>109</td>
<td>Water Resources Research</td>
</tr>
<tr>
<td>109A</td>
<td>Membrane Processes Research</td>
</tr>
<tr>
<td>109B</td>
<td>Secure Water</td>
</tr>
<tr>
<td>110</td>
<td>Family Violence Prevention and Services</td>
</tr>
<tr>
<td>111</td>
<td>Emergency Federal Law Enforcement Assistance</td>
</tr>
<tr>
<td>112</td>
<td>Victim Compensation and Assistance</td>
</tr>
<tr>
<td>113</td>
<td>State Justice Institute</td>
</tr>
<tr>
<td>114</td>
<td>Protection and Advocacy for Individuals With Mental Illness</td>
</tr>
<tr>
<td>115</td>
<td>Child Development Associate Scholarship Assistance Program</td>
</tr>
<tr>
<td>116</td>
<td>Emergency Planning and Community Right-To-Know</td>
</tr>
<tr>
<td>117</td>
<td>Encouraging Good Faith Professional Review Activities</td>
</tr>
<tr>
<td>118</td>
<td>Alzheimer’s Disease and Related Dementias Research</td>
</tr>
<tr>
<td>119</td>
<td>Homeless Assistance</td>
</tr>
<tr>
<td>120</td>
<td>Enterprise Zone Development</td>
</tr>
<tr>
<td>121</td>
<td>International Child Abduction Remedies</td>
</tr>
<tr>
<td>122</td>
<td>Native Hawaiian Health Care</td>
</tr>
<tr>
<td>123</td>
<td>Drug Abuse Education and Prevention</td>
</tr>
<tr>
<td>124</td>
<td>Public Housing Drug Elimination</td>
</tr>
<tr>
<td>125</td>
<td>Renewable Energy and Energy Efficiency Technology Competitiveness</td>
</tr>
<tr>
<td>126</td>
<td>Equal Opportunity for Individuals With Disabilities</td>
</tr>
<tr>
<td>127</td>
<td>Coordinated Services for Children, Youth, and Families</td>
</tr>
<tr>
<td>128</td>
<td>Hydrogen Research, Development, and Demonstration Program</td>
</tr>
<tr>
<td>129</td>
<td>National and Community Service</td>
</tr>
<tr>
<td>130</td>
<td>National Affordable Housing</td>
</tr>
<tr>
<td>131</td>
<td>Housing Opportunities for Persons With AIDS</td>
</tr>
<tr>
<td>132</td>
<td>Victims of Child Abuse</td>
</tr>
<tr>
<td>133</td>
<td>Pollution Prevention</td>
</tr>
<tr>
<td>134</td>
<td>Energy Policy</td>
</tr>
<tr>
<td>135</td>
<td>Residency and Service Requirements in Federally Assisted Housing</td>
</tr>
<tr>
<td>136</td>
<td>Violent Crime Control and Law Enforcement</td>
</tr>
<tr>
<td>137</td>
<td>Management of Rechargeable Batteries and Batteries Containing Mercury</td>
</tr>
<tr>
<td>138</td>
<td>Assisted Suicide Funding Restriction</td>
</tr>
<tr>
<td>139</td>
<td>Volunteer Protection</td>
</tr>
<tr>
<td>140</td>
<td>Criminal Justice Identification, Information, and Communication</td>
</tr>
<tr>
<td>140A</td>
<td>Jennifer’s Law</td>
</tr>
<tr>
<td>141</td>
<td>Commercial Space Opportunities and Transportation Services [Repealed or Transferred]</td>
</tr>
<tr>
<td>142</td>
<td>Poison Control Center Enhancement and Awareness [Repealed]</td>
</tr>
<tr>
<td>143</td>
<td>Intercountry Adoptions</td>
</tr>
<tr>
<td>144</td>
<td>Developmental Disabilities Assistance and Bill of Rights</td>
</tr>
<tr>
<td>145</td>
<td>Public Safety Officer Medal of Valor and Tributes</td>
</tr>
<tr>
<td>145A</td>
<td>Law Enforcement Congressional Badge of Bravery</td>
</tr>
<tr>
<td>146</td>
<td>Election Administration Improvement</td>
</tr>
<tr>
<td>147</td>
<td>Prison Rape Elimination</td>
</tr>
<tr>
<td>148</td>
<td>Windstorm Impact Reduction</td>
</tr>
<tr>
<td>149</td>
<td>National Energy Policy and Programs</td>
</tr>
<tr>
<td>150</td>
<td>National Aeronautics and Space Programs, 2005 [Repealed, Omitted, or Transferred]</td>
</tr>
</tbody>
</table>
151. Child Protection and Safety ...16901
152. Energy Independence and Security ...17001
153. Community Safety Through Recidivism Prevention ...17501
154. Combating Child Exploitation ...17601
155. Aeronautics and Space Activities [Repealed, Omitted, or Transferred] ...17701
156. Health Information Technology ...17901
157. Quality, Affordable Health Care for All Americans ...18001
158. Support for Pregnant and Parenting Teens and Women ...18201
159. Space Exploration, Technology, and Science ...18301
CHAPTER 96—BIOMASS ENERGY AND ALCOHOL FUELS

Sec. 8801. Congressional findings.
Sec. 8802. Definitions.
Sec. 8803. Funding.
Sec. 8804. Coordination with other authorities and programs.

SUBCHAPTER I—GENERAL BIOMASS ENERGY DEVELOPMENT

8811. Biomass energy development plans.
8812. Program responsibility and administration and effect on other programs.
8813. Insured loans.
8814. Loan guarantees.
8815. Price guarantees.
8816. Purchase agreements.
8817. General requirements regarding financial assistance.
8818. Reports.
8819. Review; reorganization.
8820. Office of Alcohol Fuels.
8821. Termination of authorities; modification of terms and conditions of conditional commitments for loan guarantees.

SUBCHAPTER II—MUNICIPAL WASTE BIOMASS ENERGY

8831. Municipal waste energy development plan.
8832. Construction loans.
8833. Guaranteed construction loans.
8834. Price support loans and price guarantees.
8835. General requirements regarding financial assistance.
8836. Financial assistance program administration.
8837. Commercialization demonstration program pursuant to Federal nonnuclear energy research and development.
8838. Jurisdiction of Department of Energy and Environmental Protection Agency.
8840. Termination of authorities.

SUBCHAPTER III—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

8851. Model demonstration biomass energy facilities; establishment, public inspection, etc.; authorization of appropriations.
8852. Coordination of research and extension activities; consultative requirements.
8853. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives.
8854. Utilization of National Forest System in wood energy development projects.
8855. Forest Service leases and permits.

SUBCHAPTER IV—MISCELLANEOUS BIOMASS PROVISIONS

8871. Use of gasohol in Federal motor vehicles.

§ 8801. Congressional findings

The Congress finds that—

(1) the dependence of the United States on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy resources; and

(2) a national program for increased production and use of biomass energy that does not impair the Nation’s ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.
§ 8802. Definitions

As used in this chapter—

(1) The term “alcohol” means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

(2) (A) The term “biomass” means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, municipal wastes, and aquatic plants.

(B) For purposes of subchapter I of this chapter, such term does not include municipal wastes; and for purposes of subchapter III of this chapter, such term does not include aquatic plants and municipal wastes.

(3) The term “biomass fuel” means any gaseous, liquid, or solid fuel produced by conversion of biomass.

(4) The term “biomass energy” means—

(A) biomass fuel; or

(B) energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

(5) The term “biomass energy project” means any facility (or portion of a facility) located in the United States which is primarily for—

(A) the production of biomass fuel (and byproducts); or

(B) the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including cogeneration).

(6) The term “Btu” means British thermal unit.

(7) The term “cogeneration” means the combined generation by any facility of—

(A) electrical or mechanical power, and

(B) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

(8) The term “cooperative” means any agricultural association, as that term is defined in section 1141j(a) of title 12.
(9) (A) The term “construction” means—
   (i) the construction or acquisition of any biomass energy project;
   (ii) the conversion of any facility to a biomass energy project; or
   (iii) the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy.

(B) Such term includes—
   (i) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and
   (ii) the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project.

(C) Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

(10) The term “Federal agency” means any Executive agency, as defined in section 105 of title 5.

(11) (A) The term “financial assistance” means any of the following forms of financial assistance provided under this chapter, or any combination of such forms:
   (i) loans,
   (ii) loan guarantees,
   (iii) price guarantees, and
   (iv) purchase agreements.

(B) Such term includes any commitment to provide such assistance.

(12) The term “Indian tribe” 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. 1601 et seq.] which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) The term “motor fuel” means gasoline, kerosene, and middle distillates (including diesel fuel).

(14) (A) The term “municipal waste” means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—
   (i) from any publicly or privately operated municipal waste collection or similar disposal system, or
   (ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

(B) Such term does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this chapter.

(15) (A) The term “municipal waste energy project” means any facility (or portion of a facility) located in the United States primarily for—
   (i) the production of biomass fuel (and byproducts) from municipal waste; or
   (ii) the combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

(B) Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) The term “Office of Alcohol Fuels” means the Office of Alcohol Fuels established under section 8820 of this title.
(17) The term “person” means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(18) The term “State” means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) The term “small scale biomass energy project” means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol per year, or its energy equivalent of other forms of biomass energy.


References in Text

This chapter, referred to in introductory provisions and pars. (11)(A) and (14)(B), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

Subchapter III of this chapter, referred to in par. (2)(B), was in the original “subtitle C”, meaning subtitle C of title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 705, which enacted subchapter III of this chapter and sections 1435 and 3129 of Title 7, and amended sections 341, 342, 427, and 3154 of Title 7 and sections 590h and 1642 of Title 16.

The Alaska Native Claims Settlement Act, referred to in par. (12), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, 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.

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.

§ 8803. Funding

(a) Authorization of appropriations

To the extent provided in advance in appropriation Acts, for the two year period beginning October 1, 1980, there is authorized to be appropriated and transferred $1,170,000,000 from the Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled “An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes” (Public Law 96–126; 93 Stat. 970) and made available for obligation by such Act only to the extent provided in advance in appropriation Acts, as follows:

(1) $460,000,000 to the Secretary of Agriculture for carrying out activities under subchapter I of this chapter, except of the amount of the financial assistance provided by the Secretary of Agriculture under subchapter I of this chapter, up to one-third shall be for small-scale biomass energy projects;

(2) $460,000,000 to the Secretary of Energy for carrying out biomass energy activities under subchapter I of this chapter, of which at least $500,000,000 \(^1\) shall be available to the Office of Alcohol Fuels for carrying out its activities, and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subchapter I of this chapter under available authorities of the Secretary, including authorities under subchapter I of this chapter; and
(3) $250,000,000 shall be available to the Secretary of Energy for carrying out activities under subchapter II of this chapter.

(b) Availability of funds until expended

Funds made available under subsection (a) of this section shall remain available until expended.

(c) Determinations respecting amount of appropriations remaining available

(1) For purposes of determining the amount of such appropriations which remain available for purposes of this chapter—
   
   (A) loans shall be counted at the initial face value of the loan;
   
   (B) loan guarantees shall be counted at the initial face value of such loan guarantee;
   
   (C) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary’s determination of the maximum potential liability of the United States under the contract; and
   
   (D) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

(2) Determinations under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

(4) Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this subsection; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this subsection.

(d) Financial assistance provided only to extent advanced in appropriation Acts

Financial assistance may be provided under this chapter only to the extent provided in advance in appropriation Acts.

Footnotes

1 So in original. Pub. L. 97–35 decreased appropriation to $460,000,000 from $600,000,000 without amending sum of $500,000,000.


References in Text

The Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled “An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes” (Public Law 96–126; 93 Stat. 970), referred to in subsec. (a), was established by Pub. L. 96–126, title II, § 201, Nov. 27, 1979, 93 Stat. 970, which is set out as a note under section 5915 of this title.

This chapter, referred to in subsecs. (c)(1) and (d), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

Amendments

1981—Subsec. (a). Pub. L. 97–35, § 1063, substituted “$1,170,000,000” for “$1,450,000,000”.

Subsec. (a)(1). Pub. L. 97–35, § 1061, substituted “$460,000,000” for “$600,000,000”.

Subsec. (a)(2). Pub. L. 97–35, § 1062, substituted “$460,000,000” for “$600,000,000”.

- 9 -
Effective Date of 1981 Amendment

§ 8804. Coordination with other authorities and programs
The authorities in this chapter are in addition to and do not modify (except to the extent expressly provided for in this chapter) authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.


References in Text
This chapter, referred to in text, was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.
SUBCHAPTER I—GENERAL BIOMASS ENERGY DEVELOPMENT

§ 8811. Biomass energy development plans
(a) Plan respecting maximized production and use by December 31, 1982; preparation, transmission, etc.

Not later than 180 days after June 30, 1980, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a plan for maximizing in accordance with this subchapter biomass energy production and use. Such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

(b) Comprehensive plan respecting maximized production and use from January 1, 1983, to December 31, 1990, preparation, transmission, etc.

(1) Not later than January 1, 1982, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a comprehensive plan for maximizing in accordance with this subchapter biomass energy production and use, for the period beginning January 1, 1983, and ending December 31, 1990. Such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the level of gasoline consumption within the United States as estimated by the Secretary of Energy for the calendar year 1990.

(2) The plan prepared under this subsection shall evaluate the feasibility of reaching the goals set forth in such subsection.

(c) Required guidelines

The plans prepared under subsections (a) and (b) of this section shall each include guidelines for use in awarding financial assistance under this subchapter which are designed to increase, during the period covered by the plan, the amount of motor fuel displaced by biomass energy.


§ 8812. Program responsibility and administration and effect on other programs
(a) Duties and functions of Secretary of Agriculture and Secretary of Energy over projects

(1) Except as provided in paragraph (2), in the case of any financial assistance under this subchapter for a biomass energy project, the Secretary concerned shall be—

(A) the Secretary of Agriculture, in the case of any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and

(B) the Secretary of Energy, in the case of any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy).

(2) Either the Secretary of Agriculture or the Secretary of Energy may be the Secretary concerned in the case of any biomass energy project which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) and—

(i) which will use wood or wood wastes or residue, or
(ii) which is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

(B) Financial assistance may not be provided by either Secretary under subparagraph (A) without the written concurrence of the other Secretary. Such concurrence shall be granted or denied by such Secretary in accordance with subparagraph (C) and on the same standards as that Secretary applies in making his own awards of financial assistance under this paragraph.

(C) (i) In the case of a project described in subparagraph (A), the Secretary concerned shall provide the other Secretary a copy of the application and such supporting information as may be material, and shall provide the other Secretary at least 15 days to review the project. If during such 15-day period the reviewing Secretary provides written notification to the Secretary concerned specifying reasons why such project should not proceed, the Secretary concerned shall defer the final decision on the application for an additional 30 days. During such 30-day period, both Secretaries shall attempt to reach agreement regarding all issues raised in the written notice. Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of such period, concurrence shall be deemed to have been given.

(ii) The project applicant may reapply for financial assistance for such project, after making such modifications to the project as may be necessary to address issues raised by the reviewing Secretary in the original notice of objection. The subsequent review of such project by the reviewing Secretary shall be limited to the issues originally raised by the reviewing Secretary and any issues raised by changed circumstances.

(D) Both Secretaries may jointly act as the Secretary concerned in accordance with such procedures as the Secretaries may jointly prescribe, in which case—

(i) subparagraphs (B) and (C) and subsection (c) of this section shall not apply, and

(ii) the proportion of financial assistance provided by each Secretary shall be determined in accordance with the procedures jointly prescribed.

(b) Procedural requirements applicable

(1) Each Secretary shall take such action as may be necessary to assure that—

(A) guidelines for soliciting and receiving applications for financial assistance are established within 90 days after June 30, 1980;

(B) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established;

(C) additional applications for financial assistance are solicited within 1 year after the date of the initial solicitation;

(D) any application is evaluated and a decision made on such application within 120 days after the receipt of the application, including review under subsections (a)(2)(C), (a)(2)(D), or (c) of this section; and

(E) all interested persons are provided the easiest possible access to the application process, including procedures which assure that—

(i) information concerning financial assistance from either Secretary is available through all appropriate offices of the Department of Agriculture and the Department of Energy, and other regional and local offices of the Federal Government, as may be appropriate;

(ii) all such locations where such information is available will be able to accept and file applications, and will forward them to the Secretary concerned; and

(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.
(2) The procedural requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

(c) **Notice to and reviewing functions of other Secretary concerning application for financial assistance**

(1) After evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with—

(A) a copy of the application and such supporting material as may be appropriate, and

(B) an opportunity of not less than 15 days to review the application.

This subsection shall not apply in the case of a project subject to review under subsection (a)(2)(C) of this section.

(2) If the reviewing Secretary provides written notice specifying any issues regarding matters subject to the Secretary’s review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned shall defer a final decision on the application for an additional 30 days to provide an opportunity for both Secretaries to answer and resolve such issues. At the expiration of the 30-day period, the Secretary concerned may make a final decision with respect to the application, using the best judgment of the Secretary concerned to resolve any remaining issues.

(3) Reviews of projects under the provisions of subsection (a)(2)(C) of this section or paragraph (1)(B) by the Secretary of Agriculture shall be for the purpose of considering the national, regional, and local agricultural policy impacts of such project on agricultural supply, production, and use, and reviews by the Secretary of Energy under such provisions shall be for the purpose of considering national energy policy impacts and the technical feasibility of the project.

(4) The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which paragraphs (1) and (2) shall not apply. Within 90 days after June 30, 1980, the Secretaries shall identify potential categories and make an initial determination of exempted categories.

(d) **Notification of applicant upon disapproval of application for financial assistance**

If any application for financial assistance under this subchapter is disapproved, the applicant shall be provided written notice of the reasons for the disapproval.

(e) **Implementation of functions assigned to Secretary of Agriculture by administrative entities within Department of Agriculture; issuance of regulations; coordination of functions by designated entities**

(1) The functions assigned under this subchapter to the Secretary of Agriculture may be carried out by any of the administrative entities in the Department of Agriculture which the Secretary of Agriculture may designate. Within 30 days after June 30, 1980, the Secretary of Agriculture shall make such designations and notify the Congress of the administrative entity or entities so designated and the officials in such administrative entity or entities who are to be responsible for such functions.

(2) The Secretary of Agriculture may issue such regulations as are necessary to carry out functions assigned to the Secretary of Agriculture under this subchapter.

(3) The entities or entity designated under paragraph (1) shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

(f) **Implementation of functions assigned to Secretary of Energy by Office of Alcohol Fuels**

The functions under this subchapter which are assigned to the Secretary of Energy and which relate to alcohol production shall be carried out by the Office of Alcohol Fuels.

(g) **Energy equivalency determinations respecting biomass energy and ethanol**
For purposes of this subchapter, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol shall be prescribed jointly by the Secretary of Agriculture and the Secretary of Energy within 30 days after June 30, 1980.


§ 8813. Insured loans

(a) Authority of Secretary of Agriculture; maximum amount per project

Subject to sections 8812 and 8817 of this title, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not to exceed $1,000,000 per project for the construction of small-scale biomass energy projects.

(b) Estimated project construction costs as determinative of initial and revised amount of loan; interest rate

(1) Any insured loan under this section—

(A) may not exceed 90 per centum of the total estimated cost of construction of the biomass energy project involved, and

(B) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total costs initially estimated.

(c) Funding requirements; “insured loan” defined

(1) The Secretary of Agriculture shall make insured loans under this section using, to the extent provided in advance in appropriations Acts, the Agricultural Credit Insurance Fund in section 309 of the Consolidated Farm and Rural Development Act [7 U.S.C. 1929] or the Rural Development Insurance Fund in section 309A of such Act [7 U.S.C. 1929a] (hereinafter in this section referred to as the “Funds”). The Secretary of Agriculture may not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregate amount for insured loans and administrative costs appropriated and transferred under section 8803 of this title. The terms, conditions, and requirements applicable to such insured loans shall be in accordance with this subchapter.

(2) There shall be reimbursed to the Funds, from appropriations made under section 8803 of this title, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section.

(3) Notwithstanding any provision of the Consolidated Farm and Rural Development Act [7 U.S.C. 1921 et seq.], no funds made available to the Secretary of Agriculture under this section for insured loans shall be used for any other purpose.

(4) For purposes of this section, the term “insured loan” means a loan which is made, sold, and insured.

(d) Preconditions

An insured loan may not be made under this section unless the applicant for such loan has established to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative...
rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.


§ 8814. Loan guarantees

(a) Authority of Secretary concerned

Subject to sections 8812 and 8817 of this title, the Secretary concerned may commit to guarantee, and guarantee, against loss of principal and interest, loans which are made to provide funds for the construction of biomass energy projects.

(b) Estimated project construction costs as determinative of initial and revised amount of guarantee

(1) Any guarantee of a loan under this section may not exceed 90 per centum of the cost of the construction of the biomass energy project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(2) In the event the construction costs of the project are thereafter estimated by the Secretary concerned to exceed the construction costs initially estimated by the Secretary, the Secretary may in addition, upon application therefor, guarantee, against loss of principal and interest, a loan for up to 60 per centum of the difference between the construction costs then estimated and the construction costs initially estimated.

(c) Debt obligation; ineligibility for purchase, etc., by Federal Financing Bank or any Federal agency

Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after June 30, 1980), no debt obligation which is guaranteed or committed to be guaranteed by the Secretary of Agriculture or the Secretary of Energy under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

(d) Terms and conditions

The terms and conditions of loan guarantees under this section shall provide that, if the Secretary concerned makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(e) Termination, cancellation, or revocation, and conclusive nature of guarantee

Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this chapter and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(f) Payment to lender

If the Secretary concerned determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue with such project, and
§ 8815. Price guarantees

(a) Authority of Secretary concerned; minimum sales price

Subject to sections 8812 and 8817 of this title, the Secretary concerned may commit to guarantee, and guarantee, that the price that the owner or operator of any biomass energy project will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the price guarantee or commitment to guarantee.

(b) Cost-plus arrangements as basis

(1) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.
(2) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of paragraph (1).

(c) Maximum dollar amount of liability of United States

Each price guarantee, or commitment to guarantee, which is made under this section shall specify the maximum dollar amount of liability of the United States under that guarantee.

(d) Renegotiation of sales price and maximum liability

If the Secretary determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this chapter,

the sales price set forth in the price guarantee, and maximum liability under such guarantee, may be renegotiated.


References in Text

This chapter, referred to in subsec. (d)(2), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

§ 8816. Purchase agreements

(a) Authority of Secretary concerned; consultative requirements

Subject to sections 8812 and 8817 of this title, the Secretary concerned may commit to make, and make, purchase agreements for all or part of the biomass energy production of any biomass energy project, if the Secretary determines—

(1) that such biomass energy is of a type, quantity, and quality that can be used by Federal agencies; and

(2) that the quantity of such biomass energy, if delivery is accepted, would not exceed the likely needs of Federal agencies.

Each Secretary concerned shall consult with the other Secretary before making any determination under paragraph (2).

(b) Maximum sales price

The sales price specified in a purchase agreement under this section may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this chapter.

(c) Assurances required

The Secretary concerned in entering into, or committing to enter into, a purchase agreement under this section shall require—

(1) assurances that the quality of the biomass energy purchased will meet standards for the use for which such energy is purchased;

(2) assurances that the ordered quantities of such energy will be delivered on a timely basis; and

(3) such other assurances as may reasonably be required.
(d) Arrangements for delivery pursuant to agreement; charge to Federal agency receiving delivery

The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement under this section if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. Any Federal agency receiving such energy shall be charged (in accordance with otherwise applicable law), from sums appropriated to such Federal agency, for the prevailing market price as of the date of delivery, as determined by the Secretary of Energy, for the product which the biomass energy is replacing.

(e) Consultative requirements

The Secretary concerned shall consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section.

(f) Terms and conditions

Each purchase agreement, and commitment to enter into a purchase agreement, under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement.

(g) Maximum dollar amount of liability of United States

Each purchase agreement, or commitment to enter into a purchase agreement, which is made under this section shall specify the maximum dollar amount of liability of the United States under that agreement.

(h) Renegotiation of sales price and maximum liability

If the Secretary concerned determines, in the discretion of the Secretary, that—

1. a biomass energy project would not otherwise be satisfactorily completed or continued, and
2. completion or continuation of such project would be necessary to achieve the purposes of this chapter,

the sales price set forth in the purchase agreement, and maximum liability under such agreement, may be renegotiated.


References in Text

This chapter, referred to in subsecs. (b) and (h)(2), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

§ 8817. General requirements regarding financial assistance

(a) Priorities, terms, availability, etc.

1. Priority for financial assistance under this subchapter, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that—

A. uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, or waste heat; or
B. applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies.

Nothing in this paragraph shall be construed to exclude financial assistance for any project which does not use such a fuel or apply such a technology.

2. Financial assistance under this subchapter shall be available for a biomass energy project only if the Secretary concerned finds that the Btu content of the motor fuels to be used in the
facility involved to produce the biomass fuel will not exceed the Btu content of the biomass fuel produced in the facility.

(B) In making the determination under subparagraph (A), the Secretary concerned shall take into account any displacement of motor fuel or other petroleum products which the applicant has demonstrated to the satisfaction of the Secretary would result from the use of the biomass fuel produced in the facility involved.

(3) No financial assistance may be provided under this subchapter to any person for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(4) Financial assistance may not be provided under this subchapter to any person unless the Secretary concerned—

(A) finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future, and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities;

(B) has obtained assurance that the person receiving such financial assistance will bear a reasonable degree of risk in the construction and operation of the project; and

(C) has determined that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this chapter.

(5) In providing financial assistance under this subchapter, the Secretary concerned shall give due consideration to promoting competition.

(6) In determining the amount of financial assistance for any biomass energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the potential value of such byproducts and the costs attributable to their production.

(b) Terms, conditions, maturity, etc., for insured loans, and loan guarantees

An insured loan may not be made, and a loan guarantee may not be issued, under this subchapter unless the Secretary concerned determines that the terms, conditions, maturity, security, and schedule and amounts of repayments with respect to such loan are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States.

(c) Application requirements

(1) No financial assistance may be provided to any person under this subchapter unless an application for financial assistance thereunder—

(A) has been submitted to the Secretary concerned by that person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subchapter, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the biomass energy project involved, and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary concerned may require.

(d) Reports and recordkeeping

(1) Every recipient of financial assistance under this subchapter shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.
(2) With respect to each biomass energy project for which financial assistance is provided under this subchapter, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) Contracts and instruments of Secretary concerned backed by full faith and credit of United States

All contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(f) Contestability of contracts

Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(g) Fees for loan guarantees, etc.

(1) A fee or fees may be charged and collected by the Secretary concerned for any loan guarantee, price guarantee, or purchase agreement provided under this subchapter.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the amount of the financial assistance provided.

(h) Deposit of amounts received by Secretary concerned

All amounts received by the Secretary of Agriculture or the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by either Secretary from activities under this subchapter shall be deposited in the Treasury of the United States as miscellaneous receipts. The preceding sentence shall not apply to insured loans made under section 8813 of this title.


References in Text

This chapter, referred to in subsec. (a)(4)(C), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

§ 8818. Reports


(b) Comprehensive list of loans, grants, etc.

Within 120 days after June 30, 1980, the Secretary of Energy and the Secretary of Agriculture shall submit to the Congress a comprehensive list of all the types of loans, grants, incentives, rebates, or any other such private, State, or Federal economic or financial benefits now in effect or proposed which can be or have been used for production of alcohol to be used as a motor fuel or petroleum substitute.

(c) Annual reports; report evaluating overall impact and plan for termination of Office of Alcohol Fuels

(1) The Office of Alcohol Fuels shall submit to the Congress and the President annual reports containing a general description of the Office’s operations during the year and a description and evaluation of each biomass energy project for which financial assistance by the Office is then in effect.
(B) Each annual report shall describe progress made toward meeting the goals of this subchapter and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving such goals.

(C) Each annual report under this subsection shall contain financial statements prepared by the Office.

(2) On or before September 30, 1990, the Office shall submit to the Congress and the President a report evaluating the overall impact made by the Office and describing the status of each biomass energy project which has received financial assistance under this subchapter from the Office. Such report shall contain a plan for the termination of the work of the Office.


Amendments
1986—Subsec. (a). Pub. L. 99–386 struck out subsec. (a) which related to submission of quarterly reports to the President and Congress by Secretary of Agriculture and Secretary of Energy.

Termination of Reporting Requirements
For termination, effective May 15, 2000, of provisions in subsec. (c)(1) of this section relating to the requirement that the Office of Alcohol Fuels submit annual reports 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 12th item on page 91 of House Document No. 103–7.

§ 8819. Review; reorganization
(a) The President shall review periodically the progress of the Secretary of Agriculture and the Secretary of Energy in carrying out the purposes of this subchapter.

(b) If the President determines it necessary in order to achieve such purposes the President may, in accordance with the provisions of chapter 9 of title 5, provide for a reorganization, including any required realignment of the respective programs of the Secretaries under this subchapter.


§ 8820. Office of Alcohol Fuels
(a) Establishment in Department of Energy; appointment and compensation of Director
There is hereby established within the Department of Energy an Office of Alcohol Fuels (hereinafter in this section referred to as the “Office”) to be headed by 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 IV of the Executive Schedule under section 5315 of title 5.

(b) Responsibilities of Director
(1) The Director shall be responsible for carrying out the functions of the Secretary of Energy under this subchapter which relate to alcohol, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary of Energy.

(2) The Director shall be responsible directly to the Secretary of Energy.

(c) Annual authorization and appropriation requests for support of Office
In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office
§ 8821. Termination of authorities; modification of terms and conditions of conditional commitments for loan guarantees

No insured loan, loan guarantee, price guarantee, or purchase agreement may be committed to or made under this subchapter after September 30, 1984, except that all conditional commitments for loan guarantees under this subchapter which were in existence on September 30, 1984, are hereby extended through June 30, 1987. This section shall not be construed to affect the authority of the Secretary concerned to spend funds after such date pursuant to any contract for financial assistance made on or before that date under this subchapter. Notwithstanding any other provision of this subchapter, the Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subchapter made before October 1, 1984, including the amount of the loan guarantee. Nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act.


References in Text

Codification


Amendments

1987—For amendment by Pub. L. 100–202, see 1985 Amendment note below.


Pub. L. 99–272 made amendment substantially identical to that by Pub. L. 99–190, substituting “through June 30, 1986” for “through September 30, 1985” and inserting provisions authorizing the Secretary of Energy to modify the terms and conditions of any conditional commitment for a loan guarantee under this subchapter made before Oct. 1, 1984, including the amount of the guarantee, and further providing that nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments.

1985—Pub. L. 99–190, § 101(a), as enacted by Pub. L. 100–202, substituted “through June 30, 1986” for “through September 30, 1985” and inserted provisions authorizing the Secretary of Energy to modify the terms and conditions of any conditional commitment for a loan guarantee under this subchapter made before Oct. 1, 1984, including the amount of the guarantee, and further providing that nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments. See Codification note above.

Pub. L. 99–24 inserted “, except that all conditional commitments for loan guarantees under this subchapter which were in existence on September 30, 1984, are hereby extended through September 30, 1985”.

Effective Date of 1985 Amendment

Section 106 of Pub. L. 100–202 provided that the amendment made by that section is effective on date of enactment [Dec. 19, 1985] of the “pertinent joint resolution” making continuing appropriations for fiscal year 1986 [Pub. L. 99–190].

Pending Conditional Commitments

Section 1(b) of Pub. L. 99–24 provided that: “Enactment of this Act [amending this section] shall not be interpreted as indicating congressional approval with respect to any pending conditional commitments under this Act.”
SUBCHAPTER II—MUNICIPAL WASTE BIOMASS ENERGY

§ 8831. Municipal waste energy development plan

(a) Preparation by Secretary of Energy; consultative requirements

The Secretary of Energy shall prepare a comprehensive plan for carrying out this subchapter. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the head of such other Federal agencies as the Secretary deems appropriate.

(b) Transmittal to President and Congress

Not later than 90 days after June 30, 1980, the Secretary shall transmit the comprehensive plan to the President and the Congress.

(c) Required statements

The comprehensive plan under this section shall include a statement setting forth—

(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;

(2) the management structure and approach to be adopted to carry out such plan;

(3) the program strategies, including detailed milestone goals to be achieved;

(4) the specific funding requirements for individual program elements and activities, including the total estimated construction costs of proposed projects; and

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

(d) Report to President and Congress; contents

Not later than January 1, 1982, the Secretary shall prepare and submit to the President and the Congress a report containing a complete description of any financial, institutional, environmental, and social barriers to the development and application of technologies for the recovery of energy from municipal wastes.


§ 8832. Construction loans

(a) Authority of Secretary of Energy

Subject to sections 8835 and 8836 of this title, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects.

(b) Estimated project construction costs as determinative of initial and revised amount of loan; interest rate

(1) Any loan under this section—

(A) may not exceed 80 per centum of the total estimated cost of the construction of the municipal waste energy project involved, and

(B) shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition,
upon application therefor, make a loan for so much of the additional estimated costs as does not exceed 10 per centum of the initial total estimated costs of construction.

(c) Preconditions

A loan may not be made under this section unless the person applying for such loan has established to the satisfaction of the Secretary of Energy that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.


§ 8833. Guaranteed construction loans

(a) Authority of Secretary of Energy

Subject to sections 8835 and 8836 of this title, the Secretary of Energy may commit to guarantee, and guarantee, against loss on up to 90 per centum of the principal and interest, any loan which is made solely to provide funds for the construction of a municipal waste energy project and which does not exceed 90 per centum of the cost of the construction of the project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(b) Estimated project construction costs as determinative of revised amount of guarantee

In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, guarantee, against loss on up to 90 per centum of the principal and interest, a loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total estimated costs.

(c) Terms and conditions

The terms and conditions of loan guarantees under this section shall provide that, if the Secretary of Energy makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(d) Termination, cancellation, or revocation, and conclusive nature of guarantee

Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this chapter and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(e) Payment to lender

If the Secretary of Energy determines that—

1. the borrower is unable to meet payments and is not in default,
2. it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and
3. the probable net benefit to the United States in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(f) Preconditions
A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary of Energy that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

(g) Payment of interest; tax consequences

(1) With respect to any loan or debt obligation which is—

(A) issued after June 30, 1980, by, or on behalf of, any State or any political subdivision or governmental entity thereof,

(B) guaranteed by the Secretary of Energy under this section, and

(C) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser’s successors in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(2) With respect to the amount of obligations described in paragraph (1) that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary of Energy is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary of Energy and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary of Energy, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

(h) Fees

(1) A fee or fees may be charged and collected by the Secretary of Energy for any loan guarantee under this section.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the maximum of the guarantee.


References in Text

This chapter, referred to in subsec. (d), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, as amended, known as the Biomass Energy and Alcohol Fuels Act of 1980, which enacted this chapter, sections 1435 and 3129 of Title 7, Agriculture, and section 3391a of Title 15, Commerce and Trade, and amended sections 341, 342, 427, and 3154 of Title 7, section 753 of Title 15, and sections 590h and 1642 of Title 16, Conservation. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

Amendments


§ 8834. Price support loans and price guarantees

(a) Authority of Secretary of Energy with respect to loans for existing projects; disbursements, etc.

(1) In the case of any existing municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined under paragraph (3) for the operation of such project. Payments under any such loan
shall be disbursed on an annual basis, as determined (in accordance with paragraph (3)) on the basis of the amount of biomass energy produced and sold by that project during the 12-month period involved and the type and cost of fuel displaced by the biomass energy sold.

(2) (A) In the case of any support loan under this section for an existing municipal waste energy project—
   (i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;
   (ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;
   (iii) commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Secretary) or 10 years, whichever is shorter; and
   (iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(3) The amount of the loan payment to be disbursed under this subsection for any year with respect to each type of biomass energy produced and sold by an existing municipal waste energy project shall be equal to—
   (A) (i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or
   (ii) $2.00, whichever is lower, multiplied by
   (B) the amount of such biomass energy sold (in millions of Btu’s).

(b) Authority of Secretary of Energy with respect to loans for new projects; disbursements, etc.

(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined in accordance with the provisions of subsection (a) of this section, except as provided in paragraph (2).

(2) In the case of any loan under this subsection for a new municipal waste energy project—
   (A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods (with reductions as provided in subsection (a)(2)(A)(ii)) of this section;
   (B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a) of this section; and
   (C) the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable, commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Secretary) or 15 years, whichever is shorter.

(c) Authority of Secretary of Energy with respect to guarantees for new projects; pricing determinations, etc.

(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price guarantee for the operation of such project which guarantees that the price the owner or operator will receive for all or part
of the production from that project shall not be less than a specified sales price determined as of
the date of execution of the guarantee agreement.

(2) (A) No price guarantee under this section may be based upon a cost-plus arrangement, or
variant thereof, which guarantees a profit to the owner or operator involved.

(B) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a
regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus
arrangement, or variant thereof, for purposes of subparagraph (A).

(3) In the case of any price guarantee under this subsection for a new municipal waste energy
project—

(A) disbursements under such guarantee may not be made for more than 7 consecutive
12-month periods; and

(B) amounts paid under this subsection may be required to be repaid to the Secretary of
Energy under such terms and conditions as the Secretary may prescribe, including interest at
a rate not in excess of the rate prescribed under subsection (a) of this section.

(d) Definitions; sale price of retained fuel; rules relating to fuel displacement

For purposes of this section—

(1) The term “new municipal waste energy project” means any municipal waste energy project
which—

(A) is initially placed in service after June 30, 1980; or

(B) if initially placed in service before June 30, 1980, has an increased capacity by reason of
additional construction, and as such is placed in service after such date.

(2) The term “existing municipal waste energy project” means any municipal waste energy project
which is not a new municipal waste project.

(3) The term “placed in service” means operated at more than 50 percent of the estimated
operational capacity.

(4) (A) Except as provided in subparagraphs (B) and (C), the term “standard support price” means
the average price (per million Btu’s) for No. 6 fuel oil imported into the United States on June
30, 1980, as determined, by rule, by the Secretary of Energy not later than 90 days after June
30, 1980.

(B) In any case in which the fuel displaced is No. 6 fuel oil or any higher grade of petroleum
(as determined by the Secretary of Energy), the term “standard support price” means 125 per
centum of the price determined by rule under subparagraph (A).

(C) In any case in which biomass energy produced and sold by a project is steam or electricity,
the term “standard support price” means the price determined by rule under subparagraph (A),
subject to such adjustments as the Secretary of Energy may authorize by rule.

(5) The term “cost of the fuel displaced” means the cost of the fuel (per million Btu’s) which the
purchaser of biomass energy would have purchased if the biomass energy had not been available
for sale to that purchaser.

(6) Any biomass energy produced by a municipal waste energy project which may be retained
for use by the owner or operator of such project shall be considered to be sold at such price as the
Secretary of Energy determines.

(7) Not later than 90 days after June 30, 1980, the Secretary of Energy shall prescribe, by rule,
the manner of determining the fuel displaced by the sale of any biomass energy, and the price of
the fuel displaced.

§ 8835. General requirements regarding financial assistance

(a) Priorities, terms, availability, etc.

(1) Priority for financial assistance under the provisions of sections 8832, 8833, and 8834 of this title and the most favorable financial terms available, shall be provided for any municipal waste energy project that will—

(A) produce a liquid fuel from municipal waste; or
(B) will displace petroleum or natural gas as a fuel.

(2) (A) With respect to projects producing biomass energy other than biomass fuel, financial assistance under the provisions of sections 8832, 8833, and 8834 of this title shall be available only if the Secretary of Energy finds that the project does not use petroleum or natural gas except for flame stabilization or start-up.

(B) With respect to projects producing biomass fuel, financial assistance under such provisions shall be available to such project only if the Secretary of Energy finds that the Btu content of the biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel.

(3) Financial assistance may not be provided under section 8832, 8833, or 8834 of this title unless the Secretary of Energy finds that necessary municipal waste feedstocks are available and it is reasonable to expect they will continue to be available for the expected economic life of the project.

(4) In providing financial assistance under section 8832, 8833, or 8834 of this title, the Secretary of Energy shall give due consideration to promoting competition.

(5) In determining the amount of financial assistance for any municipal waste energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the value of such byproducts and the costs attributable to their production.

(6) The Secretary of Energy shall not provide financial assistance under section 8832, 8833, or 8834 of this title for any municipal waste energy unless the Secretary determines—

(A) the project will be technically and economically viable;
(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;
(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance which are engaged in the separation or recovery of reusable materials from municipal waste; and
(D) that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this chapter.

(b) Terms, conditions, maturity, etc.

Financial assistance may not be provided under section 8832, 8833, or 8834 of this title unless the Secretary of Energy determines that—

(1) the terms, conditions, maturity, security and schedule and amounts of repayments with respect to such assistance are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States; and

(2) the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

(c) Application requirements
(1) No financial assistance may be provided to any person under section 8832, 8833, or 8834 of this title unless an application therefor—
   (A) has been submitted to the Secretary of Energy by such person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subchapter, and
   (B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the municipal waste energy project involved (if appropriate), and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—
   (A) access at reasonable times to such other information, and
   (B) such assurances,
as the Secretary of Energy may require.

(d) Reports and recordkeeping
   (1) Every person receiving financial assistance under section 8832, 8833, or 8834 of this title shall, as a condition precedent thereto, consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require.

   (2) With respect to each municipal waste energy project for which financial assistance is provided under section 8832, 8833, or 8834 of this title, the Secretary shall—
      (A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;
      (B) prescribe the manner in which such recipient shall keep such records; and
      (C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) Deposit of amounts received
   All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under section 8832, 8833, or 8834 of this title shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) Contracts and instruments backed by full faith and credit of United States
   All contracts and instruments of the Secretary of Energy to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(g) Contestability of contracts
   Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(h) Eligibility of debt obligations for purchase, sale, or issuance to Federal Financing Bank or any Federal agency
   Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after June 30, 1980), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Secretary of Energy under section 8832, 8833, or 8834 of this title shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

Footnotes
1 So in original. Probably should be “of the”.

§ 8836. Financial assistance program administration

The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 8832, 8833, or 8834 of this title as may be necessary to carry out the plan established under section 8831 of this title.


§ 8837. Commercialization demonstration program pursuant to Federal nonnuclear energy research and development

(a) Establishment and conduct pursuant to other Federal statutory authorities; required undertakings subsequent to consultations

(1) The Secretary of Energy shall establish and conduct, pursuant to the authorities contained in the Federal Nonnuclear Energy Research and Development Act of 1974 [42 U.S.C. 5901 et seq.], an accelerated research, development, and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes.

(2) The provisions of subsections (d), (m), and (x)(2) of section 19 of such Act shall not apply with respect to the program established under this section.

(3) As part of the program established under this section, the Secretary, after consulting with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall undertake—

(A) the research, development, and demonstration of technologies to recover energy from municipal wastes;

(B) the development and application of new municipal waste-to-energy recovery technologies;

(C) the assessment, evaluation, demonstration, and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to capital costs, operating and maintenance costs, total project financing, recovery efficiency, and the quality of recovered energy and energy intensive materials;

(D) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects to recover energy from municipal wastes; and

(E) research studies on the size and other significant characteristics of potential markets for municipal waste-to-energy recovery technologies, and recovered energy, and energy intensive materials.

(b) Financial assistance

Under such program, the Secretary of Energy may provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating,
and maintaining demonstration facilities, and, in the case of existing facilities, modifications of such facilities solely for demonstration purposes, for the conversion of municipal wastes into energy or the recovery of materials.

(c) Priority for funding

Priority for funding of activities under subsection (a) of this section and financial assistance under subsection (b) of this section shall be provided for any activity or project for the demonstration of technologies for the production of liquid fuels or biomass energy which substitute for petroleum or natural gas.

(d) Obligation and expenditure of funds

The Secretary of Energy may not obligate or expend any funds authorized under this chapter in carrying out subsection (b) of this section until the plan required under section 8831 (a) of this title has been prepared and submitted to the Congress.

(e) Deposit of moneys received

All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

Footnotes

1 See References in Text note below.


References in Text


This chapter, referred to in subsec. (d), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

§ 8838. Jurisdiction of Department of Energy and Environmental Protection Agency

The provisions of section 5920 (c) 1 of this title, relating to the responsibilities of the Environmental Protection Agency and the Department of Energy, shall apply with respect to actions under this subchapter to the same extent and in the same manner as such provisions apply to actions under section 5920 1 of this title.

Footnotes

1 See References in Text note below.


References in Text

§ 8839. Office of Energy from Municipal Waste

(a) Establishment in Department of Energy; appointment of Director

There is hereby established within the Department of Energy an Office of Energy from Municipal Waste (hereinafter in this section referred to as the “Office”) to be headed by a Director, who shall be appointed by the Secretary of Energy.

(b) Functions

It shall be the function of the Office to perform—

(1) the research, development, demonstration, and commercialization activities authorized under this subchapter (including those authorized under section 8837 of this title), and

(2) such other duties relating to the production of energy from municipal waste as the Secretary of Energy may assign to the Office.

(c) Consultations respecting implementation of functions

In carrying out functions transferred ¹ or assigned to the Office, the Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the heads of such other Federal agencies, as appropriate.

(d) Transfer of related functions and personnel from Department of Energy

The Secretary shall provide for the transfer to the Office of the functions relating to, and personnel of the Department who are responsible for the administration of, programs in existence on June 30, 1980, which relate to the research, development, demonstration, and commercialization of technologies for the recovery of energy from municipal waste.

Footnotes

¹ So in original. Probably should be “transferred”.


§ 8840. Termination of authorities

No financial assistance may be committed to or made under this subchapter after September 30, 1984. This section shall not be construed to affect the authority of the Secretary of Energy to spend funds after such date pursuant to any award of financial assistance made on or before that date.

§ 8851. Model demonstration biomass energy facilities; establishment, public inspection, etc.; authorization of appropriations

(a) The Secretary of Agriculture shall establish not more than ten model demonstration biomass energy facilities for purposes of exhibiting the most advanced technology available for producing biomass energy. Such facilities and information regarding the operation of such facilities shall be available for public inspection, and, to the extent practicable, such facilities shall be established in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate departments, agencies, or other instrumentalities of the United States.

(b) For purposes of carrying out subsection (a) of this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.


§ 8852. Coordination of research and extension activities; consultative requirements


(b) In carrying out this subchapter and the amendments made by this subchapter, the Secretary of Agriculture shall consult on a continuing basis with—

(1) the Subcommittee on Food, Agricultural, and Forestry Research of the Federal Coordinating Council for Science, Engineering, and Technology;

(2) the Joint Council on Food and Agricultural Sciences; and

(3) the National Agricultural Research and Extension Users Advisory Board;

for the purpose of coordinating research and extension activities.

Footnotes

1 See References in Text note below.

Amendments


Effective Date of 1981 Amendment


§ 8853. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives

The Farm Credit Administration shall encourage production credit associations, Federal land banks, and banks for cooperatives to use existing authorities to make loans to eligible persons for commercially feasible biomass energy projects.


§ 8854. Utilization of National Forest System in wood energy development projects

The Secretary of Agriculture may make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sale procedures, for use by biomass energy projects.


§ 8855. Forest Service leases and permits

It is the intent of the Congress that the Secretary of Agriculture shall process applications for leases of National Forest System lands and for permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any plan being prepared under section 1604 of title 16.

§ 8871. Use of gasohol in Federal motor vehicles

(a) Exercise of President’s authority pursuant to executive order respecting use

The President shall, by executive order, require that motor vehicles which are owned or leased by Federal agencies and are capable of operating on gasohol shall use gasohol where available at reasonable prices and in reasonable quantities.

(b) Exceptions

The President may provide for exceptions to the requirement of subsection (a) of this section where necessary, including to protect the national security.

(c) Gasohol requirements

Such executive order shall specify the alcohol-gasoline mixture or mixtures which shall constitute “gasohol” for purposes of such order, as well as specifications for its use.

which provides for the use of gasohol to the maximum extent feasible and consistent with overall defense needs and sound vehicle management practices, as determined by the Secretary of Defense.

1–106. Vehicles used in experimental programs to test fuels other than gasohol are excepted from this Order.

1–107. The authority vested in the President by Section 271(b) of the Energy Security Act (42 U.S.C. 8871 (b)) is delegated to the Secretary of Defense with respect to gasohol use by the Department of Defense, and delegated to the Administrator of General Services with respect to gasohol use by other agencies.

1–108. Federal agencies shall make available to the Department of Energy, upon request, relevant data or information they possess concerning agency gasohol usage.

1–109. For purposes of this Order “Gasohol” means a motor fuel which has an octane rating of not less than 87 (R+M)/2 and which consists of approximately 90 percent unleaded gasoline and approximately 10 percent anhydrous (199 proof or above) ethyl alcohol derived from biomass, as defined in Section 203(2)(A) of the Energy Security Act (94 Stat. 683; Public Law 96–294; 42 U.S.C. 8802 (2)(A)).

1–110. (a) The Secretary of Defense with respect to gasohol use by the Department of Defense, and the Administrator of General Services with respect to gasohol use by other agencies, shall issue such guidelines for the implementation of this Order as they deem appropriate.

(b) Such guidelines shall provide for a determination of reasonable prices and reasonable quantities based on the local prevailing price of unleaded gasolines, the octane requirements for vehicles in the Federal fleet, local market availability of gasohol or its components, and other such factors, as may be appropriate.

Jimmy Carter.