Public Law 96-294
96th Congress

An Act

To extend the Defense Production Act of 1950, and for other purposes.

June 30, 1980
[S. 932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Security Act".

Energy Security Act.
42 USC 8701 note.

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FINDINGS AND PURPOSE

42 USC 8701.

SEC. 100. (a) The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) dependence on foreign energy resources can be significantly reduced by the production from domestic resources of the equivalent of at least 500,000 barrels of crude oil per day of synthetic fuel by 1987 and of at least 2,000,000 barrels of crude oil per day of synthetic fuel by 1992;

(3) attainment of synthetic fuel production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing government incentives; and

(4) establishment of an independent Federal entity of limited duration which will provide additional financial assistance in conjunction with private sources of capital to assist the development of domestic nonnuclear energy resources for the production of synthetic fuel will facilitate the expeditious achievement of synthetic fuel production from domestic resources.

(b)(1) The purposes of this title, and the amendments made by this title, are to utilize to the fullest extent the constitutional powers of the Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(2) Congress finds and declares that these purposes can be served by—

(A) demonstrating at the earliest feasible time the practicality of commercial production of synthetic fuel from domestic resources employing the widest diversity of feasible technologies;

(B) fostering the creation of commercial synthetic fuel production facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally accept-

able manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2,000,000 barrels of crude oil per day by 1992;

(C) creating the United States Synthetic Fuels Corporation, a Federal entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects;

(D) providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuel;

(E) encouraging private capital investment and activities in the development of domestic sources of synthetic fuel and to foster competition in the development of the Nation's synthetic fuel resources;

(F) encouraging and supplementing and not competing with or supplanting private capital investments in the development of domestic sources of synthetic fuel;

(G) fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies; and

(H) giving special consideration to the production of synthetic fuel which has national defense applications and expediting its initial development through the Defense Production Act of 1950.

50 USC app. 2061.

Part A—Development of Synthetic Fuel Under the Defense Production Act of 1950

Defense Production Act Amendments of 1980.

SHORT TITLE

SEC. 101. This part may be cited as the "Defense Production Act Amendments of 1980".

50 USC app. 2061 note.

DECLARATION OF POLICY

SEC. 102. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs.".

RESTRICTION ON RATIONING

SEC. 103. Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) is amended by adding at the end thereof the following:

"SEC. 105. Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users.

50 USC app. 2075.

"SEC. 106. For purposes of this Act, 'energy' shall be designated as a 'strategic and critical material' after the date of the enactment of this section: *Provided,* That no provision of this Act shall, by virtue of such designation—

50 USC app. 2076.

"(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock

(including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

"(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production.".

Post, pp. 619, 623.

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 104. (a)(1) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by inserting "(1)" after "(a)" and by striking out "the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce," and inserting in lieu thereof "the Department of Defense, the Department of Energy, the Department of Commerce,".

(2) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by adding at the end thereof the following:

50 USC app. 2091-2093.

"(2) Except as provided in section 305 and section 306, no authority contained in sections 301, 302, or 303 may be used in any manner—

"(A) in the development, production, or distribution of synthetic fuel;

"(B) for any synthetic fuel project;

"(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

"(D) to provide any assistance to any person for the purchase of synthetic fuel.".

Guarantees, maximum obligations.

(b) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(1)) is amended—

(1) by striking out "Except with the approval of the Congress, the" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the";

(2) by striking out "$20,000,000" and inserting in lieu thereof "$38,000,000"; and

(3) by adding at the end thereof the following:

Notification to congressional committees.

"(B) Guarantees which exceed the amount specified in subparagraph (A) may be entered into under this section only if the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this subparagraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.".

(c) The second sentence of section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended by striking out "$25,000,000" and inserting in lieu thereof "$48,000,000".

(d)(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking out "and metals" each place it appears therein and inserting in lieu thereof ", metals, and materials".

(2) Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(b)) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1995".

(3) Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended—

(A) by striking out "and upon a certification" and all that follows through "other national emergency,"; and

(B) by striking out "such" after "of substitutes for".

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

Synthetic fuel, development. 50 USC app. 2095. 50 USC app. 2061, 2071, 2091-2093, *post*, p. 623.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy;

"(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

"(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(b)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

"(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

Contracts.

"(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and

Loan guarantees.

"(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans.

"(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

"(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

Proposed loan or guarantee, notification to Congress.

Post, p. 628.

"(c)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

"(A) without regard to the limitations of existing law (other than the limitations contained in this Act) regarding the procurement of goods or services by the Government; and

50 USC app. 2166.

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

"(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

Competitive bids.

"(d)(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract. Review.

"(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3), an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price. *Post*, p. 632.

"(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(e) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(f)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

"(g)(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)— Contracts, maximum liability.

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

"(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(h) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

"(i) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(j)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(k)(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

"SEC. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

50 USC app. 2096.

"(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

"(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

"(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

"(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

"(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

"(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(3) No court shall have the authority to review any determination made by the President under this subsection.

"(b)(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 305), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

50 USC app. 2071, 2091-2093, *ante*, p. 619.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy; and

"(ii) through the Department of Defense and any other Federal department or agency designated by the President.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(c)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

"(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees;

50 USC app. 2091.

"(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans;

50 USC app. 2092.

"(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

"(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

"(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

"(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

Synthetic fuel projects, Government ownership.

"(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

"(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

"(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

"(ii) transport and store and have processed and refined such synthetic fuel.

"(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

"(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

"(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

"(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

"(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

50 USC app. 2091, 2092.

Post, p. 628.

"(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

"(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

"(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

"(d)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

"(A) without regard to the limitations of existing law (other than those limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

50 USC app. 2166.

"(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

"(e)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may

negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

"(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

"(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(f) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(g)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

"(h)(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

Contracts, maximum liability.

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)—

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

"(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

"(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

"(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(i) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

Wages.

"(j) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(k)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(l) Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) remain in effect for purposes of the use of such authority.

"Synthetic fuel action."
50 USC app. 2097.

"SEC. 307. (a) For purposes of this section, the term 'synthetic fuel action' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

Transmittal to Congress.

"(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless

between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

"(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

"(d) For purposes of subsection (c)—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

"(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

"(f) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(g)(1) For purposes of subsection (b), the term 'resolution' means a resolution of either House of the Congress described in paragraph (2) or paragraph (3). "Resolution."

"(2) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not object to the synthetic fuel action numbered _____ received by the Congress on _____, 19__.', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(3) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not favor the synthetic fuel action numbered _____ received by the Congress on _____, 19__.', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

"(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

"(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

"(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

"(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

"(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

"(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

"SEC. 308. (a) For purposes of this Act, the term 'Government synthetic fuel project' means a synthetic fuel project undertaken in accordance with the provisions of section 306(c).

"Government synthetic fuel project."
50 USC app. 2098.
Ante, p. 623.

"(b)(1)(A) For purposes of this Act, the term 'synthetic fuel' means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

"Synthetic fuel."

"(i) coal, including lignite and peat;

"(ii) shale;

"(iii) tar sands, including those heavy oil resources where—

"(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

"(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 or section 306; and

Ante, pp. 619, 623.

"(iv) water, as a source of hydrogen only through electrolysis.

"(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

"(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

"(2)(A) For purposes of this Act, the term 'synthetic fuel project' means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

"Synthetic fuel project."

"(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

"(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

"(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

"(I) which—

"(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

"(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

"(II) which is necessary to the project; and

"(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

"(I) which is for the exclusive use of the project;

"(II) which is incidental to the project; and

"(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

"(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

"(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

"(aa) any mineral right; or

"(bb) any facility or equipment for extraction of any mineral;

"(II) used solely for the commercial production of hydrogen from water through electrolysis; and

"(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

"(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 or section 306.

Definitions.

"(C) For purposes of this paragraph—

"(i) the term 'exclusive' means for the sole use of the project, except that an incidental by-product might be used for other purposes;

"(ii) the term 'incidental' means a relatively small portion of the total project cost; and

"(iii) the term 'necessary' means an integrated part of the project taking into account considerations of economy and efficiency of operation.

"United States." *Ante*, pp. 619, 623.

"(c) For purposes of section 305 and section 306, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

GENERAL PROVISIONS

SEC. 105. (a) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by inserting ", but excluding sections 305 and 306" after "payment of interest under subsection (b) of this section";

(2) by inserting "pursuant to this paragraph" after "Funds made available";

(3) by striking out "There" and inserting in lieu thereof "(1) Except as provided in paragraph (2), there"; and

(4) by adding at the end thereof the following new paragraphs:

Appropriation authorization.

"(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

Ante, p. 619.

"(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

"(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.

Ante, p. 619.

Post, p. 682.

"(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2).".

(b) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "August 27, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 701(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2151(d)) is amended by striking out "Defense Production Act Amendments of 1955" and inserting in lieu thereof "Defense Production Act Amendments of 1980"

REPORTS

SEC. 106. Beginning one year after the effective date of this part, and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950.

50 USC app. 2096a.

Ante, pp. 619, 623.

EFFECTIVE DATE

SEC. 107. The amendments made by this part shall take effect on the date of the enactment of this part.

50 USC app. 2062 note.

Part B—United States Synthetic Fuels Corporation

United States Synthetic Fuels Corporation Act of 1980.

SUBTITLE A—GENERAL PROVISIONS

SHORT TITLE

SEC. 111. This part may be cited as the "United States Synthetic Fuels Corporation Act of 1980"

42 USC 8701 note.

GENERAL DEFINITIONS

SEC. 112. For purposes of this part:

42 USC 8702.

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the six other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, or an Indian tribe or tribal organization;

(C) multi-State entity which possesses legal powers necessary to carry out activities under this part;

(D) foreign government or agency thereof when participating in joint ventures with any entity described in subparagraph (A) or (B); or

(E) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project pursuant to this part.

(4) The term "Corporation" means the United States Synthetic Fuels Corporation.

(5) The term "Corporation construction project" means a synthetic fuel project undertaken in accordance with the provisions of subtitle E.

(6) The term "Director" means a member of the Board of Directors, including the Chairman.

(7)(A) The term "financial assistance" means any of the following forms of financial assistance, or combinations thereof, as provided in subtitle D—

(i) loans;

(ii) loan guarantees;

(iii) price guarantees;

(iv) purchase agreements;

(v) joint-ventures; and

(vi) acquisition and lease back of a synthetic fuel project pursuant to section 137(c);

Post, p. 663.

(B) Such term shall not include any form of grant, except cost-sharing agreements pursuant to section 131(u).

Post, p. 654.

(8) 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 which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) The term "joint venture" means a synthetic fuel project module undertaken in accordance with the provisions of section 136.

(10) The term "loan" means a loan, or commitment to loan, made under section 132;

Post, p. 658.

(11) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness, which is made under section 133.

Post, p. 660.

(12) 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.

(13) The term "price guarantee" means a guarantee of, or commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only a guarantee, or commitment to guarantee, which is made under section 134.

Post, p. 661.

(14) The term "purchase agreement" means any contract to purchase synthetic fuel, any guarantee thereof, or a commitment thereof, which is made under section 135.

Post, p. 661.

(15) The term "qualified concern" means a concern which demonstrates to the satisfaction of the Board of Directors evidence of its capability directly or by contract to undertake and complete the design, construction, and operation of a proposed synthetic fuel project.

(16) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(17)(A) The term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for

petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources where—

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal and tar sand resources (other than heavy oil) qualifying for financial assistance under this part; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(18)(A) The term "synthetic fuel project" means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for financial assistance pursuant to section 133 or section 136, but not both, and shall not be authorized for purposes of subtitle E.

Post, pp. 660, 662.
Post, p. 665.

(iii) Such a synthetic fuel project for commercial production of hydrogen from water shall not be eligible for financial assistance pursuant to section 136.

(C) For purposes of this paragraph—

(i) the term "exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes;

(ii) the term "incidental" means a relatively small portion of the total project cost; and

(iii) the term "necessary" means an integrated part of the project taking into account considerations of economy and efficiency of operation.

EFFECTIVE DATE

42 USC 8701 note.

SEC. 113. This part shall take effect on the date of the enactment of this part.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

ESTABLISHMENT

United States Synthetic Fuels Corporation.
42 USC 8711.

SEC. 115. (a) There is hereby created the United States Synthetic Fuels Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

(c) The general powers of the Corporation are those powers specified in section 171.

Post, p. 673.

BOARD OF DIRECTORS

42 USC 8712.

SEC. 116. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this part.

Membership.

(2) The Board of Directors shall consist of a Chairman and six other Directors appointed by the President by and with the advice and consent of the Senate. Not more than four Directors shall be members of any one political party. The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

Terms.

(b)(1) The Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Director shall serve for a term of six years, one

shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of seven years. Whenever a vacancy shall occur on the Board of Directors, the President shall appoint, by and with the advice and consent of the Senate, an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director may be removed from office by the President only for neglect of duty, or malfeasance in office. Removal.

(c) The President shall designate, at the time of appointment of a Director, whether such Director, other than the Chairman, will serve in either a full-time or part-time capacity. Directors serving in a part-time capacity may not hold any full-time salaried position in the Federal Government or in any State or local government. Directors serving in a full-time capacity shall hold no other salaried position.

(d) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States. Oath.

(e) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(f)(1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose— Open meetings. Exceptions.

(A) information which is likely to adversely affect financial or securities markets or institutions;

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, minerals, or land; or

(ii) impede—

(I) the ability of the Corporation to establish procurement or synthetic fuel project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the

judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(g) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board of Directors and concurrence of the President.

OFFICERS AND EMPLOYEES

42 USC 8713.

SEC. 117. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including a General Counsel and Treasurer) and define their duties;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

5 USC 5311, 5331.

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided herein, Directors, officers, and employees of the Corporation shall not be subject to any law of the United States relating to governmental employment.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section: *Provided, however,* That the Corporation shall not be authorized to employ more than three hundred individuals in full-time professional positions at any time: *And provided further,* That for purposes of the preceding limitation, individuals employed for Corporation construction projects under subtitle E shall not be counted.

Post, p. 665.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 116(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

42 USC 8714.
2 USC 701 note.

SEC. 118. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation

and to employees of the Corporation whose position in the schedule established by the Board of Directors pursuant to section 117(b)(2) is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

5 USC 5332 note.
44 FR 58672.
2 USC 701 note.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 116(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

SEC. 119. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors functions, powers, and duties assigned to the Corporation under this part other than those expressly vested in the Board of Directors pursuant to sections 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131(a), (b), and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c), and 191(b). The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time Directors, officers, or employees of the Corporation as the Chairman deems appropriate.

42 USC 8715.

Post, pp. 658, 660, 661, 662, 663, 665, 669, 673, 675, 680, 681.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the

Corporation of any power, function, or authority not expressly authorized by the provisions of this part, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the Reorganization Act of 1977 (5 U.S.C. 901 et seq.) shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

42 USC 8716.

SEC. 120. (a)(1)(A) The Corporation is authorized to expend during any fiscal year for—

(i) subject to paragraph (2), reasonable and necessary administrative expenses, not to exceed $35,000,000; and

(ii) subject to paragraph (4), generic studies and specific reviews of individual proposals for financial assistance, not to exceed $10,000,000.

(B) For purposes of section 122(e), and from the amount specified in subsection (a)(1)(A)(i), the Inspector General may expend not more than $2,000,000 during any fiscal year for reasonable and necessary administrative expenses.

(2) For purposes of this section, administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, for space needs of the Corporation and similar expenses. For each fiscal year commencing after September 30, 1980, the $35,000,000 limitation in subsection (a)(1)(A)(i) and the $2,000,000 limitation in subsection (a)(1)(B) shall be increased as of October 1 each year by an amount equal to the percentage increase in the Gross National Product implicit price deflator, as published by the Department of Commerce or its successor, for the year then ended over the level so established for the year ending September 30, 1979.

(3) Administrative expenses include reimbursement to Directors for reasonable expenses which are incurred in connection with their service as Directors of the Corporation.

(4) Expenditures authorized under subsection (a)(1)(A)(ii) shall not be available—

(A) for administrative expenses;

(B) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation;

(C) to exceed the personnel limits established pursuant to section 117(d); or

(D) for operating expenses.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to Corporation construction projects pursuant to subtitle E.

Post, p. 665.

(c) The Corporation may make expenditures, without further appropriation, for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives in accordance with the provisions of section 153 along with the President's proposed budget for such fiscal year: *Provided*, That such expenditures for fiscal years 1980 and 1981 may be made without such prior statement. It is the intention of this section that the Corporation's

Post, p. 669.

expenditures for administrative expenses shall reflect due consideration for economy and efficiency.

PUBLIC ACCESS TO INFORMATION

SEC. 121. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities: *Provided,* That the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 116(f) of this part as it pertains to minutes of meetings of the Board of Directors. 42 USC 8717.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

INSPECTOR GENERAL

SEC. 122. (a)(1) In addition to the officers provided for in section 117(b)(1), there shall be in the Corporation an officer with the title of "Inspector General" who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report directly to, and be under the general supervision of, the Board of Directors, and shall not be under the control of, or subject to supervision by, any other officer of the Corporation. 42 USC 8718.

(2) Neither the Board of Directors nor any other officer or employee of the Corporation shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation, or inspection.

(3) There shall also be in the Corporation a Deputy Inspector General who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy Inspector General shall assist the Inspector General in carrying out his duties under this section and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General. Deputy Inspector General.

(4) The Inspector General or the Deputy Inspector General may be removed from office by the President only for neglect of duty, or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress. Removal.

(5) The Inspector General and the Deputy Inspector General shall be compensated at a rate fixed by the Board of Directors in accordance with section 117(b)(2), which rate for the Inspector General shall be not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and for the Deputy Inspector General not less than the rate provided for level IV of such schedule under section 5315 of title 5, United States Code. Compensation. 44 FR 58678.

Duties.

(b)(1) It shall be the duty and responsibility of the Inspector General—

(A) to supervise, coordinate, and provide policy direction for auditing, investigative, and inspection activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud and abuse in, programs and operations of the Corporation;

(B) to determine the extent to which such programs and operations are consonant with the purposes of this title, and in compliance with the provisions of this part;

(C) to make recommendations for correcting deficiencies in, or improving, the programs and operations of the Corporation; and

(D) to keep the Board of Directors and the Congress fully and currently informed, by means of the reports required by subsections (c), (d), and (h), and otherwise, concerning problems, abuses, and deficiencies relating to the administration of programs authorized by this part, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(2) In carrying out his duties and responsibilities, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States in relation to the Corporation, with a view toward avoiding duplication and insuring effective coordination and cooperation.

(3) In carrying out his duties and responsibilities, the Inspector General shall report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal criminal law.

Annual reports.

(c) The Inspector General shall, not later than November 30 of each year, prepare an annual written report summarizing the activities of his office during the immediately preceding fiscal year. Each such report shall include—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Corporation disclosed by such activities;

(2) a description of recommendations for corrective action with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1); and

(3) a summary of matters referred to law enforcement authorities and the extent to which prosecutions and convictions have resulted.

(d) The annual report of the Inspector General shall be furnished to the Board of Directors not later than November 30 of each year and shall be transmitted by the Board of Directors to the President, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives within thirty days after the receipt of the report, together with a report by the Board of Directors containing any comments it deems appropriate. The Board of Directors shall make copies of each annual report available to the public upon request and at a reasonable cost within sixty days after its transmittal to the Congress.

Public availability.

(e) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material availa-

ble to the Corporation which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Board of Directors when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) to select, appoint, and employ such employees as may be necessary for carrying out the functions, powers, and duties of the Inspector General, which employees shall be compensated in accordance with salary schedules established pursuant to section 117(b)(2);

(6) to obtain services of consultants at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and 44 FR 58672.

(7) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(f)(1) Upon request of the Inspector General for information or assistance under subsection (e)(2), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (e)(1) or (e)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(g) The Board of Directors shall make available to the Inspector General appropriate and adequate office space at offices of the Corporation.

(h) The Inspector General—

(1) may make such additional investigations and reports relating to the operations of the Corporation as are, in the judgment of the Inspector General, necessary or desirable; and

(2) shall provide such additional information or documents as may be requested by any committee or subcommittee of either House of Congress with respect to matters within their jurisdiction.

(i) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Board of Directors and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval.

ADVISORY COMMITTEE

Establishment. 42 USC 8719.

SEC. 123. (a) There is hereby established an Advisory Committee to the Board of Directors for the purpose of—

(1) reviewing the Corporation's solicitations of proposals for financial assistance proposed for issuance pursuant to section 127; and

(2) advising the Corporation in relation to other matters within the expertise of the Advisory Committee, or any member thereof, as the Board of Directors may request of the Advisory Committee from time to time.

Membership.

(b) The Advisory Committee is composed of the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Energy Mobilization Board. The Chairman of the Advisory Committee shall be designated by the President from among its members.

(c) The Advisory Committee shall meet with the Board of Directors not less than semiannually, and the Corporation shall furnish to the Advisory Committee such professional, secretarial, and other services as the Advisory Committee may request.

(d) During any meeting with the Board of Directors or in any communication with the Corporation, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflicts of interest applicable to their respective departments and agencies as such laws and regulations relate to meetings with representatives of a private corporation.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

NATIONAL SYNTHETIC FUEL PRODUCTION GOAL

Establishment. 42 USC 8721.

SEC. 125. There is hereby established a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources.

PRODUCTION STRATEGY

42 USC 8722.

SEC. 126. (a)(1) In order to assure achievement of the purposes of this title and the national synthetic fuel production goal set forth in section 125, the Corporation—

(A) shall, pursuant to section 127(a), solicit proposals for synthetic fuel projects;

(B) shall, pursuant to section 131(a), award financial assistance to those qualified concerns submitting proposals acceptable to the Board of Directors;

(C) shall, after soliciting proposals pursuant to subparagraph (A) and reviewing such proposals, if in the judgment of the Board of Directors, there are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this title; and

(D) may, only after fulfilling the requirements of subparagraphs (A), (B), and (C), and paragraph (3), if in the judgment of the Board of Directors, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, consistent with the objectives set forth in paragraph (2) and

subject to the limitations of subtitle E, undertake Corporation construction projects pursuant to subtitle E as necessary to achieve the purposes of this title.

Post, p. 665.

(2)(A) Prior to the approval of a comprehensive strategy pursuant to subsection (c), the Corporation in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D or Corporation construction projects pursuant to subtitle E in such manner as will, in the judgment of the Board of Directors, (i) incorporate a technological diversity of processes, methods and techniques for each domestic resource that offers significant potential for use as a synthetic fuel feedstock as well as (ii) offer the potential for achieving the national synthetic fuel production goal set forth in section 125.

"Domestic resource."

(B) For the purposes of this paragraph, the term "domestic resource" shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, and tar sands, as different domestic resources.

Publication in Federal Register.

(3) Prior to undertaking a Corporation construction project pursuant to subtitle E, the Corporation shall publish in the Federal Register its intent to undertake a Corporation construction project and the objectives of such a Corporation construction project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under subtitle D. If the Corporation does not receive, within thirty days after the publication of the objectives pursuant to the preceding sentence, an acceptable notice of intent to submit a proposal, the Corporation may undertake such a Corporation construction project pursuant to subtitle E.

Comprehensive strategy, establishment.

(b)(1) Subject to the requirements of paragraph (2), the Corporation shall, consistent with the purposes of this title, establish a comprehensive strategy to achieve the national synthetic fuel production goal established by section 125. In the formulation of such comprehensive strategy, the Corporation—

(A) shall consider all practicable means for the commercial production of synthetic fuel from domestic resources, employing the widest diversity of feasible technologies; and

(B) after consultation with the Secretary of Defense, shall consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced pursuant to the provisions of this part.

Submittal to Congress.

(2) Subject to the requirements of paragraph (3), not later than four years after the effective date of this part, the Board of Directors shall adopt and directly submit its proposed comprehensive strategy to the Congress. Such comprehensive strategy, when approved pursuant to subsection (c), shall become the comprehensive strategy of the Corporation to achieve the national synthetic fuel production goal established by section 125.

(3) The proposed comprehensive strategy shall—

(A) to the extent feasible, set forth the recommendations of the Board of Directors on the Corporation's objectives and schedules for their achievement;

(B) directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve the national synthetic fuel production goal established by section 125;

(C) specifically address how any Corporation involvement recommended in the comprehensive strategy will be expressly

limited and ultimately terminated upon a date or event certain in the future;

(D) include a financial or investment strategy prospectus which sets forth the justification for the requested authorization of appropriations;

(E) include findings, based upon accompanying comprehensive reports, regarding synthetic fuel projects which received financial assistance prior to submission of such comprehensive strategy to the Congress with respect to—

(i) the economic and technological feasibility of each such project including information on product quality, quantity, and cost per unit of production; and

(ii) the environmental effects associated with each such project as well as projected environmental effects and water requirements; and

(F) include recommendations based upon accompanying comprehensive reports concerning the specific mix of technologies and resource types which the Corporation proposes to support after approval pursuant to subsection (c) of the comprehensive strategy.

Additional authorizations.

(4) After the approval of the comprehensive strategy, the Board of Directors may request, pursuant to subsection (c)(10), additional authorizations of appropriations. Such requests shall include a financial or investment prospectus which sets forth the justification for the requested authorizations of appropriations.

Approval.

(c)(1)(A) The comprehensive strategy submitted by the Board of Directors to the Congress pursuant to subsection (b)(2) shall be deemed approved if a joint resolution of approval has been enacted into law during the same Congress in which such comprehensive strategy was submitted to the Congress. If either House of the Congress within ninety calendar days of continuous session after introduction fails to pass such a joint resolution or rejects such a joint resolution, the comprehensive strategy shall be deemed disapproved. For purposes of this subsection, the term "joint resolution" means only a joint resolution of either House of Congress as described in paragraph (5) or paragraph (10)(B).

"Joint resolution."

(B) Ninety calendar days after receipt by the Congress of the comprehensive strategy, on the first day that both Houses of the Congress are in session after such ninety-day period, a joint resolution of approval containing the authorization of appropriations requested by the Corporation for the proposed comprehensive strategy shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(C) The Corporation may withdraw the comprehensive strategy any time prior to the adoption of such joint resolution by either House of the Congress.

(2) Upon introduction, the joint resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(3) For the purpose of subsection (c)(1)(A) of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(4) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (5) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(5) The joint resolution approving the comprehensive strategy under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____ and _____ dollars are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation.", the first blank space therein being filled with the date and year, the second blank space therein being filled with the appropriate dollar figure.

(6)(A) If any committee to which such joint resolution with respect to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such joint resolution or to discharge any such committee from further consideration of any other joint resolution with respect to such comprehensive strategy which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring such joint resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a joint resolution with respect to the comprehensive strategy), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. Except to the extent provided in paragraph (9)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same comprehensive strategy.

(7)(A) When all such committees have reported, or have been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(B) Debate on the joint resolution and all amendments thereto pursuant to paragraph (9)(A) shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (9)(B), an amendment to, or motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(8)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(9) With respect to the comprehensive strategy—

(A) In the consideration of any such joint resolution on any such comprehensive strategy, it shall be in order to offer an amendment to the dollar figure in the second blank of the text of the joint resolution described in paragraph (5), and any amendments thereto only containing such a dollar figure. No other amendments except pro forma amendments shall be in order.

(B) If one House receives from the other House a joint resolution with respect to the comprehensive strategy, then the following procedure applies:

(i) the joint resolution of the other House with respect to such comprehensive strategy shall not be referred to a committee; and

(ii) in the case of a joint resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no joint resolution from the other House with respect to such comprehensive strategy had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the joint resolution of the first House.

(10)(A) The Corporation at any time after the approval of the comprehensive strategy may submit requests pursuant to subsection (b)(4) for additional authorizations of appropriations each of which shall be in the form of a joint resolution of approval (bearing an identification number).

(B) Such joint resolution shall read as follows after the resolving clause: "That the Congress of the United States approves the request transmitted to the Congress by the United States Synthetic Fuels Corporation on _____ and there are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation the sum of _____ dollars.", the first blank space therein being filled with the day and year, and the second blank space therein being filled with the appropriate dollar figure.

(C) On the first day that both Houses of the Congress are in session after receipt of a joint resolution of approval containing the additional authorization of appropriations requested by the Corporation, the joint resolution described in subparagraph (B) shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives. Such resolution shall be considered in accordance with the procedures of this subsection.

(11) The aggregate of the authorizations of appropriations under paragraph (5) enacted into law and any subsequent requests by the Corporation for additional authorizations for appropriations under paragraph (10) enacted into law shall not exceed $68,000,000,000.

(d)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive strategy for the achievement of the national synthetic fuel production goal established in section 125, the Corporation shall report the reasons for such determination to the Congress, and may request, in a Corporation synthetic fuel action pursuant to section 128, such additional time up to one year as the Corporation considers necessary for the formulation of its proposed comprehensive strategy.

(2) Such request shall be deemed approved unless disapproved by either House of Congress pursuant to section 128. If such request is disapproved pursuant to section 128, the Corporation shall submit its proposed comprehensive strategy to the Congress within ninety days of such disapproval.

(3) The Board of Directors may, consistent with the purposes of this title, amend the approved comprehensive strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuel production goal set forth in section 125. If such amendment would substantially alter the use of funds previously approved by the Congress pursuant to subsection (c), the Board of Directors may not implement such amendment unless such amendment has been submitted to the Congress and has been approved pursuant to section 129. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c). *Post*, p. 678.

SOLICITATION OF PROPOSALS

SEC. 127. (a)(1) The Corporation is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. The Corporation shall provide notice of such solicitations in the Federal Register and by such other notice as is customarily used to inform the public of Federal assistance for major research and development undertakings. 42 USC 8723.

(2) All proposed solicitations under paragraph (1) shall be submitted to the Advisory Committee established under section 123. The Advisory Committee shall have 30 calendar days to review and comment on such solicitations prior to their initial issuance.

(3) Within six months after the date of the enactment of this part, the Corporation shall make an initial set of solicitations directed by paragraph (1). Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques)

for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D.

(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

(c) Any concern may request the Board of Directors to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Board of Directors, if it deems the action to be in accordance with the purposes of this title and the provisions of this part, may issue such a solicitation.

(d) Each solicitation for proposals pursuant to the authority of this section shall set forth general evaluation criteria, as determined by the Board of Directors, taking into account—

(1) the achievement of the national synthetic fuel production goal established in section 125; and

(2) the requirements of section 126(a), for a general type of synthetic fuel project concerning—

(A) the type of domestic resource to be used by the proposed synthetic fuel project;

(B) the type or types of technologies to be employed; and

(C) the type and amount of synthetic fuel to be produced.

(e) Thirty days after the date of the enactment of this part, the Secretary of Energy, on behalf of the Corporation and pursuant to the authorities in this part, may make a solicitation for commercial scale high-Btu coal gas plants which shall be reviewed and acted upon by the Corporation pursuant to this part.

(f) The Corporation shall give priority consideration to applications for financial assistance from any concern proposing a synthetic fuel project in any State which, in the judgment of the Board of Directors, indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(g) The Corporation shall consult with the Governor of any State in which a proposed Corporation construction project or a proposed joint venture project under section 136 would be located with regard to (1) the manner in which the project would be developed and (2) regulatory, licensing, and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of such project development, licensing, and operation.

CONGRESSIONAL DISAPPROVAL PROCEDURE

"Corporation synthetic fuel action."
42 USC 8724.

SEC. 128. (a) For purposes of this section, the term "Corporation synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The Corporation shall transmit any Corporation synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any Corporation synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such Corporation synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Except as provided in subsection (e), if a Corporation synthetic fuel action is transmitted to both Houses of Congress, such Corporation synthetic fuel action shall take effect at the end of the first

period of 30 calendar days of continuous session of the Congress after the date on which such Corporation synthetic fuel action is received by such Houses, unless between the date on which such Corporation synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(d) For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a Corporation synthetic fuel action, any provision of such Corporation synthetic fuel action may take effect on a date later than the date on which such Corporation synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"Resolution."

(g)(1) For purposes of subsection (b), the term "resolution" means only a resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the _____ does not favor the Corporation synthetic fuel action numbered ____ received by the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one Corporation synthetic fuel action.

(2) A resolution once introduced with respect to a Corporation synthetic fuel action shall immediately be referred to the Committee on Energy and Natural Resources of the Senate and to the appropriate committee or committees of the House of Representatives (and all resolutions with respect to the same Corporation synthetic fuel action shall be referred to the same committee or committees).

(3)(A) If any committee to which a resolution with respect to a Corporation synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Corporation synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Corporation synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An

amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Corporation synthetic fuel action.

(4)(A) When all committees to which the resolution was referred have reported (or have been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(5)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a Corporation synthetic fuel action, then it shall not be in order to consider in that House any other resolution with respect to the same Corporation synthetic fuel action.

CONGRESSIONAL APPROVAL PROCEDURE

42 USC 8725.

SEC. 129. (a)(1) Any amendment to the comprehensive strategy submitted by the Board of Directors to the Congress pursuant to section 126(d) shall be deemed approved if a concurrent resolution of approval has been approved by the Congress during the same Congress in which such request was submitted. If the Congress, within 90 calendar days of continuous session after introduction, fails to approve such a concurrent resolution or either House of Congress rejects such a concurrent resolution, the request shall be deemed disapproved.

(2) On the first day that both Houses of Congress are in session after receipt of such amendment, a concurrent resolution of approval shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(3) The Corporation may withdraw the amendment any time prior to the adoption of such concurrent resolution by either House of the Congress.

(b) Upon introduction, the concurrent resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(c) For the purpose of subsection (a)(1) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar day period involved.

(d) This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e) of this section; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(e) The concurrent resolution approving the amendment under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the amendment to the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____.", the blank space therein being filled with the date and the year.

(f)(1) If any committee to which such concurrent resolution with respect to the amendment to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such concurrent resolution or to discharge any such committee from further consideration of any other concurrent resolution with respect to such amendment to the comprehensive strategy which has been referred to such committee.

(2) A motion to discharge may be made only by an individual favoring such concurrent resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a concurrent resolution with respect to the request), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the concurrent resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same amendment to the comprehensive strategy.

(g)(1) When all such committees have reported (or have been discharged from further consideration of) a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a concurrent resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the

motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(2) Debate on the concurrent resolution shall be limited to not more than 5 hours and final action on the concurrent resolution shall occur immediately following conclusion of such debate. The 5 hours shall be equally divided between supporters and opponents of such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in subsection (i), an amendment to, or motion to recommit such a concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a concurrent resolution was agreed to or disagreed to.

(h)(1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution, shall be decided without debate.

Appeals.

(2) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a concurrent resolution shall be decided without debate.

(i) With respect to a concurrent resolution related to an amendment to the comprehensive strategy, if one House receives from the other House a concurrent resolution with respect to such amendment, then the following procedure applies:

(1) the concurrent resolution of the other House with respect to such request shall not be referred to a committee; and

(2) in the case of a concurrent resolution of the first House with respect to such request—

(A) the procedure with respect to that or other concurrent resolutions of such House with respect to such amendment shall be the same as if no concurrent resolution from the other House with respect to such request had been received; but

(B) on any vote on final passage of a concurrent resolution of the first House with respect to such amendment a concurrent resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the concurrent resolution of the first House.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

42 USC 8731.

SEC. 131. (a) Financial assistance shall be awarded to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127 and is most likely to advance the purposes of this title, including consideration of price and other factors. Whenever, in the judgment of the Board of Directors, it is practicable and provident to do so, the Corporation shall award financial assistance on the basis of competitive bids.

(b)(1) Subject to the limitations set forth in this part, the Corporation is authorized, upon such terms and conditions as the Board of Directors shall determine—

(A) to provide financial assistance to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127;

(B) with the consent of the recipient, to renew, modify, or extend such financial assistance; and

(C) in connection with the awarding of financial assistance, to require such security and collateral as the Corporation deems appropriate for the repayment of any fixed or contingent obligations to the Corporation.

(2) The proposal selected for financial assistance pursuant to any solicitation shall be that proposal which, in the judgment of the Board of Directors, is most advantageous in meeting the national synthetic fuel production goal established under section 125. Preference in such selection shall be given to—

(A) the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(B) in determining the relative commitment of the Corporation, in decreasing order of priority—

(i) price guarantees, purchase agreements, or loan guarantees;

(ii) loans; and

(iii) joint-ventures.

(3) The Corporation shall also consider, in awarding financial assistance, among other relevant factors—

(A) the diversity of technologies (including differing processes, methods, and techniques); and

(B)(i) the potential cost per barrel or unit production of synthetic fuel from the proposed synthetic fuel project;

(ii) the overall production potential of the technology, considering the potential for replication, the extent of the resource and its geographic distribution, and the potential end use; and

(iii) the potential of the technology for complying with applicable regulatory requirements.

(4) If after a formal solicitation for competitive bids no bids are received during the period for response, or those received are not acceptable to the Board of Directors, and the Board of Directors makes a finding (A) that the synthetic fuel project is essential for the achievement of the national synthetic fuel production goal established under section 125 and the requirements of section 126(a) and (B) that competitive bids are not appropriate, the Board of Directors shall report such findings to the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives and may then proceed to negotiate a contract of financial assistance for such project with a qualified concern.

Report to congressional committees.

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

(d) 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.

(e) Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate State agencies.

(f) 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 the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or department of the United States, except as provided in section 151.

Application.

(g) No financial assistance may be awarded unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(h) The Corporation in awarding financial assistance shall give due consideration to promoting competition.

(i) Every applicant for financial assistance under this part shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Corporation or its designee may require for the provisions of this part. The Corporation shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this part. The Corporation is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Corporation or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was awarded.

(j)(1) In no case shall the aggregate amount of financial assistance awarded or committed under this part exceed at any one time 15 per centum of the total obligational authority of the Corporation authorized under section 152—

(A) to any one synthetic fuel project, either directly or indirectly; or

(B) to any one person, including such person's affiliates and subsidiaries, either directly or indirectly.

(2) For the purpose of determining compliance with paragraph (1)(B), any financial assistance to a synthetic fuel project under this part shall be allocated among the project participants in direct proportion to each person's participation in such project.

(k)(1) Any contract for financial assistance shall specify in dollars the maximum amount of the liability of the Corporation under such contract, as computed in accordance with section 152.

Notification.

(2) The Corporation shall notify the Secretary of the Treasury of its intention to enter into a contract for financial assistance prior to the execution of such contract.

(3) Any such contract shall be accompanied by a certification by the Secretary of the Treasury pursuant to section 195(a)(3) that sufficient unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligation of the contract.

Post, p. 682.

(l) With regard to a synthetic fuel project proposed by a concern whose rates are regulated, or with regard to a synthetic fuel project the management of which proposes to sell synthetic fuels to a person whose rates for the use or transportation of such fuels are regulated, the Corporation is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Corporation.

(m) For the purposes of determining (1) the total costs of the synthetic fuel project for sections 132 and 133, and (2) the total costs of

the synthetic fuel project module for section 136, any real or personal property or services obtained for the facility in a transaction with any person or concern (including an affiliated company as defined in section 2(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(2)) and an affiliated person as defined in section 2(a)(3) of such Act (15 U.S.C. 80a-2(a)(3))) who has, or will have, an ownership or profit interest in the facility shall be valued at the lower of the cost to the project or fair market value, disregarding any portion of such fair market value which is attributable to the prospect of receiving financial assistance under this part.

(n) The Corporation, as a condition to providing financial assistance, other than loans pursuant to section 132 and loan guarantees pursuant to section 133, may require that the Corporation share in profits from the operation of a synthetic fuel project on a fair basis.

(o) Whenever the Corporation, by one or more actions, awards a combination of two or more forms of financial assistance for a single synthetic fuel project, the Corporation shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project: *Provided, however,* That any person who is solely in the position of a lender shall not be required to bear such risk. The Corporation shall not award more than a single form of financial assistance under this part unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further, that the project is necessary to achieve the purposes of this title and the provisions of this part.

(p) The Corporation shall not award financial assistance in the form of loans pursuant to section 132 or joint ventures pursuant to section 136 unless the Board of Directors determines that neither price guarantees, purchase agreements, nor loan guarantees will adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for such project.

(q) The Corporation, in consultation with the Secretary of the Treasury, shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account Federal activities which directly or indirectly influence such capital markets. Additionally, the Corporation shall impose such terms and conditions on any financial assistance (after evaluating the financing of the synthetic fuel project, the tax benefits which would be available to investors in the synthetic fuel project, and any regulatory actions associated with the synthetic fuel project) as may be necessary to assure that any investors having an ownership or profit interest in the synthetic fuel project bear a substantial risk of after tax loss in the event of any default or other cancellation of the synthetic fuel project.

(r) The Corporation shall insure that financial assistance awarded under this part for (1) loans pursuant to section 132, (2) loan guarantees pursuant to section 133, (3) joint ventures pursuant to section 136, or (4) any combination of forms of financial assistance including one or more of the aforementioned forms, in the judgment of the Board of Directors, encourages and supplements, but does not compete with or supplant, any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. To that end, the Corporation shall establish internal

procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project and, further, the Board of Directors shall determine, in its judgment, that any financial assistance by the Corporation for the project will not compete with nor supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken.

(s) Any price guarantee pursuant to section 134 or purchase agreement pursuant to section 135 shall include an express provision to the effect that the price guarantee or purchase agreement shall be the subject of review and possible renegotiation, pursuant to section 131(b)(1)(B), within ten years from the date of initial production by the synthetic fuel project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such price guarantee or purchase agreement.

(t) The Corporation shall, in its determination of the need for financial assistance awarded pursuant to this part, take into consideration (1) any specific tax credit directly associated with a synthetic fuel project, (2) any financial assistance that has been or will be provided by Federal or State agencies, and (3) the potential revenues generated by the project from the production of non-synthetic fuel products.

Cost sharing agreements.

(u)(1) The Corporation is authorized to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. In the event of an award of a loan or loan guarantee, the Corporation's share of any such cost-sharing agreement shall be incorporated in such loan or loan guarantee.

(2) Such cost-sharing agreements shall not exceed 1 percent of the preliminary total estimated cost of the applicant's proposed synthetic fuel project.

(3) The Corporation is authorized to expend not to exceed 1 percent of the aggregate obligational authority under section 151 for cost-sharing agreements under this subsection.

LOANS MADE BY THE CORPORATION

42 USC 8732.

SEC. 132. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, loans to any concern for a synthetic fuel project.

(2)(A) Subject to the limitation contained in subparagraph (B), loans under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the loan or commitment to loan.

(B) Any loan under this section shall be limited to the lesser of 49 per centum of the initial total estimated cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that the limits established in this subparagraph would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary.

(3) In the event the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), the Corporation may, upon application therefor, lend additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided,* That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128, and such Corporation synthetic fuel action has not been disapproved.

(4) The per centum specified in the exception contained in paragraph (3)(B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(b) Each loan made under this section shall bear interest at such rate as the Corporation may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private): *Provided,* That such rate shall not be less than a rate determined by the Secretary of the Treasury, for the Corporation, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Corporation shall have determined that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic fuel project will have a substantial value in helping to meet the national synthetic fuel production goal established under section 125. Interest rate.

(c) Loans may be made either directly or in cooperation or participation with banks or other lenders. Loans may be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for the purpose.

(d) If the Board of Directors determines that the borrower is unable to meet payments under a loan agreement and is not in default, it is in the public interest to permit the borrower to continue to pursue the purposes of the synthetic fuel project, and the probable net benefit to the Corporation in forbearing from exercising its rights under a loan agreement will be greater than that which would result in the event of a default, and if the borrower agrees to make such payments to the Corporation on terms and conditions, including interest, which are satisfactory to the Corporation, then the Corporation may forbear from exercising its rights under the loan agreement.

(e) No loan under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

LOAN GUARANTEES MADE BY THE CORPORATION

42 USC 8733.

SEC. 133. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions (including the right of subrogation) as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project.

(2) Loan guarantees under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the guarantee or commitment to guarantee.

(3) In the event that the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), by the Corporation, the Corporation may, upon application therefor, guarantee additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided,* That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost, the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(C) The per centum specified in the exception contained in subparagraph (B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(4) The Corporation, in reviewing the need for financial assistance pursuant to applications for loan guarantees, shall consider whether the concern or concerns making such application otherwise would be unable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project.

(5) Any loan guarantee made by the Corporation 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 loan guarantee complies fully with the provisions of this part 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.

(6) The Corporation is authorized pursuant to paragraph (1) to award loan guarantees to any concern with a partial interest in a synthetic fuel project.

(b) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to

continue to pursue the purposes of such project; and the probable net benefit to the Corporation 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;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay and which the Corporation has guaranteed under such agreement.

(c) No loan guaranteed under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

PRICE GUARANTEES MADE BY THE CORPORATION

SEC. 134. The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee: *Provided,* That no such price guarantee may be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern, except that the use of a "cost of service" pricing mechanism by a concern pursuant to law, or by a regulatory body establishing rates for a regulated concern, shall not be deemed to be a "cost plus" arrangement or variant thereof: *Provided further,* That if the Corporation determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated. In awarding financial assistance under this section, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project. 42 USC 8734.

PURCHASE AGREEMENTS MADE BY THE CORPORATION

SEC. 135. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Corporation determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title. 42 USC 8735.

(b) The Corporation in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuel purchased meets standards for the use for which such fuel is purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the Corporation retain the right to refuse delivery of the synthetic fuel involved upon such terms and conditions as shall be specified in the purchase agreement.

(d) The Corporation is authorized to take delivery of synthetic fuel pursuant to a purchase agreement and, subject to section 172(d), to sell such synthetic fuel. In any case in which the Corporation accepts delivery of and does not sell such synthetic fuel to a person, such synthetic fuel may be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for the product which such synthetic fuel is replacing from sums appropriated to such Federal agency for the purchase of fuel.

(e) The Corporation is authorized to transport and store and have processed and refined any synthetic fuel obtained pursuant to a purchase agreement under this section.

JOINT VENTURES BY THE CORPORATION

42 USC 8736.

SEC. 136. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or to enter into joint ventures for synthetic fuel project modules. In the selection of a concern or concerns for a joint venture and in the negotiation of a joint venture agreement pursuant to this section, the Corporation may, to the extent that the Corporation does not have available sufficient capability for evaluation or management of the proposed joint venture, utilize personnel of the Department of Energy, pursuant to section 171(a)(9), to the extent that such personnel have technical expertise related to the technical matters associated with such selection and negotiation. In a joint venture the Corporation may undertake the construction and operation of a synthetic fuel project module only by contract: *Provided, however,* That the Corporation shall not finance more than 60 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture agreement.

(b) Any joint venture shall be restricted to a synthetic fuel project module which, in the judgment of the Board of Directors, will—

(1) demonstrate the commercial feasibility of a technology for the production of synthetic fuel from a significant domestic resource which offers potential for achievement of the national synthetic fuel production goal set forth in section 125; and

(2) can, at the same site, be expanded into a synthetic fuel project.

(c) With regard to any joint venture, the initial contract may provide for purchase pursuant to such joint venture agreement of the equity interest of the Corporation in such joint venture by the participating concern, or concerns, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module. The purchase price set forth in the joint venture agreement shall be established by the Board of Directors: *Provided,*

That if such purchase from the Corporation is not provided for in the initial joint venture agreement or is not exercised by such concern, or concerns, the Corporation, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module pursuant to a joint venture agreement, shall dispose of its participation in such agreement pursuant to section 181.

(d)(1)(A) For the purposes of this section, the term "synthetic fuel project module" means any facility located in the United States which— "Synthetic fuel project module."

(i) is of a size smaller than a synthetic fuel project;

(ii) will, if successful, demonstrate the technical and economic feasibility of the commercial production of synthetic fuels; and

(iii) can eventually be expanded at the same site into a synthetic fuel project.

(B) Such term may include the necessarily related transportation or other facilities, equipment, plant, machinery, supplies, other materials, land, and mineral rights as described in section 112(18), (including all limitations and requirements in section 112(18)) associated with a synthetic fuel project module.

(2) For purposes of this section, the term "joint venture" means an agreement under which the Corporation and one or more persons participate in construction and operation of a synthetic fuel project module: *Provided,* That the interest of the Corporation in such joint venture shall be in proportion to the relative contribution of the Corporation to the joint venture. "Joint venture."

(e) The Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the construction or operation of the module, other than as provided in subsection (f). Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status.

(f)(1) Nothing in this section shall prohibit the Corporation from negotiating, as part of the joint venture agreement pursuant to this section, such participation of the Corporation in the management decisions of the joint venture as the Board of Directors deems appropriate and necessary pursuant to the Corporation's financial interest in the joint venture.

(2) In no event, however, shall the persons in the joint venture agreement be denied the primary responsibility for management of the joint venture. The Corporation shall be liable only to the extent of its contractual commitment to contribute capital to the venture. No additional liability shall ensue even if, and to the extent that, the Corporation were to assume a role which might be construed to constitute the role of a general partner.

CONTROL OF ASSETS

SEC. 137. (a) The Corporation may acquire or retain control of a synthetic fuel project only— 42 USC 8737.

(1) by foreclosure of a security interest or pursuant to a default under any financial assistance contract;

(2) pursuant to section 136 or subsection (b) of this section; or

(3) pursuant to subtitle E.

(b) The Corporation may acquire control of a synthetic fuel project which, prior to the approval of the comprehensive strategy pursuant

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to section 126(c), is the subject of financial assistance under this part under the following circumstances:

(1) substantial progress has been made toward completion of the construction and operation of such project and the Board of Directors determines that such project will not commence operation, or will cease operation unless acquired by the Corporation;

(2) the operation of such project will make a significant contribution toward achieving the purposes of this title;

(3) such acquisition of control will not result in losses to the Corporation disproportionate to the benefits that operation of the project will produce in demonstrating a particular technology;

(4) failure of the Corporation to acquire such project would result in a greater financial liability of the Corporation than acquisition of the project by the Corporation; and

(5) with respect to projects subject to loans or loan guarantees, the Board of Directors determines that the concern is in default or immediately will go into default:

Provided, That the Corporation may not acquire any such control until it has submitted a plan for such acquisition to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section: *Provided further,* That completion of the construction or operation of any such project, the control of which was acquired pursuant to this subsection, may only be undertaken by contract: *Provided additionally,* That authorities in this subsection shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements.

(c) With respect to a synthetic fuel project subject to a loan or loan guarantee where the Corporation acquires control pursuant to subsection (b), the Corporation, on such terms and conditions as the Board of Directors may prescribe, is authorized to lease back to the concern involved such synthetic fuel project where such lease will assure the production of synthetic fuels from such project consistent with the purposes of this title: *Provided,* That the Corporation may not lease back such a project until it has submitted a plan regarding such lease-back to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(d) For the purposes of this section, the term—

"Operating asset."

(1) "operating asset" means any real or personal property used in the synthetic fuel project; and

"Control."

(2) "control" means the power to direct the use or disposition of operating assets of the synthetic fuel project through (A) direct ownership; or (B) ownership of the majority of the voting securities of a corporation or other concern which (i) owns or (ii) leases a synthetic fuel project: *Provided,* That "control" shall not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased back in accordance with subsection (c).

(e) Any control of synthetic fuel projects obtained pursuant to subsection (b) or (c) must be disposed of within not more than five years after the date of the acquisition of such control.

UNLAWFUL CONTRACTS

SEC. 138. Sections 431 and 432 of title 18, United States Code, shall apply to all contracts, instruments, or agreements of the Corporation, other than those contracts, instruments, or agreements of the Corporation which are exempted from the application of such sections by section 433 of such title, as if the Corporation were an agency of the United States. Such contracts, instruments, or agreements include financial assistance, advances, discounts and rediscounts, acceptances, releases, and substitution of security, together with extensions or renewals thereof. 42 USC 8738.

FEES

SEC. 139. (a) The Corporation may charge and collect fees in connection with the financial assistance provided pursuant to this part: *Provided*, That such fees shall not exceed 1 per centum of the amount of such financial assistance. Fees received by the Corporation may be applied against the administrative expenses of the Corporation related to providing financial assistance and probable losses. 42 USC 8739.

(b) The Corporation shall prescribe and collect an annual fee in connection with each loan guarantee provided pursuant to this part of one-half of 1 per centum of the amount of such loan guarantee. Sums realized from such loan guarantee fees shall be deposited in the Energy Security Reserve and shall be used solely to meet obligations arising from default by a recipient of financial assistance under this part.

DISPOSITION OF SECURITIES

SEC. 140. The Corporation shall, as soon as practicable, sell in public or private transactions all or any part of the notes, bonds, or any other evidences of indebtedness (except for the instrument of indebtedness received by the Corporation for any loan pursuant to section 132) of any other person ownership of which is acquired by the Corporation pursuant to this part: *Provided*, That, in the case of joint ventures pursuant to section 136 and Corporation construction projects, any contract by the Corporation in connection therewith shall provide for the disposition, as soon as practicable, of any notes, bonds, or other evidences of ownership acquired by the Corporation pursuant to this part. 42 USC 8740.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

SEC. 141. (a) Subject to the requirements of section 126(a)(1)(D), section 126(a)(3), and section 142, the Corporation is authorized to own synthetic fuel projects, and the Corporation shall contract for the construction and operation of any such synthetic fuel project (hereinafter referred to as a "Corporation construction project"): *Provided*, That, prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation may undertake such projects only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 126(a)(2) and would not otherwise be constructed with financial assistance awarded under subtitle D. 42 USC 8741. *Ante*, p. 644.

(b) The power of the Corporation to own and contract for the construction and operation of a Corporation construction project shall include, among other things, the authority to—

(1) take delivery of synthetic fuel from such project;

(2) transport and store and have processed and refined such synthetic fuel;

(3) subject to section 172(d), sell such synthetic fuel to a person; and

(4) take all actions reasonably necessary therewith: *Provided,* That to the maximum extent feasible, the Corporation shall utilize the private sector for the activities associated with this subsection.

(c) Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids pursuant to section 127: *Provided,* That any such contracts shall be expressly contingent upon the availability of sufficient funds.

(d) If, after undertaking a Corporation construction project, the Board of Directors determines that the total revised estimated cost of such Corporation construction project will exceed the initial estimated cost specified in the contract pursuant to subsection (c), the Board of Directors may, in its sole discretion, amend, modify, or renegotiate such contract to cover such additional costs; except that, if the revised estimated cost exceeds 175 per centum of the initial estimated cost, the Corporation shall not make such amendment, modification, or renegotiation unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved.

(e) The Corporation is authorized to undertake contractual agreements with, among others, any Federal department or agency (including the Department of Energy, the United States Army Corps of Engineers, and the Tennessee Valley Authority) to provide the design, the construction, or the management of the operation of Corporation construction projects: *Provided,* That in the case of a Federal department or agency, such department or agency has the available, experienced personnel to perform such project management function.

LIMITATIONS ON CORPORATION CONSTRUCTION PROJECTS

42 USC 8742.
Ante, p. 644.

SEC. 142. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized not more than three Corporation construction projects subject to the requirements of sections 126(a)(1)(D) and 141.

(b) After the approval of a comprehensive production strategy pursuant to section 126(c), the Corporation shall not undertake any new, or expand any existing, Corporation construction project.

ENVIRONMENTAL, LAND USE, AND SITING MATTERS

42 USC 8743.

SEC. 143. (a) Corporation construction projects and joint ventures by the Corporation pursuant to section 136 shall be subject to all Federal and nondiscriminatory State and local environmental, land use, and siting laws to the same extent as such laws apply to privately sponsored synthetic fuel projects receiving financial assistance under this part and other similarly situated and used property.

(b) Contracts for the construction or operation of any Corporation construction project shall provide for the monitoring of the environmental and health related emissions from the construction and operation of such project. Such monitoring shall be conducted in accordance with a plan developed by the contractor after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy.

PROJECT REPORTS

SEC. 144. Within three years of the initial operation of each Corporation construction project, the Corporation shall publish a report providing detailed information including— Publication. 42 USC 8744.

(1) whether the synthetic fuel product can be sold at a price which is competitive with imported crude oil;

(2) whether such technology can be operated on a commercial scale in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act (42 U.S.C. 7400 et seq.);

(3) the effect on regional and local water supplies of the project and the commercial operation of such technology;

(4) the health effects on workers and other persons of the project including any carcinogenic effects; and

(5) the social and economic impacts on local communities which were most directly affected by such project.

FINANCIAL RECORDS

SEC. 145. Recipients of contracts under this subtitle shall keep such records and other pertinent documents as the Corporation shall prescribe, including records which fully disclose the disposition of the proceeds of such assistance, the cost of any Corporation construction project and such other records as the Corporation may require to facilitate an effective audit. The Corporation and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other directly pertinent documents. 42 USC 8745. Accessibility.

SUBTITLE F—CAPITALIZATION AND FINANCE

OBLIGATIONS OF THE CORPORATION

SEC. 151. (a)(1) Subject to the limitations in section 152 and to the extent provided in advance in appropriation Acts, the Corporation is authorized to issue, solely to the United States of America acting by and through the Secretary of the Treasury (who shall purchase within five days of each such issuance and retain), notes or other obligations of the Corporation in the aggregate principal amount of $20,000,000,000— 42 USC 8751.

(A) plus such sums as are authorized pursuant to section 126; and

(B) less such sums—

(i) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation in- *Ante*, p. 619.

curred before such date under such section, up to a maximum of $3,000,000,000; and

(ii) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.), up to a maximum of $2,208,000,000.

(2) Such aggregate principal amounts shall become available to the Corporation upon the date of enactment of this part or under paragraph (1)(A) upon satisfying the requirements of section 126.

Ante, p. 644.

(b) The Corporation shall not issue any note or other obligation to the Secretary of the Treasury without prior consultation with the Secretary of the Treasury.

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATIONAL AUTHORITY

42 USC 8752.

SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses pursuant to section 120 and operating expenses, in excess of the aggregate principal amount of $20,000,000,000—

(1) plus such sums, if any, as are authorized pursuant to section 126; and

(2) less such sums—

(A) as are obligated for purposes of carrying out section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

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(B) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.) up to a maximum of $2,208,000,000.

(b)(1) For purposes of determining the Corporation's compliance with this section—

(A) loans shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated pursuant to section 132(a)(3);

(B) loan guarantees shall be counted at the initial face value of such loan guarantee (including any amount of interest which is guaranteed under such loan guarantee) plus such amounts as are subsequently obligated pursuant to section 133(a)(3);

(C) price guarantees and purchase agreements shall be valued by the Corporation as of the date of each such contract, based upon the Corporation's estimate of its maximum potential liability;

(D) joint ventures and Corporation construction projects shall be valued at the current estimated cost to the Corporation, as determined annually by the Corporation; and

(E) any increase in the liability of the Corporation pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, purchase agreement, joint venture, or Corporation construction project shall be counted.

(2) Determinations made 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 synthetic fuel project or if the financial assistance agreement provides a right to the Corporation to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(c) Any commitment by the Corporation to provide financial assistance or make capital expenditures which is nullified or voided for any reason shall not be considered in the aggregate for the purpose of subsection (a).

BUDGETARY TREATMENT

SEC. 153. The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the Budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the Budget of the United States Government but shall not be included in the totals of the Budget. 42 USC 8753.

RECEIPTS OF THE CORPORATION

SEC. 154. (a) Subject to the limitations contained in section 152, moneys of the Corporation, other than those received pursuant to sections 139(b) and 151, shall be used to defray administrative expenses and, to the extent that surplus is available thereafter, to provide financial assistance pursuant to subtitle D. In the event that additional surplus is available thereafter such additional surplus shall, when authorized by the Board of Directors, be used in the purchase for redemption and retirement of any notes or other obligations of the Corporation. 42 USC 8754.

(b) Moneys of the Corporation not otherwise employed shall be—

(1) deposited with the Treasury of the United States subject to withdrawal by the Corporation by check drawn on the Treasury of the United States by a Treasury disbursing officer; or

(2) with approval of the Secretary of the Treasury, deposited in any Federal Reserve bank.

(c) In the event that moneys of the Corporation, including moneys received pursuant to sections 139(b) and 151, exceed the limitation set forth in section 152, such surplus shall be deposited as miscellaneous receipts in the general fund of the Treasury of the United States.

(d) Not later than 10 calendar days after the end of each fiscal quarter, the Corporation shall submit a written report to the Secretary of the Treasury detailing all moneys received by the Corporation during the previous fiscal quarter. Such reports shall be incorporated in the quarterly and annual reports required under section 177. Report.

TAX STATUS

SEC. 155. (a) The Corporation, its franchise, capital, reserves, surplus, income, and intangible property shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, or local taxing authority, except that— 42 USC 8755.

(1) any real property owned in fee by the Corporation shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other

similarly situated and used real property, without discrimination in the valuation, classification, or assessment thereof;

(2) the Corporation and its employees shall be subject to any nondiscriminatory payroll and employment taxes intended to finance benefits based upon employment (such as social security and unemployment benefits) to the same extent as any privately owned corporation; and

(3) with respect to any Corporation construction project undertaken pursuant to subtitle E, the Corporation shall be subject to any nondiscriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on—

(A) the extraction or severance of minerals owned or leased by the Corporation; and

(B) the purchase or lease of tangible personal property.

(b) With respect to any loan or debt obligation which is (1) issued after the enactment of this part by, or on behalf of, any State or any political subdivision or governmental entity thereof, (2) guaranteed or otherwise secured by the Corporation prior to the approval of a comprehensive strategy under section 126(c), and (3) 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 the Internal Revenue Code of 1954: *Provided*, That with respect to the amount of such obligations 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 Corporation 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 or otherwise secured by the Corporation and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Corporation, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

Ante, p. 644.

26 USC 1 *et seq.*

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

FALSE STATEMENTS

42 USC 8761.

SEC. 161. Whoever makes any false statement, knowing or having reason to believe it to be false, or whoever knowingly overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this part, extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation or for the purpose of obtaining money, property, contract rights, or anything of value, under this part, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

FORGERY

42 USC 8762.

SEC. 162. Whoever—

(1) falsely makes, forges, or counterfeits any agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited; or

(3) falsely alters any agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation; or

(4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true, any falsely altered agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation, knowing the same to be falsely altered,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATION OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 163. (a) Whoever— 42 USC 8763.

(1) embezzles, extracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation;

(2) makes any false entry in any book, report, or statement of or to the Corporation or, without being duly authorized, draws any bond, other obligation, draft, bill of exchange, mortgage, judgment, or decree thereof, with intent to defraud the Corporation, any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation;

(3) participates in, shares in, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, with intent to defraud; or

(4) gives to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation, receiving financial assistance from the Corporation,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. With respect to paragraph (4), the Corporation is authorized to obtain injunctive relief against the threatened misuse of information.

(b) Whoever falsely assumes or pretends to be a Director, officer, or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

CONSPIRACY

SEC. 164. If two or more persons conspire to commit any of the acts made unlawful by section 161, 162, or 163, each such person shall be fined or imprisoned, or both, as if such person committed the unlawful acts. 42 USC 8764.

INFRINGEMENT ON NAME

42 USC 8765.

SEC. 165. (a) No person or other government entity may use the words "United States Synthetic Fuels Corporation" or a combination of these words in a manner which is likely to mislead or deceive.

(b) A violation of this section may be enjoined at the suit of the Corporation.

ADDITIONAL PENALTIES

42 USC 8766.

SEC. 166. In addition to any penalties imposed as a result of a violation of any provision of this subtitle or section 138, the Corporation shall have the authority to bring an action to recover damages for losses incurred by the Corporation or any profit or gain acquired by the defendant as a result of a violation of any section of this subtitle.

SUITS BY THE ATTORNEY GENERAL

42 USC 8767.

SEC. 167. (a) If the Corporation shall engage in or adhere to any action, practices, or policies inconsistent with the the provisions of this part, or if the Corporation or any other person shall violate any provision of this part or shall obstruct or interfere with any activities authorized by this part, or shall refuse, fail, or neglect to discharge the duties and responsibilities under this part, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such Corporation or such other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, or upon petition of the Comptroller General of the United States, to grant such relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this part.

(c) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this part by appropriate officers of the United States.

CIVIL ACTIONS AGAINST THE CORPORATION

42 USC 8768.
28 USC 81 *et seq.*
76A Stat. 51.
48 USC 1694.

SEC. 168. District courts of the United States constituted under chapter 5 of title 28, United States Code, and courts constituted under section 22 of the Organic Act of Guam (48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611), section 1 of title 3 of the Canal Zone Code, and the first section of the Act entitled "An Act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", approved November 8, 1977 (91 Stat. 1265), shall have original jurisdiction for all civil actions against the Corportion: *Provided, however,* That the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) shall apply to the Corporation as if it were a Federal agency and any judgment or compromised claim resulting from any action thereunder shall be paid by the Corporation from its funds: *And provided further,* That the Corporation shall be liable for contract claims only if such claims are based

upon a written contract to which the Corporation is an executing party. The liability of the Corporation shall be limited to the assets of the Corporation.

SUBTITLE H—GENERAL PROVISIONS

GENERAL POWERS

SEC. 171. (a) In carrying out the provisions of this part, the Corporation shall have the power, consistent with the provisions of this part— 42 USC 8771.

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities: *Provided, however,* That the Corporation shall not provide any financial assistance except as specifically permitted under this part;

(3) to lease, purchase, accept gifts or donations of, or otherwise to acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and be sued, subject to the provisions of section 168, in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to section 117, to select, employ, and fix the compensation (including, without limitation, pension plans, health benefits, incentive compensation plans, paid vacation, sick leave, and other fringe benefits) of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation; *Ante,* p. 638.

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may deem necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this part and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(11) to obtain the services and fix the compensation of experts;

(12) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out the provisions of this part and the exercise of its powers, purposes, functions, duties, and authorized activities.

(b) The foregoing powers shall only be exercised in connection with, as authorized by this part, administrative activities, financial assistance, and Corporation construction projects and, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other governmental function; and any violation of this subsection shall be punished by—

(1) a fine of not more than $10,000 or by imprisonment for not more than five years, or both;

(2) additional penalties pursuant to section 166; and

(3) relief pursuant to section 167.

(c) In addition to the powers granted under subsections (a) and (b), and only in connection with Corporation construction projects, the Corporation is authorized to exercise the power of eminent domain in the United States district court for the district in which the real property is located to acquire interests in real property, including property owned by any State or local government body or entity or any Indian tribe, in the following cases: (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline: *Provided,* That such power shall not be exercised to acquire property for the site of any Corporation construction project, or property for any coal slurry pipeline except within the immediate vicinity of the site of such a project: *Provided further,* That the Corporation may acquire property or interests in property by eminent domain only upon a finding by its Board of Directors that the property in question is necessary for a Corporation construction project and that no other alternative property is reasonably available. These findings of the Board of Directors shall not be subject to judicial review in any court.

COORDINATION WITH FEDERAL ENTITIES

42 USC 8772.

SEC. 172. (a) Prior to awarding, or making any commitment to award, financial assistance for any synthetic fuel project, the Corporation may seek the advice and recommendations of, or information or data maintained by, any Federal department or agency to assist the Corporation in determinations to be made hereunder. Any such advice, recommendation, information, or data, to the extent permitted by law, shall be provided to the Corporation within thirty days of its request: *Provided, however,* That where such information or data comprises a trade secret, or confidential or proprietary data, the Corporation shall agree to receive such data under the same terms of confidentiality agreed to by the agency involved.

(b) The Secretary of Energy is authorized to provide such technical assistance to the Corporation as is necessary to carry out the provisions of this part.

(c) The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development.

(d)(1) The Corporation is authorized and directed to consult with the Secretary of Defense in order to identify those national defense fuel supply requirements which may be achieved under this part. Such consultation shall include identification of the technical specifi-

cations for particular fuels and such other information as may be necessary to facilitate the production of synthetic fuel under this part for the purposes of national defense.

(2) With regard to any synthetic fuel which may be acquired by the Corporation through purchase agreements, joint ventures, or Corporation construction projects, the Corporation shall offer to sell such fuels first to the Department of Defense for national defense needs in accordance with such terms and conditions as the Corporation and the Secretary of Defense may provide by contract.

PATENTS

SEC. 173. (a) Any contract to provide financial assistance under subtitle D in the form of a loan, a loan guarantee, or a joint venture may, in the judgment of the Board of Directors, require that whenever any invention is made or conceived in the course of or under such contract, title to the patent for such invention shall vest in the Corporation. The Corporation shall have the right to license the patent on a nonexclusive basis.

42 USC 8773.
Ante, p. 654.

(b)(1) The Corporation may grant a nonexclusive license for the use of any invention for which it holds the patent but it may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Corporation is authorized to grant an exclusive or partially exclusive license for the use of any invention for which it holds the patent to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Board of Directors, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license for the use of an invention granted under subsection (b) shall contain such terms and conditions as the Corporation may determine to be appropriate for the protection of the interests of the United States and the general public, including provision for the Corporation, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (1) it has not been applied to the commercialization of domestic energy resources or (2) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan or loan guarantee agreements entered into pursuant to sections 132 and 133, respectively, shall include such terms and conditions consistent with this subsection with respect to patents as the Corporation deems appropriate to protect the interests of the Corporation in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the synthetic fuel project shall be available to the Corporation or its designee, to complete and operate the defaulting project. Such agreements shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the synthetic fuel project shall be licensed to the Corporation and its designees on equitable terms, including due consideration to the amount of the default payments due to the Corporation.

(e) Patents, technology, and proprietary rights vested in the Corporation as a result of default on a loan or loan guarantee agreement or vested in the Corporation pursuant to subsection (a) shall be transferred to the Secretary of Energy for administration under applicable law upon termination and liquidation of the Corporation.

(f)(1) Any contract entered into by the Corporation pursuant to subtitle E shall be subject to subsections (a) through (m) of section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908 (a) through (m)). In applying such subsections to subtitle E—

Definitions.
Ante, p. 665.

(A) the term "Administrator" in such subsections shall mean the Chairman of the Board of Directors;

(B) the term "Administration" in such subsections shall mean the Corporation;

(C) the term "United States" in such subsections shall mean the Corporation;

(D) the term "Government" in subsections (a) and (d) of such sections shall include the Corporation for purposes of such subsection; and

(E) the term "any Government agency" in subsection (h)(2) of such section shall mean the United States.

(2) Section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 shall not apply to financial assistance granted pursuant to subtitle D.

42 USC 5908.
Ante, p. 654.

(g) The United States Government shall have a royalty-free, nonexclusive license to any invention in which the Corporation owns title or reserves a license pursuant to subsection (a). The Corporation may assign title to any invention in which it has the title to the United States Government.

SMALL AND DISADVANTAGED BUSINESS UTILIZATION

42 USC 8774.

SEC. 174. In providing financial assistance, the Corporation shall require the recipient thereof to provide for the fair and reasonable participation by small and disadvantaged businesses in the synthetic fuel project receiving financial assistance and the Corporation shall do so with respect to Corporation construction projects under subtitle E.

Ante, p. 665.

RELATIONSHIP TO OTHER LAWS

42 USC 8775.

SEC. 175. (a) No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this part.

(b) No action of the Corporation except the construction and operation of synthetic fuel projects pursuant to subtitle E shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, and with respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of such Act.

42 USC 4332.

(c) The provisions of the Act entitled "An Act Relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act, and the provisions of the Service Contracts Act shall apply to the

41 USC 351 note.

Corporation as if it were an agency of the United States. All laborers and mechanics employed for the construction, repair, or alteration of synthetic fuel projects funded, in whole or in part, by the Corporation pursuant to section 132, 133, or 136 of this part shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act commonly known as the Davis-Bacon Act. The Corporation shall not extend any loan or loan guarantee for construction, repair or alteration of a synthetic fuel project unless a certification is provided to the Corporation prior to the commencement of construction, or at the time of filing an application for a loan or loan guarantee if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

Ante, pp. 658, 660, 662.

40 USC 276a note.

5 USC app.

(d) The securities laws of the United States as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) shall apply to the Corporation as if it were an agency or instrumentality of the United States.

(e) The antitrust laws, as defined in section 12 of title 15, United States Code, shall apply to the Corporation as if it were an agency of the United States.

(f) The Government Corporation Control Act (31 U.S.C. 841 et seq.) shall not apply with respect to the Corporation.

(g) Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States.

(h) The Longshoremen's and Harbor Workers' Compensation Act shall apply with respect to the injury and disability or death resulting from injury as defined in section 2(2) of such Act occurring to any Director, officer, or employee of the Corporation.

33 USC 902.

(i) Nothing in this part shall be deemed to limit the powers of the Energy Mobilization Board with respect to a synthetic fuel project or synthetic fuel project module receiving financial assistance under this part or Corporation construction projects.

(j)(1) For purposes of section 211(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3300), a petitioner under such section shall be deemed to have made the demonstrations required by section 211(b)(1) and section 211(b)(2) of such Act if he has entered into a legally valid agreement with a qualified producer of synthetic fuel for the future delivery of sufficient quantities of synthetic fuel to be used at the facility for which the exemption is sought. The submission to the Secretary of Energy of evidence of the existence of such a legally valid agreement also shall be deemed to satisfy the requirement of section 211(b) of such Act that the petitioner file and maintain a compliance plan satisfying the requirements of section 214(b) of such Act.

42 USC 8321.

(2) For purposes of paragraph (1), a person shall be deemed to be a "qualified producer of synthetic fuel" if he received financial assistance in the form of a loan, loan guarantee, purchase agreement, or price guarantee pursuant to subtitle D.

Ante, p. 654.

(3) In addition, in order to constitute a "legally valid agreement" for purposes of paragraph (1), the agreement with the qualified synthetic fuel producer must provide for the intitial delivery of synthetic fuel within the period of time during which such facility is exempted pursuant to section 211(e) of such Act.

42 USC 8321.

(4) For purposes of section 211(b) of such Act, an extension or renewal under section 211(e)(1) of such Act or section 211(e)(2)(B) of such Act may be granted at the time the original exemption is issued or at any subsequent date.

(5) Nothing in this subsection shall be construed to relieve the petitioner from compliance with subtitle A of title II of the Powerplant and Industrial Fuel Use Act of 1978.

42 USC 8311.

(k) This part shall not affect any authority contained in the Defense Production Act of 1950.

50 USC app. 2061.

SEVERABILITY

42 USC 8776.

SEC. 176. If any provision of this part, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

FISCAL YEAR, AUDITS AND REPORTS

42 USC 8777.

SEC. 177. (a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b)(1) The Corporation shall retain a firm or firms of nationally recognized public accountants who shall prepare, in accordance with generally accepted accounting principles, and report an annual audit of the accounts of the Corporation including statements of the type required in section 106 of the Government Corporation Control Act (31 U.S.C. 851).

(2) The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress, as the General Accounting Office shall deem necessary or as the Congress may request, but not less than every three years.

(3) All books, accounts, financial records, reports, files, papers, and property belonging to or in use by the Corporation shall be made available to the person or persons conducting the audit for verifying transactions.

(c)(1) The Corporation shall submit quarterly reports to the Congress and the President. Each report will state the aggregate sums then outstanding or committed for financial assistance under subtitle D and for Corporation construction projects under subtitle E, and a summary of any financial assistance retired or any synthetic fuel project liquidated by the Corporation pursuant to subtitle I. Each report shall contain a list of the concerns receiving financial assistance involved in Corporation construction projects.

(2) The quarterly report in which any expenditure or commitment to a concern or synthetic fuel project is first noted shall contain a brief description of the factors considered by the Corporation in making such expenditure or commitment. The report shall include (A) financial statements prepared in accordance with generally accepted accounting principles, consistently applied, as of the end of the Corporation's fiscal quarter preceding the date of the report and (B) compensation of persons employed or under contract by the Corporation at salary rates exceeding $2,500 per month.

(d)(1) Not later than 120 days after the end of each fiscal year, the Corporation shall submit to the Congress and the President an

annual report containing, in addition to the information required in the quarterly report required under subsection (c)(2), (A) a general description of the Corporation's operations during the year, (B) a specific description of each synthetic fuel project in which the Corporation is involved, (C) a status report on each such project, and (D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the purposes (including the national synthetic fuel production goal established in section 125) of this title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation in achieving the purposes of this title. The annual report shall address the environmental impacts of the Corporation's generic programs and decisions. *Ante*, p. 644.

(3) The annual report shall contain financial statements prepared by the Corporation in accordance with generally accepted accounting principles, consistently applied, and certified by the accountants retained under section (b)(1).

(e) On or before September 30, 1990, the Corporation shall submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current synthetic fuel project. This report shall contain a liquidation plan. The liquidation plan shall describe how each synthetic fuel project, and every substantial asset or liability of the Corporation, will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Corporation will describe the progress made in carrying out such liquidation plan.

WATER RIGHTS

SEC. 178. (a) Nothing in this part shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource. 42 USC 8778.

(b) No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

WESTERN HEMISPHERE PROJECTS

SEC. 179. (a) The Corporation is authorized to transmit a Corporation synthetic fuel action under section 128 relating to an award of financial assistance pursuant to subtitle D for not to exceed two synthetic fuel projects located in the Western Hemisphere outside the United States. If such Corporation synthetic fuel action is not disapproved by either House during the period specified in section 128, the Corporation shall be authorized to award such financial assistance. 42 USC 8779. *Ante*, p. 650. *Ante*, p. 654.

(b) The Corporation may use the authority of subsection (a) if the Corporation determines that—

(1) the project will use a class of resource that is located in the United States but that such class of resource will not be subject to

timely commercial production in the United States even if the Corporation provided financial assistance;

(2) the project will receive financial assistance from the government of the country in which the project is located;

(3) the synthetic fuel produced by such project will be available to users in the United States in quantities the Corporation determines to be equitable considering the nature and amounts of financial assistance; and

(4) all technology, patents, and trade secrets developed in connection with such project shall be available to citizens of the United States through rights in the Corporation or through licensing at reasonable cost for use in the United States.

(c) There is authorized for the purpose of this section not to exceed 10 percent of the aggregate obligational authority under section 152(a). Such authorization shall terminate upon approval of the comprehensive production strategy pursuant to section 126(c).

Ante, p. 644.

COMPLETION GUARANTEE STUDY

42 USC 8780.

SEC. 180. The Corporation shall conduct a study of supplemental financial protection for lenders including completion guarantees and other mechanisms to ascertain the desirability of employing such mechanisms to enlarge the number of potential participants in the synthetic fuel development program. A report on such study and recommendations based thereon shall be included in the comprehensive strategy submitted under section 126(b).

Report and recommendations.

SUBTITLE I—DISPOSAL OF ASSETS

TANGIBLE ASSETS

42 USC 8781.

SEC. 181. (a)(1) The Corporation, by and through its Board of Directors, is authorized, from time to time, on the basis of the criteria of subsection (b), to dispose of any portion or all of the tangible assets of the Corporation when such disposal is in the best interests of the Corporation for purposes of carrying out the provisions of this part either—

(A) on the basis of competitive bids, by selling to any person or concern any portion of the assets of the Corporation; or

(B) by transferring to a Federal agency of any portion or all of the tangible assets of the Corporation; or

(C) on the basis of a negotiated contract, consistent with paragraph (2), by selling to a person or concern any portion or all of the tangible assets of the Corporation.

(2) With regard to the sale of tangible assets pursuant to subsection (a)(1)(C), the Corporation shall—

Notice. Publication in Federal Register.

(A) publish in the Federal Register notice of the proposed sale of such asset;

(B) convene a prospective bidders conference; and

(C) no earlier than thirty days after such notice and conference, undertake negotiations for the sale of such asset.

Notification to President, Senate committee and Speaker of the House.

(3) At least thirty days prior to the disposal of any tangible asset pursuant to paragraph (1), the Corporation shall notify the President, the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives of the intended disposal of such tangible asset.

(b) For the purpose of this section, the term "tangible asset" means any single asset, or aggregation of assets, with a value of $1,000,000 or more. "Tangible asset."

(c) In establishing the acceptable terms and conditions of the sale or transfer of tangible assets constituting a synthetic fuel project, or portion thereof, or a Corporation construction project, or portion thereof, the Board of Directors shall make every reasonable effort—

(1) to recover the financial investment, if any, of the Corporation in such assets;

(2) to foster competition within the industry to which the assets are to be sold; and

(3) to assure that such assets will be productively utilized and, if possible, will continue in operation.

(d) With regard to the sale or transfer of tangible assets not included under subsection (c), the Corporation shall establish terms and conditions for the sale or transfer of such tangible assets in order to achieve the greatest financial return to the Corporation.

DISPOSAL OF OTHER ASSETS

SEC. 182. Except as provided for in section 181, the Corporation is authorized, from time to time, (1) consistent with the requirements of the Federal Property and Administrative Services Act, to sell to any person any portion of the assets of the Corporation, or (2) transfer to a Federal agency any portion or all of the assets of the Corporation. 42 USC 8782.

SUBTITLE J—TERMINATION OF CORPORATION

DATE OF TERMINATION

SEC. 191. Notwithstanding any other provision of this title— 42 USC 8791.

(1) the Corporation shall make no new awards or commitments for financial assistance under subtitle D for synthetic fuel projects after September 30, 1992; and *Ante*, p. 654.

(2) the Corporation shall terminate on September 30, 1997: *Provided, however,* That the President, on recommendation of the Board of Directors, may by Executive order terminate the Corporation at an earlier date, but in no event prior to September 30, 1992.

TERMINATION OF THE CORPORATION'S AFFAIRS

SEC. 192. (a) On and after the final commitment date under section 191(1), the Board of Directors shall diligently commence all practical and reasonable steps to achieve an orderly termination of the Corporation's affairs on or prior to its date of termination pursuant to section 191(2). 42 USC 8792.

(b) The steps taken pursuant to subsection (a) may include the disposal of the tangible assets of the Corporation pursuant to section 181 and the disposal of other assets pursuant to section 182.

(c) On termination of the Corporation, any contract or obligation for financial assistance pursuant to subtitle D shall be administered pursuant to section 193.

TRANSFER OF POWERS TO DEPARTMENT OF THE TREASURY

SEC. 193. (a) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the termination of its 42 USC 8793.

affairs and the liquidation of its assets pursuant to subtitle I, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation, its Board of Directors and Chairman under this part and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein specifically provided in connection with such termination of the affairs and liquidation of the remaining assets of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under such Secretary's general supervision and direction, of any powers, duties, rights, and obligations so transferred from the Corporation to the Secretary.

(b) When the Secretary of the Treasury finds that the liquidation of any remaining assets will no longer be advantageous to the United States and that all of the legal obligations of the Corporation have been provided for, the Secretary shall pay into the general fund of the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation and shall make a final report on the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

42 USC 8795.

SEC. 195. (a)(1)(A) There is hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes and other obligations of the Corporation, $20,000,000,000—

(i) plus such sums, if any, as are authorized pursuant to section 126; and

(ii) less such sums—

(I) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

Ante, p. 619.

(II) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577, 42 U.S.C. 5901), up to a maximum of $2,208,000,000.

(B) Such moneys shall be deposited in the Energy Security Reserve established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980 (93 Stat. 954; Public Law 96-126), which account, and the appropriations therefor, shall be available to the Secretary of the Treasury for the purpose of carrying out the purposes of this title. The appropriations and authorities provided for alternative fuels production in such appropriations Act are hereby authorized without fiscal year limitation.

(2) On the basis of each notification by the Corporation made pursuant to section 131(k)(2) to the Secretary of the Treasury of an award of financial assistance by the Corporation, and consistent with the provisions of section 152, the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the amount determined pursuant to section 131(k)(1).

(3) Upon receipt of notification from the Corporation under section 131(k)(2), the Secretary of the Treasury, within 15 calendar days, shall certify to the Corporation that the amount required by paragraph (2) has been reserved within the Energy Security Reserve.

(b) For purposes of purchasing the obligations of the Corporation pursuant to subsection (a), the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.), and the purposes for which securities may be issued under such Act are extended to include such purchases.

(c) All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

Biomass Energy and Alcohol Fuels Act of 1980.

SHORT TITLE

SEC. 201. This title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980". 42 USC 8801 note.

FINDINGS

SEC. 202. The Congress finds that— 42 USC 8801.

(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.

DEFINITIONS

SEC. 203. As used in this title— 42 USC 8802.

(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 subtitle A, such term does not include municipal wastes; and for purposes of subtitle C, 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 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

(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, United States Code.

(11)(A) The term "financial assistance" means any of the following forms of financial assistance provided under this title, 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 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 title.

(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 220.

(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.

FUNDING FOR SUBTITLES A AND B

SEC. 204. (a) 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 $1,450,000,000 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:

Appropriation authorization. 42 USC 8803.

(1) $600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A, except of the amount of the financial assistance provided by the Secretary of Agriculture under subtitle A, up to one-third shall be for small-scale biomass energy projects;

(2) $600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least $500,000,000 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 subtitle A under available authorities of the Secretary, including authorities under subtitle A; and

(3) $250,000,000 shall be available to the Secretary of Energy for carrying out activities under subtitle B.

(b) Funds made available under subsection (a) shall remain available until expended.

(c)(1) For purposes of determining the amount of such appropriations which remain available for purposes of this title—

(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 may be provided under this title only to the extent provided in advance in appropriation Acts.

COORDINATION WITH OTHER AUTHORITIES AND PROGRAMS

42 USC 8804.

SEC. 205. The authorities in this title are in addition to and do not modify (except to the extent expressly provided for in this title) authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

BIOMASS ENERGY DEVELOPMENT PLANS

Transmittal to President and Congress.
42 USC 8811.

SEC. 211. (a) Not later than 180 days after the date of the enactment of this Act, 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 subtitle 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)(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 subtitle 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. Transmittal to President and Congress.

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

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

PROGRAM RESPONSIBILITY AND ADMINISTRATION; EFFECT ON OTHER PROGRAMS

SEC. 212. (a)(1) Except as provided in paragraph (2), in the case of any financial assistance under this subtitle for a biomass energy project, the Secretary concerned shall be— 42 USC 8812.

(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)(A) 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 Review of project.

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.

Reapplication for financial assistance.

(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) 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)(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 the date of the enactment of this Act;

(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); 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)(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).

(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) 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 the date of the enactment of this Act, the Secretaries shall identify potential categories and make an initial determination of exempted categories.

Notice of disapproval.

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

Administrative entities.

Notification to Congress.

(e)(1) The functions assigned under this subtitle 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 the date of the enactment of this Act, 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.

Regulations.

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

(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) The functions under this subtitle 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) For purposes of this subtitle, 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 the date of the enactment of this Act.

INSURED LOANS

42 USC 8813.

SEC. 213. (a) Subject to sections 212 and 217, 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)(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)(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 or the Rural Development Insurance Fund in section 309A of such Act (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 204. The terms, conditions, and requirements applicable to such insured loans shall be in accordance with this subtitle.

7 USC 1929.
7 USC 1929a.

Terms and conditions.

(2) There shall be reimbursed to the Funds, from appropriations made under section 204, 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, no funds made available to the Secretary of Agriculture under this section for insured loans shall be used for any other purpose.

7 USC 1921 note.

"Insured loan."

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

(d) 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.

LOAN GUARANTEES

42 USC 8814.

SEC. 214. (a) Subject to sections 212 and 217, 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)(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) 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 the date of the enactment of this Act), 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.

Terms and conditions.

(d) 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) 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 title 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.

Payment to lender, conditions.

(f) 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

(3) the probable net benefit to the United States in paying the principal and interest due under the loan 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.

(g)(1) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary concerned 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 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.

(2) The Secretary concerned shall ensure that the lender bears a reasonable degree of risk in the financing of such project.

PRICE GUARANTEES

42 USC 8815.

SEC. 215. (a) Subject to sections 212 and 217, 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)(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) 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) 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 title,

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

PURCHASE AGREEMENTS

Conditions.
42 USC 8816.

SEC. 216. (a) Subject to sections 212 and 217, 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) 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 title.

Requirements.

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

(f) 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. Terms and conditions.

(g) 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) 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 title,

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

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 217. (a)(1) Priority for financial assistance under this subtitle, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that— 42 USC 8817.

(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)(A) Financial assistance under this subtitle 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 subtitle 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 subtitle 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 title.

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

Byproducts.

(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.

Loan repayments.

(b) An insured loan may not be made, and a loan guarantee may not be issued, under this subtitle 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.

Application for financial assistance.

(c)(1) No financial assistance may be provided to any person under this subtitle unless an application therefor—

(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 subtitle, 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)(1) Every recipient of financial assistance under this subtitle shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.

Reports; recordkeeping requirements.

(2) With respect to each biomass energy project for which financial assistance is provided under this subtitle, 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) 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) 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)(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 subtitle. Fees.

(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) 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 subtitle 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 213.

REPORTS

SEC. 218. (a) The Secretary of Agriculture and the Secretary of Energy shall each prepare and submit to the President and the Congress quarterly reports on their activities under this subtitle. Submittal to Congress. 42 USC 8818.

(b) Within 120 days after the date of enactment of this Act, 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. List of loans or grants for alcohol production.

(c)(1)(A) 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 subtitle 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 subtitle from the Office. Such report shall contain a plan for the termination of the work of the Office. Termination plan.

REVIEW; REORGANIZATION

SEC. 219. (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 subtitle. 42 USC 8819.

(b) If the President determines it necessary in order to achieve such purposes the President may, in accordance with the provisions of

5 USC 901 *et seq.*

chapter 9 of title 5, United States Code, provide for a reorganization, including any required realignment of the respective programs of the Secretaries under this subtitle.

ESTABLISHMENT OF OFFICE OF ALCOHOL FUELS IN DEPARTMENT OF ENERGY

42 USC 8820.

SEC. 220. (a) 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, United States Code.

44 FR 58678.

Functions.

(b)(1) The Director shall be responsible for carrying out the functions of the Secretary of Energy under this subtitle 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) 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 (1) showing the amount requested by the Office in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Office. Whenever the Office submits to the Secretary, the President, or the Office of Management and Budget, any formal legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Office shall concurrently transmit a copy thereof to the appropriate committees of Congress.

Legislative recommendation or testimony, transmittal to congressional committes.

(d) The Secretary of Energy, after consultation with the Director, shall consult with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Community Services Administration, the Administrator of the Environmental Protection Agency, or their appointed representatives, in order to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in such Federal agencies, which are related to the production of alcohol.

TERMINATION

42 USC 8821.

SEC. 221. No insured loan, loan guarantee, price guarantee, or purchase agreement may be committed to or made under this subtitle after September 30, 1984. 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 subtitle.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

MUNICIPAL WASTE ENERGY DEVELOPMENT PLAN

Plan preparation, consultation.
42 USC 8831.

SEC. 231. (a) The Secretary of Energy shall prepare a comprehensive plan for carrying out this subtitle. 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) Not later than 90 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive plan to the President and the Congress.

Transmittal to President and Congress.

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

Statement.

(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) 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.

Report to President and Congress.

CONSTRUCTION LOANS

SEC. 232. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects.

42 USC 8832.

(b)(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) 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.

GUARANTEED CONSTRUCTION LOANS

42 USC 8833.

SEC. 233. (a) Subject to sections 235 and 236, 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) 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.

Terms and conditions.

(c) 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) 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 title 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.

Payment to lender, conditions.

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

(A) issued after the date of the enactment of this Act 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 the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

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

(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.

PRICE SUPPORT LOANS AND PRICE GUARANTEES

SEC. 234. (a)(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. 42 USC 8834.

(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)(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), 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));

(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a); 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)(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).

Definitions.

(d) 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 the date of the enactment of this Act; or

(B) if initially placed in service before such date, 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 the date of the enactment of this Act, as determined, by rule, by the Secretary of Energy not later than 90 days after the date of the enactment of this Act.

(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 the date of the enactment of this Act, 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.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 235. (a)(1) Priority for financial assistance under the provisions of sections 232, 233, and 234, and the most favorable financial terms available, shall be provided for any municipal waste energy project that will— 42 USC 8835.

(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 232, 233, and 234 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. Biomass energy projects.

(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. Btu content.

(3) Financial assistance may not be provided under section 232, 233, or 234 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 232, 233, or 234, the Secretary of Energy shall give due consideration to promoting competition.

Byproducts, value and production costs.

(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 232, 233, or 234 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 reuseable 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 title.

(b) Financial assistance may not be provided under section 232, 233, or 234 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.

Application.

(c)(1) No financial assistance may be provided to any person under section 232, 233, or 234 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 subtitle, 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)(1) Every person receiving financial assistance under section 232, 233, or 234 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 232, 233, or 234, 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) 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 232, 233, or 234 shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) 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) 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) 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 the date of the enactment of this Act), 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 232, 233, or 234 shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

SEC. 236. 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 232, 233, or 234 as may be necessary to carry out the plan established under section 231. 42 USC 8836.

COMMERCIALIZATION DEMONSTRATION PROGRAM PURSUANT TO FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974

SEC. 237. (a)(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, an accelerated research, development, and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes. 42 USC 8837. 42 USC 5901 note.

(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. 42 USC 5919.

(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.

Financial assistance.

(b) 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.

Priority for funding.

(c) Priority for funding of activities under subsection (a) and financial assistance under subsection (b) 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) The Secretary of Energy may not obligate or expend any funds authorized under this title in carrying out subsection (b) of this section until the plan required under section 231(a) has been prepared and submitted to the Congress.

(e) 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.

JURISDICTION OF DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AGENCY

42 USC 8838.
42 USC 5920.

SEC. 238. The provisions of section 20(c) of the Federal Nonnuclear Research and Development Act of 1974, relating to the responsibilities of the Environmental Protection Agency and the Department of Energy, shall apply with respect to actions under this subtitle to the same extent and in the same manner as such provisions apply to actions under section 20 of such Act.

ESTABLISHMENT OF OFFICE OF ENERGY FROM MUNICIPAL WASTE IN DEPARTMENT OF ENERGY

42 USC 8839.

SEC. 239. (a) 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) It shall be the function of the Office to perform— Functions.

(1) the research, development, demonstration, and commercialization activities authorized under this subtitle (including those authorized under section 237), 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) In carrying out functions tranferred 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. Consultation with Federal agencies.

(d) 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 the date of the enactment of this Act which relate to the research, development, demonstration, and commercialization of technologies for the recovery of energy from municipal waste.

TERMINATION

SEC. 240. No financial assistance may be committed to or made under this subtitle 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. 42 USC 8840.

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

MODEL DEMONSTRATION BIOMASS ENERGY FACILITIES

SEC. 251. (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 departments, agencies, or other instrumentalities of the United States. 42 USC 8851. Public inspection, availability. Cooperation with State and Federal agencies.

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

BIOMASS ENERGY RESEARCH AND DEMONSTRATION PROJECTS

SEC. 252. Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) by striking out "colleges and universities" the first place it appears and inserting in lieu thereof "colleges, universities, and Government corporations";

(2) by striking out "(2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products," and inserting in lieu thereof the following

new paragraph: "(2) alcohol and other forms of biomass energy as substitutes for petroleum or natural gas,";

(3) by inserting after the first sentence thereof the following: "The authority to conduct research under paragraph (2) does not include authority to conduct research with respect to technology demonstrations of integrated systems for commercialization of technologies for applications other than agricultural or uniquely rural applications. The Secretary may make grants under this subsection to such colleges, universities, and Government corporations for the purpose of conducting research relating to the development of the most economical and commercially feasible means of collecting and transporting wastes, residues, and by-products for use as feedstocks for the production of alcohol and other forms of biomass energy. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research, relating to the production of alcohol, to identify and develop agricultural commodities, including alfalfa, sweet sorghum, black locust, and cheese whey, which may be suitable for such production. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.";

Grants for research.

(4) by striking out "section" each place it appears and inserting in lieu thereof "subsection";

(5) by inserting "(a)" after "SEC. 1419.";

(6) by adding at the end of subsection (a), as so designated, the following new sentence: "In addition to the authorization of appropriations provided in the preceding sentence, there is authorized to be appropriated for grants to conduct research described in paragraph (2) and in the third sentence of this subsection $12,000,000 for each of the fiscal years ending September 30, 1981; September 30, 1982; September 30, 1983; and September 30, 1984."; and

Appropriation authorization.

(7) by adding at the end thereof the following new subsection: "(b) For purposes of subsection (a)—

Definitions.

"(1) 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, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' 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).".

APPLIED RESEARCH REGARDING ENERGY CONSERVATION AND BIOMASS ENERGY PRODUCTION AND USE

SEC. 253. The third sentence of section 1 of the Act of June 29, 1935 (49 Stat. 436; 7 U.S.C. 427), commonly known as the Bankhead-Jones Act, is amended by inserting "applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use;" after "irrigation);".

FORESTRY ENERGY RESEARCH

SEC. 254. Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(a)) is amended—

(1) in paragraph (1) by inserting "energy production, activities related to energy conservation," after "wilderness,"; and

(2) in paragraph (4) by inserting "producing and conserving energy;" after "wood fiber;".

BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE

SEC. 255. (a) Subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121-3128) is amended by adding at the end thereof the following new section:

"BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE PROGRAMS

"SEC. 1413A. (a) The Secretary, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, shall provide educational programs for producers of agricultural commodities, wood, and wood products to— 7 USC 3129.

"(1) inform such producers of the feasibility of using biomass for energy;

"(2) disseminate to such producers information regarding the results of research regarding the use of biomass for energy;

"(3) inform such producers of the best available technology for the use of biomass for energy;

"(4) provide technical assistance to such producers to improve their ability to efficiently use biomass for energy; and

"(5) disseminate to such producers the results of research on energy conservation techniques and encourage such producers to adopt such techniques.

"(b) All appropriate educational methods, including meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs, may be used to carry out subsection (a).

"(c) The State director of cooperative extension in each State shall develop a single, comprehensive, and coordinated plan which includes every biomass energy educational and technical assistance program in effect or proposed in such State, except that in those States which contain more than one land-grant college or university, such plan shall be jointly developed by the administrative heads of State plan.

extension of such institutions. Such plan shall be developed with the full participation of the State forester or the equivalent State official of such State. Each State's plan shall be submitted to the Secretary annually for approval. The Advisory Board shall review and make recommendations to the Secretary pertaining to programs conducted under this section. Each State shall submit an annual progress report on the operation of its plan to the Secretary before January 1 following the fiscal year for which such report is made.

Review.

Annual report.

"(d) Funds made available under this section shall be provided to the State director of cooperative extension and the administrators of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of this section.

Definitions.

"(e) For purposes of this section—

"(1) 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, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' 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).

Appropriation authorization.

"(f) There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by inserting after the item relating to section 1413 the following new item:

"Sec. 1413A. Biomass energy educational and technical assistance programs.".

RURAL ENERGY EXTENSION WORK

SEC. 256. The Act of May 14, 1914 (38 Stat. 372; 7 U.S.C. 341-349), commonly known as the Smith-Lever Act, is amended—

7 USC 341.

(1) in section 1 by striking out "and home economics," and inserting in lieu thereof ", home economics, and rural energy,"; and

7 USC 342.

(2) in section 2 by striking out "and home economics" and inserting in lieu thereof ", home economics, and rural energy".

COORDINATION OF RESEARCH AND EXTENSION ACTIVITIES

42 USC 8852.

SEC. 257. (a) The Secretary of Agriculture shall coordinate the applied research and extension programs conducted under this subtitle and under the amendments made by this subtitle to section 1419 and subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 1 of the Bankhead-Jones Act, section 3 of the Forest and Rangeland Renewable Resources Research

7 USC 3154, 3121-3128, 427.

Act of 1978, and sections 1 and 2 of the Smith-Lever Act with the programs of the Department of Energy. 16 USC 1642. 7 USC 341, 342.

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

(1) the Subcommittee on Food and Renewable Resources 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.

LENDING FOR ENERGY PRODUCTION AND CONSERVATION PROJECTS BY PRODUCTION CREDIT ASSOCIATIONS, FEDERAL LAND BANKS, AND BANKS FOR COOPERATIVES

SEC. 258. 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. 42 USC 8853.

AGRICULTURAL CONSERVATION PROGRAM; ENERGY CONSERVATION COST SHARING

SEC. 259. Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) in the first sentence by inserting "(including energy conservation)" after "conservation"; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraph:

"The Secretary may provide financial assistance to agricultural producers for the purpose of encouraging energy conservation by sharing the costs of and providing technical assistance for (1) the establishment, restoration, and better use of shelter belts to conserve energy on farmsteads and feed lots, (2) the establishment and use of minimum tillage systems, (3) the efficient storage and application of manure and other suitable wastes to the land for land fertility and soil improvement, (4) the use of integrated pest management, (5) the use of energy-efficient irrigation water management, and (6) such other land, water, and related resource management practices as the Secretary may determine to have significant energy-conserving effects.".

PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

SEC. 260. (a) The Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new title:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"SEC. 2001. (a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the 7 USC 1435.

Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

Production of commodities for fuel, administration. 7 USC 1421 note.

"(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949, the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

Payment rates.

"(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

"(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

Appropriation authorization.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new items:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"Sec. 2001. Production of commodities on set-aside acreage.".

UTILIZATION OF NATIONAL FOREST SYSTEM IN WOOD ENERGY DEVELOPMENT PROJECTS

42 USC 8854.

SEC. 261. 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.

FOREST SERVICE LEASES AND PERMITS

42 USC 8855.

SEC. 262. 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 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

42 USC 8871.

SEC. 271. (a) 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.

Exceptions.

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

(c) 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. Gasohol.

MOTOR VEHICLE ALCOHOL USAGE STUDY

SEC. 272. The Secretary of Energy shall, in consultation with the Secretary of Transportation, submit to the Congress within 9 months after the date of the enactment of this Act a report on— Report to Congress.

(1) the need for, and practicality of, mandating through legislation that any new motor vehicle sold in the United States shall be capable of using alcohol as a motor fuel in specified alcohol-gasoline mixtures, or using alcohol as the only fuel;

(2) the need for any other legislation to address technical or institutional barriers to the widespread marketing of alcohol, including requirements that would mandate specified proportions of alcohol in all motor gasoline sold; and

(3) any other aspects of the use of alcohol as a motor fuel, as the Secretary considers appropriate.

NATURAL GAS PRIORITIES

SEC. 273. For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621), the term "essential agricultural use" shall— Essential agricultural use. 15 USC 3391a. 15 USC 3391.

(1) include use of natural gas in sugar refining for production of alcohol;

(2) include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as provided under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and 7 USC 1421 note.

(3) for the 5-year period beginning on the date of the enactment of this Act, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on the date of the enactment of this Act which do not have the installed capability to burn coal lawfully.

STANDBY AUTHORITY FOR ALLOCATION OF ALCOHOL FUEL

SEC. 274. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection: 15 USC 753.

"(f)(1) If the President finds that there are significant quantities of alcohol available for use in motor fuel that are not being used for that purpose because of an unavailability of crude oil with respect to a refiner or unavailability of gasoline with respect to persons engaged in marketing of petroleum products, the President shall, to the extent practicable and subject to the provisions of this Act, use the authorities under subsection (a) to provide for the allocation of—

"(A) crude oil to refineries engaged in the production of refined petroleum products to be mixed with alcohol, and

"(B) refined petroleum products to persons engaged in the marketing of petroleum products,

so as to result in the use of such quantities of alcohol in motor fuel.

"(2) In exercising such authorities pursuant to this subsection, the President shall—

"(A) seek to avoid disruption of crude oil and refined petroleum product markets and to avoid causing unreasonable increases in the price of alcohol, and

"(B) give due consideration to the adequacy of quality control in any refinery operations related to the receipt of an allocation of crude oil.

"Alcohol."

"(3) For the purposes of this subsection, 'alcohol' means methanol, ethanol, or any other alcohol which is produced from any source and which is suitable for use in combination with other fuels as a motor fuel.

"(4) Nothing in this subsection shall limit the allocation authorities under subsection (a).".

TITLE III—ENERGY TARGETS

PREPARATION OF ENERGY TARGETS

Transmittal to Congress.
42 USC 7361.

SEC. 301. (a) During the first calendar week beginning in February of 1981, and of every second year thereafter, the President shall transmit to the Congress energy targets for net imports, domestic production, and end-use consumption of energy for the calendar years 1985, 1990, 1995, and 2000. Such targets shall be transmitted in the form prescribed in section 303.

(b) In preparing energy targets under this section, the President shall take into account anticipated energy conservation and anticipated production of energy from new technologies, and shall transmit with the targets supporting data together with a statement of the assumptions on which the targets are based.

(c) During the first calendar week beginning in February of 1982, and of every second year thereafter, the President shall transmit to the Congress reports regarding the energy targets transmitted during the preceding year.

(d) The President shall not transmit any revised target (or supporting data) for any calendar year which has then elapsed.

CONGRESSIONAL CONSIDERATION

DOE authorization bills.
42 USC 7362.

SEC. 302. (a)(1) Any Department of Energy authorization bill for fiscal year 1982 and any such bill for fiscal year 1984 which is proposed in an executive communication to the Congress shall include the targets required by section 301(a) to be transmitted in February of the preceding fiscal year. Such targets shall be in the form prescribed in section 303 and shall be set forth as a separate title at the end of the proposed bill.

Transmittal to Congress.

(2) The energy targets transmitted to the Congress under section 301 shall be considered by any committee of the House of Representatives or the Senate in connection with any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984. This paragraph shall apply during the Ninety-seventh Congress and the Ninety-eighth Congress, and during any subsequent Congress (with respect to Department of Energy authorization bills for later fiscal years) to the extent expressly provided in any Act (other than an appropriation Act) approved after the date of the enactment of this Act.

Amendments.

(3)(A) During the Ninety-seventh Congress and the Ninety-eighth Congress, it shall be in order (notwithstanding any rule or provision of law) during the consideration in the House of Representatives, in

the Senate, or in any committee of either, of any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984, or a joint resolution (as defined in subsection (d)(1)(B)), to offer and consider, except as provided in subparagraph (B)—

(i) any amendment (or series of amendments) only changing the number of any energy target contained in such bill or resolution, or

(ii) in the case of any such authorization bill, any amendment only adding a title containing only energy targets in the form prescribed in section 303 if such bill does not contain such a title, or only deleting such a title contained in such bill.

(B) Any amendment (or series of amendments) referred to in subparagraph (A) shall not be in order unless it continues or achieves mathematical consistency within the targets.

(b)(1) If— Reporting dates.

(A) on or before May 15, 1981, no Department of Energy authorization bill for fiscal year 1982 has been reported to either House of the Congress by any of the respective authorizing committees, or

(B) no committee which has reported such an authorization bill in either House by such date has included energy targets in the form prescribed in section 303 as a separate title,

a joint resolution introduced in the Senate or the House of Representatives after such date shall be subject to the provisions of this section and shall immediately be referred to the appropriate authorizing committees, which shall have until July 15, 1981, to consider and report such resolution.

(2) If on or before July 15, 1981, the appropriate authorizing committees of the House of Representatives or the Senate have not reported such a joint resolution, such committees of that House may be discharged from further consideration of such joint resolution (or any other joint resolution) in accordance with paragraph (4) of section 552(d) of the Energy Policy and Conservation Act (as if it were a resolution relating to a contingency plan) if a motion for such a discharge is made during the period of 20 calendar days of continuous session of Congress which follows July 15, 1981. Joint resolutions. 42 USC 6422.

(3) The provisions of subsections (c) and (d)(5) and (6) of section 552 of such Act shall apply with respect to the consideration of such a joint resolution in either House, except that—

(A) debate on such joint resolution shall be limited to not more than 3 hours,

(B) it shall be in order (notwithstanding any rule or provision of law) to offer and consider any amendment (or series of amendments) permitted under subsection (a)(3), and

(C) the references in such provisions to any resolution relating to a contingency plan shall be considered to refer to a joint resolution under this section.

(c) In the consideration of any Department of Energy authorization bill containing a title setting forth energy targets, the question of whether any amendment (other than an amendment referred to in subsection (a)(3)) to any portion of such bill (including such title) is in order in the House of Representatives, in the Senate, or in any committee of either, shall be determined as if the title containing such targets were not in the bill.

(d)(1) For purposes of this section— Definitions.

(A) the term "Department of Energy authorization bill" means any general authorization of appropriations for the civilian programs and activities of the Department of Energy;

(B) the term "joint resolution" means only a joint resolution of either House of Congress (i) which is entitled "Joint resolution relating to energy targets.", (ii) which does not contain a preamble, and (iii) the matter after the resolving clause of which only contains energy targets in the form prescribed by section 303; and

(C) the term "energy target" means any number contained in the form prescribed in section 303.

Rulemaking powers.

(2) This section is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of Department of Energy authorization bills and joint resolutions described by paragraph (1) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

ENERGY TARGET FORM

42 USC 7363.

SEC. 303. (a) For purposes of this title, energy targets shall be set forth in the following form:

ENERGY TARGETS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Crude oil and NGL				
Natural gas				
Coal				
Nuclear				
Renewables and geothermal				
Other				
Subtotal				
Imports:				
Crude oil and refined petroleum				
Natural gas				
Coal				
Other				
Subtotal				
Total supply				
End-use consumption:				
Petroleum liquids				
Natural gas				
Direct coal				
Electricity				
Decentralized renewables				
Other				
Subtotal				
Conversion loss				
Total consumption				

(b) As used in subsection (a)— Definitions.

(1) the term "crude oil and NGL" includes liquid products obtained from lease operations, field facilities, and natural gas processing plants and liquid petroleum obtained from shale and tarsands;

(2) the term "coal", when used under the domestic production category, includes coal which is converted to gaseous or liquid fuels;

(3) the term "renewables" includes energy or fuel derived directly from sunlight or from biomass (as defined in section 203), and hydropower sources; *Ante*, p. 683.

(4) the term "end-use consumption" does not include exports of fuel or electricity;

(5) the term "decentralized renewables" does not include electricity produced for delivery to multiple points of end-use consumption; and

(6) the term "conversion loss" includes heat or other forms of energy not recovered in the conversion of raw energy resources, fuels, or electricity into alternate form prior to delivery for end-use consumption.

GENERAL PROVISIONS REGARDING TARGETS

SEC. 304. (a) The energy targets set forth pursuant to this title in any joint resolution or any Act authorizing appropriations for the Department of Energy shall be considered as an expression of national goals and shall not be considered to have any legal force or effect. 42 USC 7364.

(b) Expenses paid or incurred by the President for preparing the energy targets and reports under this title shall be from funds otherwise available to the Department of Energy, consistent with otherwise applicable law. Such targets and reports shall be prepared using the minimum extent of contracting assistance that is required for their preparation. If any assistance is required to be obtained by contract for the preparation of the targets and reports, that assistance shall be limited to the providing of supporting information and may not include the preparation or recommendation of any proposed or final energy target. Expenses.

(c) The preparation and transmission of such targets or reports shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969. 42 USC 4321 note.

TITLE IV—RENEWABLE ENERGY INITIATIVES

SHORT TITLE

SEC. 401. This title may be cited as the "Renewable Energy Resources Act of 1980". Renewable Energy Resources Act of 1980.

PURPOSE

SEC. 402. The purpose of this title is to establish incentives for the use of renewable energy resources, to improve and coordinate the 42 USC 7371 note. 42 USC 7371.

dissemination of information to the public with respect to renewable energy resources, to encourage the use of certain cost effective solar energy systems and conservation measures by the Federal Government, to establish a program for the promotion of local energy self-sufficiency, to broaden the existing program for accelerating the procurement and use of photovoltaic systems, and to provide further encouragement for the development of small hydroelectric power projects.

DEFINITIONS

42 USC 7372.

SEC. 403. For purposes of this title—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "renewable energy resource" means any energy resource which has recently originated in the sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others.

COORDINATED DISSEMINATION OF INFORMATION ON RENEWABLE ENERGY RESOURCES AND CONSERVATION

42 USC 7373.

SEC. 404. In order to improve the effectiveness of Federal information dissemination activities in the fields of renewable energy resources and energy conservation with the objective of developing and promoting better public understanding of these resources and their potential uses, the Secretary shall—

(1) take affirmative steps to coordinate all of the activities of the Department of Energy, whether conducted by the Department itself or by other public or private entities with assistance from the Department, which are aimed at or involve the dissemination of information with respect to renewable energy resources or energy conservation, and

Annual report to Congress.

(2) report annually to the Congress on the status of such activities, including a description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

ESTABLISHMENT OF LIFE-CYCLE ENERGY COSTS FOR FEDERAL BUILDINGS

42 USC 8255.

SEC. 405. Section 545(a)(1) of the National Energy Conservation Policy Act is amended by inserting before the period at the end thereof the following: ", using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary and a discount rate of 7 per centum per year".

ENERGY SELF-SUFFICIENCY INITIATIVES

Program establishment.
42 USC 7374.

SEC. 406. (a) There is hereby established under the direction of the Secretary a 3-year pilot energy self-sufficiency program to demon-

strate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States.

(b) As a part of the pilot program, the Secretary shall establish such subprograms as the Secretary determines are necessary to achieve the purpose of this section, including subprograms— Subprograms.

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation;

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government;

(3) to stimulate private industry participation in the realization of the objective stated in subsection (a); and

(4) to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource, such as municipal solid waste, agricultural waste, or forest products waste.

(c) In carrying out the provisions of this section, the Secretary is authorized to assign to an existing office in the Department of Energy the responsibility of undertaking and carrying out the subprograms established under subsection (b). In addition, the Secretary shall prepare a detailed plan within one hundred eighty days of the enactment of this Act, setting forth (1) the 3-year pilot program itself, and (2) any additional Federal actions needed to encourage and promote the adoption of programs for energy self-sufficiency.

(d) The Secretary shall submit to the Congress, within one year after the date of the enactment of this Act, the plan prepared under the second sentence of subsection (c) along with a report suggesting the legislative initiatives needed to fully implement such plan. Plan, submittal to Congress.

PHOTOVOLTAIC AMENDMENTS

SEC. 407. The Federal Photovoltaic Utilization Act (42 U.S.C. 8271 et seq.) is amended—

(1) by adding at the end of section 562(1) the following new sentence: "Such term also applies to facilities related to programs administered by Federal agencies."; 42 USC 8271.

(2)(A) by inserting before the period at the end of the first sentence of section 565 the following: ", and for the acquisition of such systems and associated capability by Federal agencies for their own use in cases where the authority to make such acquisition has been delegated to the agency involved by the Secretary"; 42 USC 8274.

(B) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the third sentence of section 565;

(C) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the second sentence of section 567(a); 42 USC 8276.

(D) by inserting "and other Federal agencies acting under delegation from the Secretary" after "Secretary" in the third sentence of section 567(a);

(3) by striking out "rules and regulations" in section 566(2) and inserting in lieu thereof "requirements"; and 42 USC 8275.

42 USC 8275.

(4) by adding at the end of section 566 (after and below paragraph (3)) the following new sentence:

"Notwithstanding any other provision of law, the Secretary shall not be subject to the requirements of section 553 of title 5, United States Code, in the performance of his functions under this part.".

SMALL-SCALE HYDROPOWER INITIATIVES

SEC. 408. (a) Section 408(1) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(1)) is amended by striking out "15,000 kilowatts" and inserting in lieu thereof "30,000 kilowatts".

(b) Section 405 of such Act (16 U.S.C. 2705) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS FROM LICENSING REQUIREMENTS IN CERTAIN CASES.—The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations (to ensure protection for fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act with respect to determinations made and exemptions granted under subsection (a) of such section 30; and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section.".

16 USC 791a.

16 USC 791.

16 USC 2708.

(c) Section 408 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by inserting "(a)" before "For purposes of this title"; and

(2) by adding at the end thereof the following new subsection:

"(b) The requirement in subsection (a)(1) that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this title which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, shall not be construed to exclude—

"(1) from the definition contained in such subsection (a)(1), or

"(2) from any other provision of this title,

any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title and will do so without any adverse effect upon such natural water features.".

Rules and regulations, establishment.

16 USC 2701 note.

(d) The Secretary shall take such action as may be necessary to assure the establishment, as soon as possible after the date of the enactment of this Act (and in any event within six months after such date in the case of the amendments made by subsections (a) and (c) of this section and in the case of the loan program under section 403 of the Public Utility Regulatory Policies Act of 1978), of such rules and regulations as may be necessary to fully implement his responsibilities under title IV of the Public Utility Regulatory Policies Act of 1978 and the amendments thereto made by this section.

16 USC 2703.

16 USC 2701.

(e) Not later than three months after the date of the enactment of this Act, the Secretary shall complete a study of the existing Federal programs and policies relating to the development and commercialization of small-scale hydropower, including (1) a survey and description of such Federal programs and policies, (2) an assessment of the efficacy of such Federal programs and related policies, and (3) an identification of any need for consolidation, reorganization, or change in such programs and policies in order to improve and insure their effectiveness. Study.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 409. (a) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $10,000,000 for loans under section 402 of the Public Utility Regulatory Policies Act of 1978, in addition to any amounts authorized for such loans by that Act; and the amounts appropriated pursuant to this subsection shall remain available until expended. 42 USC 7375. 16 USC 2702.

(b) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $100,000,000 for loans under section 403 of the Public Utility Regulatory Policies Act of 1978; and the amounts appropriated pursuant to this subsection shall remain available until expended. 16 USC 2703.

(c) There is authorized to be appropriated for the fiscal year 1981 not to exceed $10,000,000 to carry out section 406 of this Act (relating to energy self-sufficiency initiatives). 16 USC 2706.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Solar Energy and Energy Conservation Act of 1980.

SHORT TITLE

SEC. 501. This title may be cited as the "Solar Energy and Energy Conservation Act of 1980". 12 USC 3601 note.

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Solar Energy and Energy Conservation Bank Act.

SHORT TITLE

SEC. 502. This subtitle may be cited as the "Solar Energy and Energy Conservation Bank Act". 12 USC 3601 note.

PURPOSE

SEC. 503. It is the purpose of this subtitle to encourage energy conservation and the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy and Energy Conservation Bank (hereafter referred to as the "Bank"). 12 USC 3601.

DEFINITIONS

SEC. 504. For purposes of this subtitle— 12 USC 3602.

(1) the term "Board" means the Board of Directors of the Bank, which is established pursuant to section 506(a);

(2) the term "residential building" means any building used as a residence which contains not more than 4 dwelling units and has a system for heating or cooling, or both;

(3) the term "multifamily residential building" means any building used as a residence which contains 5 or more dwelling units and has a system for heating or cooling, or both;

(4) the term "commercial building" means any building other than a residential, or multifamily residential, building which is used primarily to carry on a business (including any nonprofit business) and is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities;

(5) the term "agricultural building" means any building used exclusively in connection with the production, harvesting, storage, or drying of agricultural commodities;

(6) the term "residential energy conserving improvements" means, with respect to a residential, or multifamily residential, building—

(A) caulking and weatherstripping;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof which, as determined by the Board, substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials;

(G) devices associated with load management techniques;

(H) such other improvements (not including solar energy systems) as the Board by rule identifies for purposes of this subtitle; and

(I) planning and technical services, any residential energy audit, and any conversion from master utility meters to individual utility meters, which are directly related to and undertaken with the installation of any of the items specified in subparagraphs (B) through (H);

(7) the term "commercial energy conserving improvements" means the installation or the modification of an installation which is designed primarily to reduce the consumption of petroleum, natural gas, or electrical power in a commercial or agricultural building, including—

(A) caulking and weatherstripping;

(B) the insulation of the building structure and any systems within the building;

(C) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

(D) automatic energy control systems;

(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, and ventilating systems;

(F) furnace, or utility plant and distribution system, modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Board) substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building (unless the increase in illumination is necessary to conform to any applicable State or local law or the increase is considered appropriate by the Board);

(H) energy recovery systems;

(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Board may by rule prescribe;

(J) such other improvements (not including solar energy systems) as the Board identifies, by rule, for purposes of this subtitle; and

(K) planning and technical services, and any commercial energy audit, which are directly related to and undertaken with the installation, or the modification of an installation, which includes any of the items specified in subparagraphs (B) through (J).

(8) the term "solar energy system" means, with respect to a building, any addition, alteration, or improvement which is designed to utilize wind energy, energy produced by a wood-burning appliance, or solar energy, either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer (or some combination of these types), to reduce the energy requirements of the building, and which is in conformity with such criteria and standards as shall be prescribed by the Board in consultation with the Secretary of Housing and Urban Development, the Secretary of Energy, and the National Institute of Building Sciences, except that such term shall include solar process heat devices, solar electric devices, and any earth sheltered building where such sheltering substantially reduces the energy requirements of such building from nonrenewable energy sources and shall include only those fireplaces which are integral parts of a system which is designed to utilize passive type solar energy;

(9) the term "financial institution" means any lender (including any nonprofit entity and any State or local governmental entity) designated by the Board based on the qualifications established for the insurance of financial institutions under section 2 of title I of the National Housing Act, or any utility providing financing for the purchase and installation of residential energy conservation measures in accordance with the requirements of title II of the National Energy Conservation Policy Act;

12 USC 1703.

42 USC 8211.

(10) the term "residential energy audit" means—

(A) an inspection or energy audit of a residential, or multifamily residential, building, or a dwelling unit in such building, performed for purposes of title II or VII of the National Energy Conservation Policy Act; or

42 USC 8211, *post*, p. 752. Onsite inspection of residential or multifamily building.

(B) an onsite inspection of a residential, or multifamily residential, building, or a dwelling unit in such building, which includes a determination of and provides information on—

(i) the type, quantity, and rate of energy consumption of such building or dwelling unit;

(ii) energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building or dwelling unit;

(iii) in the case of a residential building, a multifamily residential building which does not contain a central heating or cooling system, or a dwelling unit in such building, the cost of purchasing and installing appropriate residential energy conserving improvements, a solar energy system, or both, and the savings in energy costs which are likely to result from the installation of such improvements or system; and

(iv) in the case of a multifamily residential building which contains a central heating or cooling system, or a dwelling unit in such building, the need if any, for the purchase and installation of appropriate residential energy conserving improvements, a solar energy system, or both; and

(11) the term "commercial energy audit" means—

(A) an energy audit performed for purposes of title VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a commercial or agricultural building which includes a determination of, and provides information on—

(i) the type, quantity, and rate of energy consumption of such building;

(ii) appropriate energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building; and

(iii) the need if any, for the purchase and installation of commercial energy conserving improvements, a solar energy system, or both, in such building.

Part 1—Establishment and Operation of the Bank

ESTABLISHMENT OF THE BANK

Solar Energy and Energy Conservation Bank. 12 USC 3603. 12 USC 1723a.

SEC. 505. (a) There is hereby created the Solar Energy and Energy Conservation Bank which shall be in the Department of Housing and Urban Development and shall have the same powers as those powers given to the Government National Mortgage Association by section 309(a) of the National Housing Act. The Bank shall not exist after September 30, 1987.

Audit.

(b) The General Accounting Office shall audit, not later than the date occurring 2 years after the date of the enactment of this subtitle, and not later than each date occurring 3 years after such audit, the

financial transactions of the Bank, and for this purpose shall have access to all of the books, records, and accounts of the Bank.

(c) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

BOARD OF DIRECTORS

SEC. 506. (a) The Bank shall be governed by a Board of Directors. The Board shall consist of the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce. 12 USC 3604.

(b) Three members of the Board shall constitute a quorum.

(c) The Chairperson of the Board shall be the Secretary of Housing and Urban Development.

(d) The President of the Bank shall be the Secretary of the Board.

(e) The Board shall carry out the functions of the Bank as set forth in this subtitle and shall adopt such regulations, subject to the provisions of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), as the Board determines are necessary to carry out such functions.

(f) The Board shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury determines is necessary to insure that no individual is allowed for the same expenditure both—

(1) a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954; and 26 USC 38, 44C.

(2) financial assistance under this subtitle.

OFFICERS AND PERSONNEL

SEC. 507. (a) There is established in the Department of Housing and Urban Development the position of President of the Bank, which shall be filled by an individual appointed by the President of the United States with the advice and consent of the Senate and which shall be compensated at the rate now or thereafter prescribed for executive level V by section 5316 of title 5, United States Code. President of the Bank. 12 USC 3605. 44 FR 58678.

(b) The President of the Bank shall appoint an Executive Vice President for Energy Conservation, and an Executive Vice President for Solar Energy, who shall be paid at a rate set by the Board and shall have the functions, powers, and duties prescribed by the President of the Bank.

(c) Subject to the direction of the Board, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform any functions of the Bank which the Board may prescribe. Functions.

(d) The Secretary of Housing and Urban Development may permit the Bank to utilize the services or personnel of the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out this subtitle.

ADVISORY COMMITTEES

SEC. 508. (a) As part of the Bank, there is established an Energy Conservation Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to residential and commercial energy conserving improvements. The Energy Conservation Advisory Committee. Establishment. 12 USC 3606.

members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of producers or installers of residential and commercial energy conserving improvements as a result of the individual's education, training, and experience.

Solar Energy Advisory Committee.

(b) As part of the Bank, there is established a Solar Energy Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to solar energy systems.

Membership.

The members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of the solar energy industry as a result of the individual's education, training, and experience.

Term of office.

(c)(1) Except as provided in paragraphs (2) and (3), members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall be appointed for terms of 2 years,

(2) Of the members first appointed, those appointed pursuant to paragraphs (1) and (2) of subsections (a) and (b) shall be appointed for a term of 3 years and those appointed pursuant to paragraphs (3), (4), and (5) of subsections (a) and (b) shall be appointed for a term of 2 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(d) If any member of the Energy Conservation Advisory Committee or the Solar Energy Advisory Committee becomes an officer or employee of any governmental entity, the member may continue as a

member of such advisory committee for not longer than the 90-day period beginning on the date the member becomes such an officer or employee.

(e) Subject to the availability of appropriations, members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a)) for each day (including travel time) during which they are engaged in the actual performance of the duties vested in such advisory committee. 44 FR 58672.

(f) Three members of the Energy Conservation Advisory Committee shall constitute a quorum, and 3 members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members of either advisory committee may hold hearings. Quorum.

(g) The Chairperson of the Energy Conservation Advisory Committee and the Chairperson of the Solar Energy Advisory Committee shall each be elected by the members of such advisory committee.

(h) The Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall not terminate until the Bank ceases to exist. Termination.

PROVISION OF FINANCIAL ASSISTANCE

SEC. 509. (a) Subject to the conditions contained in sections 513, 514, and 515 and the limitations contained in sections 516 and 517, the Bank may make payments to financial institutions to provide financial assistance in the form of— 12 USC 3607.

(1) reductions of the principal obligations of loans, or portions of loans, made—

(A)(i) to owners of, and tenants in, existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings; and (ii) to owners who occupy, and tenants in, existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements in such buildings; and

(B)(i) to owners of existing residential, multifamily residential, commercial, and agricultural buildings for the purchase and installation of solar energy systems in such buildings; (ii) to builders of newly constructed or substantially rehabilitated residential buildings for the purchase and installation of solar energy systems in such buildings; and (iii) to purchasers of newly constructed or substantially rehabilitated residential, multifamily residential, commercial, and agricultural buildings which have such systems;

(2) prepayments of the interest which would otherwise be due with respect to such loans, or portions of loans; and

(3) grants to owners of, and tenants in, existing residential buildings and tenants in existing multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings.

(b) Financial assistance may be provided under subsection (a) only if— Conditions.

(1) the expenditures for residential and commercial energy conserving improvements and solar energy systems, made using financial assistance provided under this subtitle, are made after the date of the enactment of this subtitle; or

(2) the financial assistance is provided in the form described in paragraph (1) or (2) of subsection (a) and—

(A) the financial assistance is for the purchase and installation of residential or commercial energy conserving improvements;

(B) the purchase and installation of residential or commercial energy conserving improvements was financed by a loan made after January 1, 1980, and before the date of the enactment of this subtitle;

(C) the financial assistance is provided not later than 90 days after the date of the promulgation by the Board of regulations with respect to such financial assistance;

(D) the determination of the amount of the financial assistance pursuant to section 511 is made on the basis of the amount of the principal obligation of the loan outstanding on the date of the provision of such financial assistance; and

(E) the owner or tenant receiving such loan has not applied for or received any credit against taxes allowed by section 38 or section 44C of the Internal Revenue Code of 1954 for the expenditures made with the proceeds of such loan, or portion of a loan.

26 USC 38, 44C.

(c) The amount of any financial assistance provided under this subtitle shall not be included in the gross income of any person for purposes of the Internal Revenue Code of 1954, and such person shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to the amount of any financial assistance provided under this subtitle.

26 USC 1 *et seq.*

ESTABLISHING LEVELS OF FINANCIAL ASSISTANCE

12 USC 3608.

SEC. 510. (a) The Board shall establish, from time to time, the various levels of financial assistance which will be made under section 509, subject to the maximum amounts allowed under sections 511 and 512.

(b) In establishing such levels the Board shall consider at least—

(1) the prevailing market rates of interest for home mortgages, home improvement loans, commercial and agricultural building loans, and Federal Government and corporate bonds;

(2) the availability of other Federal incentives and subsidies for energy conservation expenditures and solar energy system expenditures, including Federal tax credits;

(3) the costs and efficiencies of nonrenewable energy resources and systems, residential and commercial energy conserving improvements, and solar energy systems; and

(4) the levels of financial assistance needed to induce owners and tenants from various income groups to purchase and install residential and commercial energy conserving improvements and solar energy systems in residential, multifamily residential, commercial, and agricultural buildings and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3609.

SEC. 511. (a) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the

purchase and installation of residential energy conserving improvements in a residential building may not exceed—

(1) in the case of an owner or tenant whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the residential energy conserving improvements; or

(B) $1,250 in the case of a residential building with one dwelling unit, $2,000 in the case of a residential building with 2 dwelling units, $2,750 in the case of a residential building with 3 dwelling units, or $3,500 in the case of a residential building with 4 dwelling units,

whichever is less;

(2) in the case of an owner or tenant whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 100 percent, of the median area income—

(A) an amount equal to 35 percent of the cost of the residential energy conserving improvements; or

(B) $875 in the case of a residential building with one dwelling unit, $1,400 in the case of a residential building with 2 dwelling units, $1,925 in the case of a residential building with 3 dwelling units, or $2,450 in the case of a residential building with 4 dwelling units,

whichever is less;

(3) in the case of an owner or tenant whose income exceeds an amount equal to 100 percent, but does not exceed an amount equal to 120 percent, of the median area income—

(A) an amount equal to 30 percent of the cost of the residential energy conserving improvements; or

(B) $750 in the case of a residential building with one dwelling unit, $1,200 in the case of a residential building with 2 dwelling units, $1,650 in the case of a residential building with 3 dwelling units, or $2,100 in the case of a residential building with 4 dwelling units,

whichever is less; and

(4) in the case of an owner or tenant whose income exceeds an amount equal to 120 percent, but does not exceed an amount equal to 150 percent, of the median area income—

(A) an amount equal to 20 percent of the cost of the residential energy conserving improvements; or

(B) $500 in the case of a residential building with one dwelling unit, $800 in the case of a residential building with 2 dwelling units, $1,100 in the case of a residential building with 3 dwelling units, or $1,440 in the case of a residential building with 4 dwelling units,

whichever is less.

(b) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the purchase and installation of residential energy conserving improvements in a multifamily residential building may not exceed—

(1) an amount equal to 20 percent of the cost of such improvements; or

(2) the sum of $400 times the number of dwelling units in such building in the case of an owner, or $400 in the case of a tenant, whichever is less.

(c) The maximum amount of financial assistance which may be provided under this subtitle to an owner of, or tenant in, a commer-

cial or agricultural building for the purchase and installation of commercial energy conserving improvements may not exceed an amount equal to 20 percent of the cost of such improvements or $5,000, whichever is less.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3610.

SEC. 512. (a) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing residential building for the purchase and installation of a solar energy system in such building, or to a purchaser or builder of a newly constructed or substantially rehabilitated residential building which has such a system, may not exceed—

(1) in the case of an owner or purchaser whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(2) in the case of an owner or purchaser whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 160 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(3) in the case of an owner or purchaser whose income exceeds an amount equal to 160 percent of the median area income—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less; and

(4) in the case of a builder of a residential building—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less.

(b) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing multifamily residential building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated multifamily residential building which has such a system, either—

(1) may not exceed—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less; or

(2) if the owner or purchaser certifies pursuant to procedures established by the Board that a majority of the dwelling units in such building are occupied by tenants whose income does not exceed an amount equal to 80 percent of the median area income, may not exceed—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less.

(c) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing commercial or agricultural building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated commercial or agricultural building which has such a system, may not exceed an amount equal to 40 percent of the cost of the solar energy system or $100,000, whichever is less.

(d) In the case of financial assistance provided under this subtitle for the purchase and installation of a solar energy system in a building or for the purchase of a building which has such a system—

(1) with respect to any active type solar energy system (subject to the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance provided after January 1, 1983, shall vary by the estimated amount of energy to be saved by the use of such system, unless the Board determines that such variance is not practicable; and

Active type solar energy system.

(2) with respect to any passive type solar energy system, (despite the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance shall vary (to the extent practicable) by the estimated amount of energy to be saved by the use of such system, except that the amount of such assistance may not exceed $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, $10,000 in the case of a residential building with 3 or 4 dwelling units, $100,000 in the case of a commercial or agricultural building, or the sum of $2,500 times the number of dwelling units in a multifamily residential building in the case of such a building.

Passive type solar energy system.

GENERAL CONDITIONS ON FINANCIAL ASSISTANCE FOR LOANS

SEC. 513. Financial assistance may be provided by a financial institution under this subtitle with respect to a loan only if—

12 USC 3611.

(1) the loan bears a rate of interest acceptable to the Board;

(2) the security for the loan meets the requirements of the Board;

(3) in the case of prepayment of interest by the Bank with respect to a loan, the financial institution agrees to repay to the Bank that portion of such prepayment which is in excess of the

Interest prepayment, waiver.

actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan, except that the Bank may waive the repayment where such excess is minimal; and

(4) the borrower agrees to certify to the financial institution that the borrower has used the proceeds of the loan to purchase and install a solar energy system or residential or commercial energy conserving improvements, or to purchase a building with such a system, immediately after such purchase and installation or purchase of a building, which certification shall be made available to the Bank by the financial institution upon the request of the Board.

CONDITIONS ON FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3612.

SEC. 514. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or tenant with respect to a loan made for the purchase and installation of residential or commercial energy conserving improvements in a building only if—

Term of repayment.

(1) the term of repayment of the loan is not less than 5 years and does not exceed 15 years, except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that the owner or tenant receiving the proceeds of such loan, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential or commercial energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving the proceeds of such loan a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(3) the residential or commercial energy conserving improvements are installed in a building which was completed before January 1, 1980;

(4) in the case of a loan made to a tenant, the owner of such building agrees in writing to the installation of such residential or commercial energy conserving improvements before the making of the loan;

(5) in the case of a loan made for the purchase and installation of residential energy conserving improvements, the financial institution informs the borrower before the loan is made of the availability of residential energy audits;

(6) in the case of a loan made for the purchase and installation of commercial energy conserving improvements in a commercial or agricultural building, the borrower submits to the financial institution before the loan is made a copy of a commercial energy audit of such building;

Commercial energy building audit.

(7) in the case of a loan made to an owner of, or tenant in, a residential building, or a tenant in a multifamily residential building, the income of such owner or tenant does not exceed 150 percent of the median area income; and

(8) in the case of a loan made to an owner who occupies or a tenant of a commercial or agricultural building, the gross annual sales of such owner or tenant are not more than $1,000,000 during the fiscal year of such owner or tenant preceding the fiscal year in which such loan is made.

(b) Financial assistance may be provided by a financial institution under this subtitle in the form of a grant to an owner or tenant only if—

Owner or tenant grants.

(1) the owner or tenant has income which does not exceed 80 percent of the median area income;

(2) the owner or tenant certifies to the financial institution, as prescribed by the Board, that financial resources are available to the owner or tenant which when added to the financial assistance provided under this subtitle will be sufficient to pay the cost of the residential energy conserving improvements purchased and installed with such grant;

(3) the total cost of the residential energy conserving improvements to be purchased and installed with such grant exceeds $250;

(4) the supplier or contractor who sells or installs the residential energy conserving improvements purchased and installed with such grant is included on a list provided under section 213(a) of the National Energy Conservation Policy Act;

Post, p. 742.

(5)(A) the manufacturer of the residential energy conserving improvements to be purchased and installed with such grant shall, in connection with such improvements, warrant in writing that the owner or tenant receiving such grant, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving such grant a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

Warranty.

(6) the financial institution informs the owner or tenant of the availability of residential energy audits;

(7) in the case of a grant made to a tenant, the owner of the building in which the residential energy conserving improve-

ments are to be installed agrees in writing to the installation before the making of the grant;

(8) the owner or tenant agrees to certify to the financial institution, immediately after such installation, that such owner or tenant has purchased and installed with the grant residential energy conserving improvements, which certification shall be available to the Bank upon request; and

(9) any residential energy conserving improvements purchased and installed with such grant are purchased and installed in a residential, or multifamily residential, building which was completed before January 1, 1980.

CONDITIONS ON FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3613.

SEC. 515. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or builder with respect to a loan made for the purchase and installation of a solar energy system, or to a purchaser for the purchase of a newly constructed or substantially rehabilitated building with such a system, only if—

Term of loan repayment.

(1) the term of repayment of the loan—

(A) in the case of a residential building, is not less than 5 years in the case of an owner or purchaser, and does not exceed 30 years; or

(B) in the case of a multifamily residential building, commercial building, or agricultural building, is not less than 5 years and does not exceed 40 years,

except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such solar energy system, shall, in connection with such system, warrant in writing that the owner, builder, or purchaser receiving the proceeds of the loan, the installation contractor who installs the system, and the supplier of the system shall (for those solar energy systems found within 3 years from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such solar energy system shall, in connection with such system, provide, at a minimum, to such owner, builder, or purchaser a warranty equivalent to that required under clause (A), (C) the contractor for the installation of such solar energy system shall, in connection with such system, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time, and (D) the contractor for the installation of such solar energy system shall provide an onsite inspection of the system and its components for the purpose of discovering and remedying any defects during the 15 day period before the expiration of the warranty under clause (C), if the Board decides to require such an inspection;

(3) in the case of a loan made to a purchaser or builder of a newly constructed or substantially rehabilitated residential or multifamily residential building, the purchaser or builder pro-

vides certification that the building meets or exceeds the cost-effective energy conservation standards established by the Secretary of Housing and Urban Development, which are in effect on the date of the enactment of this subtitle and as such standards may be revised after such date by the Secretary after consultation with the Board, the Secretary of Energy, the Secretary of Agriculture, the National Institute of Building Sciences, the National Bureau of Standards, and any other Federal agency which is responsible for developing such standards; and

(4) in the case of a loan made to an owner of an existing residential building after December 31, 1985, the income of such owner does not exceed an amount equal to 250 percent of the median area income.

(b)(1) In addition to the conditions contained in section 513 and subsection (a), financial assistance may be provided by a financial institution to a builder under this subtitle for the purchase and installation of a solar energy system in a residential building only if—

(A) the Board determines that—

(i) in order to encourage the construction or substantial rehabilitation of a greater number of residential buildings containing solar energy systems it is necessary to provide financial assistance under this subtitle directly to builders;

(ii) providing any financial assistance under this subtitle directly to builders is a more effective expenditure of such assistance to encourage the construction or substantial rehabilitation of residential buildings containing solar energy systems than providing such assistance only to the purchasers of such buildings; and

(iii) the Board, in consultation with the Secretary of the Treasury, is able to establish a procedure which will prevent the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

Additional assistance, prohibition.

26 USC 38, 44C.

(B) the Board establishes a procedure which prevents the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

Additional assistance, prohibition.

(C) the builder agrees to, and does, disclose to the purchaser (who buys the building from the builder) in writing at the time of signing the sales contract for such building—

(i) the expenditures with respect to such building for which the builder received financial assistance under this subtitle; and

(ii) that the purchaser may not be allowed a credit against taxes for such expenditures under section 38 or section 44C of the Internal Revenue Code of 1954; and

(D) in addition to any other information required by this subtitle to be provided, the builder agrees to, and does, provide to

the Bank such information as the Board determines, in consultation with the Secretary of the Treasury, is necessary to assure that the purchaser (who buys the building from the builder) is not allowed a credit against taxes for such expenditures under section 38, or section 44C, of the Internal Revenue Code of 1954.

26 USC 38, 44C.

Subsidized energy financing.

(2) Any expenditures, made by a builder for the purchase and installation of a solar energy system in a building, for which the builder received financial assistance under this subtitle shall be considered expenditures from subsidized energy financing by the purchaser (who buys such building from the builder) for purposes of section 38 and section 44C of the Internal Revenue Code of 1954.

Payments to utility.

(c) Payments may be made to a utility for the provision of financial assistance under this subtitle for the purchase and installation of a solar energy system only if the financial assistance is used for such purchase and installation in existing buildings.

(d) In providing financial assistance with respect to loans for newly constructed and substantially rehabilitated residential buildings with solar energy systems, the Board shall establish a priority for residential buildings which contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to establish such a priority.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3614.

SEC. 516. (a) An amount equal to not less than 80 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of residential energy conserving improvements in residential and multifamily residential buildings.

(b)(1) An amount equal to not less than 15 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance for the purchase and installation of residential energy conserving improvements in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for residential and commercial energy conserving improvements.

(c) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (a) or subsection (b) shall not delay the provision of other financial assistance under this subtitle.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3615.

SEC. 517. (a)(1) The total amount of all payments made to utilities in any fiscal year for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall not exceed 10 percent of the amount of funds appropriated for

such fiscal year under the authorization contained in section 522(b), except that the Board may allow the total amount of such payments to exceed 10 percent of the amount of such funds, but not to exceed 20 percent of the amount of such funds, if the Board determines that it would further the purpose of this subtitle of encouraging the use of solar energy.

(2) The total amount of any payments provided to utilities for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall be distributed regionally, among utilities throughout the United States, in a reasonable manner.

(b) An amount equal to not less than 70 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential and multifamily residential buildings and for the purchase of residential and multifamily residential buildings which have such systems.

(c)(1) An amount equal to not less than 5 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for solar energy systems.

(d) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (b) or subsection (c) shall not delay the provision of other financial assistance under this subtitle.

PROMOTION

12 USC 3616.

SEC. 518. (a) The Bank shall promote the program established by this subtitle by informing financial institutions, builders, and consumers of the benefits of this program and by actively seeking their participation in the program. The Bank shall not duplicate any promotion or assistance activities undertaken by the Department of Energy, the Department of Housing and Urban Development, or other Federal agencies to encourage greater use of residential and commercial energy conserving improvements and solar energy systems, but shall cooperate with those agencies in—

Duplication of activities.

(1) the dissemination of information relating to residential and commercial energy conserving improvements and solar technology and their applicability to new and existing construction;

(2) the development and dissemination of reliable appraisal techniques with respect to residential and commercial energy conserving improvements and solar energy systems;

(3) the provision of technical assistance to nonprofit entities, low-income groups, and local governments in the use of financial assistance under this subtitle to undertake solar and conservation strategies; and

(4) the provision of such other assistance and information as the Board determines is necessary to encourage the use of residential and commercial energy conserving improvements and solar energy systems.

(b) The Bank shall seek the advice and assistance of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association in coordinating the programs of the Bank with the secondary market for loans used to finance the purchase and installation of residential and commercial energy conserving improvements and solar energy systems.

(c) Where possible the Bank shall coordinate its promotional program with promotional and assistance programs undertaken by State, regional, and local governments.

(d) The Secretary is authorized to use any available means of communication to accomplish the goals of this section by using the electronic media, print media, and the United States Postal Service.

REPORTS

Submittal to Congress and President.
12 USC 3617.

SEC. 519. (a) The Board shall submit an annual report, to the Congress and to the President of the United States which includes, among other matters, the views of the President of the Bank, the Energy Conservation Advisory Committee, and the Solar Energy Advisory Committee, with respect to—

(1) the operation of the Bank during the previous year;

(2) the problems of the energy conservation and solar energy industries, the Federal Government, and financial institutions which may be inhibiting the operation of the Bank or the acceptance by the public of the use of residential and commerical energy conserving improvements and solar energy systems;

(3) the cost effectiveness of the program in terms of expenditure, specific residential and commercial energy conserving improvements, and energy savings, using statistically valid samples of the improvements assisted under this subtitle;

(4) the relative number of persons from various income groups who have received financial assistance under this subtitle;

(5) the total energy savings achieved because of the assistance provided under this subtitle, based on an estimate of such savings using a statistically valid sample; and

(6) recommendations for improvements in the operation of the Bank.

Submittal to Congress.

(b) The Board shall submit to the Congress not later than 2 years after the date of the enactment of this subtitle a report on the limitation on the amount of financial assistance provided to utilities pursuant to section 517(a), including the recommendations of the Board on the continuation of the limitation and the level of such limitation.

RULES AND REGULATIONS

12 USC 3618.

SEC. 520. As soon as practicable, but not later than 180 days after the date of the enactment of this subtitle, the Board shall issue such final rules and regulations as the Board determines are necessary to carry out this subtitle, including rules and regulations to assure that there will be no fraud in the provision of financial assistance through grants under this subtitle, except that any final rules and regulations with respect to multifamily residential, commercial, or agricultural

buildings may be issued later than 180 days after such date but not later than 270 days after such date.

PENALTIES

SEC. 521. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any financial assistance provided under this subtitle, or fails to make any disclosure or statement required by this subtitle, shall be fined not more than $10,000 or imprisoned not more than one year, or both, for each offense. 12 USC 3619.

FUNDING

SEC. 522. (a) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of residential and commercial energy conserving improvements— Appropriation authorization. 12 USC 3620.

(1) the sum of $200,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $625,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518;

(3) the sum of $800,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518; and

(4) the sum of $875,000,000 for the fiscal year ending on September 30, 1984, of which not more than $7,500,000 may be used to carry out section 518.

(b) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of solar energy systems— Appropriation authorization.

(1) the sum of $100,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $200,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518; and

(3) the sum of $225,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518.

(c) Any funds appropriated under the authorizations contained in this section shall remain available until expended.

Part 2—Secondary Financing

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR RESIDENTIAL ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS

SEC. 531. (a) Section 315(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723g.

(1) by striking out "(1) Whenever" and all that follows through "direct the Association" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section *Ante*, p. 722.

in order to advance the national program of energy conservation in residential buildings, the Board shall direct the Bank"; and

(2) by striking out paragraph (2).

12 USC 1723g.

(b) Section 315(b) of such Act is amended—

(1) by striking out "Secretary" and "Association" and inserting in lieu thereof "Board" and "Bank", respectively; and

(2) by striking out "which are insured under title I" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", including loans and advances made by public utilities in accordance with the requirements of title II of the National Energy Conservation Policy Act, which are made for the purpose of financing, in whole or in part, the purchase and installation of residential energy conserving improvements or solar energy systems in residential buildings.".

42 USC 8211.

12 USC 1723g.

(c) Section 315(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 315(d) of such Act is amended—

(1) by inserting "or advance of credit" after "loan" each time it appears; and

(2) by striking out "Association" and inserting in lieu thereof "Bank".

(e) Section 315(e) of such Act is amended by striking out "Association" and inserting in lieu thereof "Bank".

(f) Section 315(f) of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Board".

(g) Section 315(g) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "residential" before "energy conserving" in paragraph (2);

(3) by inserting "or solar energy system" after "improvements" in paragraph (2);

(4) by inserting ", in whole or in part," after "financed" in paragraph (2);

(5) by striking out "of this section." in paragraph (2) and inserting in lieu thereof "of the Solar Energy and Energy Conservation Bank Act;" and;

Ante, p. 719.

(6) by adding the following new paragraphs after paragraph (2):

"(3) the term of repayment of such loan or advance of credit is not less than 5 years and not more than 15 years, except that there shall be no penalty imposed if the borrower repays the loan before the established repayment period;

"(4) the interest rate charged and the security required with respect to such loan or advance of credit is acceptable to the Board;

"(5) the amount of such loan or advance of credit does not exceed $15,000;

"(6) the entity from which such loan or advance of credit is purchased agrees to loan or advance credit for the purpose specified in subsection (b) in an amount equal to the amount of the loan or advance of credit which is purchased; and

"(7) such loan or advance of credit meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

(h) Section 315 of such Act is amended by adding the following new subsection at the end thereof:

12 USC 1723h.

"(h) For purposes of this section and section 316—

"(1) the term 'Bank' means the Solar Energy and Energy Conservation Bank established under section 505 of the Solar Energy and Energy Conservation Bank Act; Definitions. *Ante*, p. 722.

"(2) the term 'Board' means the Board of Directors of the Bank;

"(3) the term 'residential building' has the meaning given such term in section 504(2) of the Solar Energy and Energy Conservation Bank Act; *Ante*, p. 719.

"(4) the term 'residential energy conserving improvements' has the meaning given such term in section 504(6) of the Solar Energy and Energy Conservation Bank Act; and

"(5) the term 'solar energy system' has the meaning given such term in section 504(8) of the Solar Energy and Energy Conservation Bank Act.".

(i) The section heading of section 315 of such Act is amended to read as follows:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS".

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS

SEC. 532. (a) Section 316(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723h.

(1) by striking out "The Secretary" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section in order to advance the national program of energy conservation through the use of solar energy systems in residential buildings, the Board";

(2) by striking out "Association" and inserting in lieu thereof "Bank"; and

(3) by striking out "loans and advances of credits" and inserting in lieu thereof "mortgages".

(b) Section 316(b) of such Act is amended—

(1) by striking out "Secretary", "Association", and "loans and advances of credit" in the first sentence and inserting in lieu thereof "Board", "Bank", and "mortgages", respectively;

(2) by striking out "which are made to owners" in the first sentence and all that follows through the period at the end of such sentence and inserting in lieu thereof "which are secured by newly constructed one- to four-family dwelling units with solar energy systems and residential energy conserving improvements meeting or exceeding cost-effective energy conservation standards established by the Secretary of Housing and Urban Development.";

(3) by striking out "loan or advance of credit" the first time it appears in the second sentence and inserting in lieu thereof "mortgage";

(4) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "thirty";

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) the interest rate charged with respect to such mortgage is acceptable to the Board;

"(3) the principal amount of such mortgage does not exceed the principal amount which could be insured under section 203(b) of the National Housing Act with respect to the dwelling unit concerned;";

12 USC 1709.

(6) by striking out "loan or advance of credit" in paragraphs (1), (4), and (5) and inserting in lieu thereof "mortgage";

(7) by striking out "Secretary" in paragraph (4) and inserting in lieu thereof "Board";

(8) by striking out "and" at the end of paragraph (5); and

(9) by striking out paragraph (6) and inserting in lieu thereof the following new paragraphs:

"(6) the dwelling which secures such mortgage is purchased after the date of enactment of the Solar Energy and Energy Conservation Bank Act; and

Ante, p. 719.

"(7) such mortgage meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

12 USC 1723h.

(c) Section 316(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 316(d) of such Act is amended by striking out "loan" and "Association" each time they appear and inserting in lieu thereof "mortgage" and "Bank", respectively.

(e) Section 316(e) of such act is amended by striking out "Association" and "loans and advances of credit" and inserting in lieu thereof "Bank" and "mortgages", respectively.

(f) Section 316(f) of such Act is amended by striking out "Secretary" and "$100,000,000" and inserting in lieu thereof "Board" and "$800,000,000", respectively.

(g) Section 316(g) of such Act is amended by striking out "Secretary", "Association", "loans and advances of credit", "loan or advance", and "loans and advances" and inserting in lieu thereof "Board", "Bank", "mortgages", "mortgage", and "mortgages", respectively.

(h) Section 316 of such Act is amended—

(1) by striking out subsections (h), (i), and (j); and

(2) by striking out the section heading and inserting in lieu thereof the following:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS".

REPEAL

12 USC 1723f.

SEC. 533. Section 314 of the Federal National Mortgage Association Charter Act is repealed.

SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION AND BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

12 USC 1454.

SEC. 534. (a)(1) Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence: "or from any public utility

carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate". 42 USC 8211. *Infra.*

(2) Section 302(h) of such Act is amended by inserting ", or made by a public utility and purchased by the Corporation pursuant to the first sentence of section 305(a)(1)," after "credit for such purposes" in the third sentence. 12 USC 1451. *Ante,* p. 740.

(b) Section 302(b)(3) of the Federal National Mortgage Association Charter Act is amended by inserting the following before the period at the end of the first sentence: ", including loans or advances of credit made, by any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in a residential building". 12 USC 1717.

SUBTITLE B—UTILITY PROGRAM

DEFINITIONS

SEC. 541. Section 210 of the National Energy Conservation Policy Act is amended by striking out paragraph (9) and inserting in lieu thereof the following: 42 USC 8211.

"(9) The term 'residential building' means any building used for residential occupancy which—

"(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply, and 42 USC 6833, 6834.

"(B) contains at least one but not more than four dwelling units and has a system for heating or cooling, or both, except that, after January 1, 1982, such term shall also include any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system.".

STATE LIST OF SUPPLIERS AND CONTRACTORS—REQUIRED WARRANTY

SEC. 542. (a) Section 210(11) of the National Energy Conservation Policy Act is amended by striking out the last sentence. 42 USC 8211.

(b) Section 212(b) of such Act is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting the following new paragraph after paragraph (2): 42 USC 8213.

"(3) shall include provisions requiring that—

"(A) the manufacturer of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that the residential customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be

entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials;

"(B) the supplier of any residential energy conservation measure offered under a utility program shall, in connection with such measure, provide, at a minimum, to any person who purchases the measure from such supplier a warranty equivalent to that required under subparagraph (A); and

"(C) the contractor for the installation of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that, at a minimum, any defect in materials, manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; and".

42 USC 8214.

(c) Section 213(a)(2)(B) of such Act is amended by inserting "and who agrees to comply with the provisions promulgated under section 212(b)(3)" after "(E)".

Ante, p. 741.

42 USC 8221.

(d) Section 220(d) of such Act is amended to read as follows:

"(d) WARRANTIES.—With respect to section 212(b)(3) concerning warranties, all Federal and State laws otherwise applicable to such warranties shall apply, except to the extent inconsistent with such section.".

STATE LIST OF FINANCIAL INSTITUTIONS

42 USC 8214.

SEC. 543. Section 213(a)(3) of the National Energy Conservation Policy Act is amended by inserting the following before the semicolon at the end thereof: ", and provides that such list shall include a notation informing customers that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available from such lending institutions".

Ante, p. 719.

TREATMENT OF UTILITY COSTS

42 USC 8216.

SEC. 544. Section 215 of the National Energy Conservation Policy Act is amended—

(1) by striking out everything that follows "subsection (b) to be" in subsection (c)(1)(C) and inserting in lieu thereof the following: "recovered in the manner specified by the State regulatory authority which has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that the amount that may be recovered directly from a residential customer for whom the activities described in subsection (b) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this subparagraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.";

(2) by striking out subsection (c)(1)(D);

(3) by striking out subsection (c)(2)(A);

(4) by striking out "(B)" in subsection (c)(2)(B) and inserting in lieu thereof "(2)(A)";

(5) by striking out "(C)" in subsection (c)(2)(C) and inserting in lieu thereof "(B)"; and

(6) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) LOANS.—In the case of a loan which is arranged by a public utility under subsection (b)(1)(C), the utility, at the request of the person making such loan, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the person making such loan the cost incurred by the utility in carrying out such manner of repayment.".

TAX TREATMENT

SEC. 545. Section 216 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: 42 USC 8217.

"(i) TAX TREATMENT.—The value of any subsidy provided by a utility to any residential customer for the purchase and installation of residental energy conservation measures shall not be included in the gross income of such customer for purposes of the Internal Revenue Code of 1954, and such customer shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to any such subsidy.". 26 USC 1 *et seq.*

SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES

SEC. 546. (a) Section 216 of the National Energy Conservation Policy Act is amended— 42 USC 8217.

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 216. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PROHIBITION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.—Except as provided in this section, no public utility may supply or install a residential energy conservation measure for any residential customer.";

(3) by striking out "(1)" in subsection (b); and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) EXEMPTION FROM PROHIBITION ON SUPPLY AND INSTALLATION.—(1) The prohibition contained in subsection (a) shall not apply to any residential energy conservation measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply or installation and each such supplier or contractor—

"(A) is on the list of suppliers and contractors referred to in section 213(a)(2); *Ante*, p. 742.

"(B) is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

"(C) if selected by the utility, is selected in a manner consistent with paragraph (2).

"(2) As provided under the provisions described in section 213(b)(2)(D), activities of a public utility under paragraph (1)—

"(A) may not involve unfair methods of competition;

"(B) may not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

"(C) shall be undertaken in a manner which provides, subject to reasonable conditions the utility may establish to insure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available to finance supply or installation by any contractor on the lists referred to in section 213(a)(2) or to finance the purchase of such measures to be installed by the customer;

Ante, p. 742.

"(D) to the extent practicable and consistent with subparagraphs (A), (B), and (C), shall be undertaken in a manner which minimizes the cost of residential energy conservation measures to such customers; and

"(E) shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under paragraph (1).".

42 USC 8214.

(b) Section 213(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) provisions to assure that, whenever any public utility undertakes to finance its lending program for residential energy conservation measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program; and

"(D) provisions to assure that, in the case of any residential energy conservation plan which permits or requires any such utility to supply or install any residential energy conservation measure, the procedures under which any such utility undertakes such supply or installation will be consistent with the requirements of section 216(c)."

Ante, p. 743.

(c) Section 213(a) of such Act is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) requires any utility undertaking a program involving the supply or installation of any residential energy conservation measure as permitted under section 216(c) or providing financing for the purchase or installation of any such measure to notify the Secretary of Energy when such program becomes effective."

AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, AND FINANCING BY UTILITIES

SEC. 547. Section 216(g) of the National Energy Conservation Policy Act is amended to read as follows:

42 USC 8217.

"(g) AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, OR FINANCING BY UTILITIES.—(1) The Secretary, in consultation with the Federal Trade Commission, shall monitor financing, supply, and installation activities of public utilities in connection with

Report to Congress.

residential energy conservation measures and shall report annually to Congress on such activities. Each such report shall contain the comments of the Federal Trade Commission.

"(2) After the date of the enactment of this subsection, no public utility may make any loan or finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

"(A) such loans are being made, or supply or installations carried out, by such utility at unreasonable rates or on unreasonable terms and conditions, or

"(B) such loans made, or supply or installations carried out, by such utility have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices or are being carried out in a manner which does not comply with subsection (c).".

UNFAIR COMPETITIVE PRACTICES

SEC. 548. Nothing in any amendment made by this subtitle shall be construed to— 42 USC 8211 note.

(1) bar any person from taking any action with respect to any anticompetitive act or practice related to activities conducted under any program established under this title; or

(2) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.

EFFECTIVE DATE

SEC. 549. (a) The amendments made by this subtitle shall become effective on the date of the enactment of this Act. 42 USC 8211 note.

(b) As soon as practicable, but in no event later than 120 days after such date of enactment, the Secretary shall promulgate rules amending the regulations under section 212 of the National Energy Conservation Policy Act so that the amendments made by this subtitle will be carried out. Rules. *Ante*, p. 741.

(c) The provisions of section 218 of the National Energy Conservation Policy Act shall apply with respect to temporary programs proposed under such section after the effective date of this subtitle; except that, for the purposes of the application described in the first sentence of such section, the phrase "180 days after the promulgation of rules pursuant to section 212" shall refer to 180 days after the promulgation of rules required by subsection (b). 42 USC 8219.

(d) Nothing in this Act shall have the effect of delaying the date required for submission and approval or disapproval of residential energy conservation plans meeting the requirements of the National Energy Conservation Policy Act in effect before the enactment of this Act. 42 USC 8201 note.

RELATIONSHIP TO OTHER LAWS

SEC. 550. Section 220 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: *Ante*, p. 742.

"(e) PUBLIC UTILITY HOLDING COMPANY ACT.—For purposes of section 11(b)(1) of the Public Utility Holding Company Act of 1935, any financing, supply, or installation of residential energy conserva- 15 USC 79k.

tion measures under this part by a public utility company or utility holding company system subject to such Act shall be construed as an activity or business which is reasonably incidental or economically necessary or appropriate to the operations of the public utility company or utility holding company system.".

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

PURPOSE

42 USC 8235 note.

SEC. 561. It is the purpose of this subtitle—

(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and

(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 562. The National Energy Conservation Policy Act is amended by adding after section 255 the following new part:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

42 USC 8235.

"SEC. 261. DEFINITION.

"As used in this part, the term 'residential building' means any building used as a residence which is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply and which has a system for heating, cooling, or both.

42 USC 6833, 6834.

42 USC 8235a.

"SEC. 262. APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS AND PROVISION OF FINANCIAL ASSISTANCE FOR SUCH PROGRAMS.

"(a) PLAN APPROVAL.—The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to demonstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 263, the application is approved pursuant to section 264, and the plan provides for—

"(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of

the utility's service area designated by the contract, which contract includes the provisions described in subsection (b);

"(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1);

"(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

"(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract; Energy savings procedure.

"(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

"(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b).

"(b) CONTRACT REQUIREMENTS.—Any contract entered into by a public utility under subsection (a)(1) shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility's service area designated in the contract, without charge—

"(1) an inspection of such building to determine and inform such owner or occupant of— Inspection.

"(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

"(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

"(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to save energy and which do not require the installation of energy conservation measures; and

"(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

"(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

"(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time. Written warranty.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a).

"(d) LIMITATION.—The Secretary may approve under subsection (a) not more than 4 plans for the establishment of prototype residential energy efficiency programs.

42 USC 8235b.

"SEC. 263. APPLICATIONS FOR APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"Each application for the approval of a plan under section 262(a) for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

"(1) a description of the plan, including the provisions of the plan specified in section 262(a) and a description of the portion of the service area of the public utility proposing to enter into a contract under section 262(a)(1) which is designated under the contract;

"(2) a description of the manner in which the provisions of the plan specified in section 262(a) are to be met;

"(3) a description of the contract to be entered into pursuant to section 262(a)(1) and the manner in which the requirements of the contract contained in section 262(b) are to be met;

Public hearing record.

"(4) the record of the public hearing conducted pursuant to section 264(a)(2); and

"(5) any other information determined by the Secretary to be necessary to carry out this part.

42 USC 8235c.

"SEC. 264. APPROVAL OF APPLICATIONS FOR PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"(a) APPROVAL REQUIREMENTS.—The Secretary may approve an application submitted under section 263 for a plan establishing a prototype residential energy efficiency program only if—

"(1) the application is approved in writing—

"(A) by the public utility which is to enter into the contract under the plan;

"(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

"(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

"(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

"(b) FACTORS IN APPROVING APPLICATIONS.—The Secretary shall take into consideraton in approving an application under subsection (a) for a plan establishing a prototype residential energy efficiency program—

"(1) the potential for energy savings from the demonstration of the program;

"(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

"(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

"(4) such other factors as the Secretary determines are appropriate.

"SEC. 265. RULES AND REGULATIONS. 42 USC 8235d.

"(a) PROPOSED RULES AND REGULATIONS.—The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after the date of the enactment of this part.

"(b) FINAL RULES AND REGULATIONS.—The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a).

"SEC. 266. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION TO EXEMPT APPLICATION OF CERTAIN LAWS. 42 USC 8235e.

"The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (17 U.S.C. 717c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having rate-making authority over such utility, company, pipeline, or person, or (in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 262(a), if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program. 15 USC 717c, 711d, 717f.

"SEC. 267. APPLICATION OF OTHER LAWS. 42 USC 8235f.

"(a) LACK OF IMMUNITY.—No provision contained in this part—

"(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

"(2) shall provide to any person any immunity from civil or criminal liability;

"(3) shall create any defenses to actions brought under the antitrust laws; or

"(4) shall modify or abridge any private right of action under the antitrust laws.

"(b) UTILITY PROGRAMS UNDER PART 1.—Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 262(a) 42 USC 8211.

shall not be required to carry out, with respect to any residential building located in the portion of the utility's service area designated in the contract, the actions required to be contained in such utility's program by subsections (a) and (b) of section 215, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

42 USC 8216.

"(c) DEFINITION.—For purposes of this section, the term 'antitrust laws' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act entitled 'An Act to amend section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes' approved June 19, 1936 (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

42 USC 8235g.

"SEC. 268. RECORDS AND REPORTS.

"(a) RECORDS.—Each State and local government submitting any application for a plan which is approved under section 262(a), and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

Submittal to President and Congress.

"(b) REPORTS.—The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) and which shall contain—

"(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;

"(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 262(a);

"(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 262(a); and

"(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 262(a) to establish prototype residential energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.

"SEC. 269. REVOKING APPROVAL OF PLANS AND TERMINATING FINANCIAL ASSISTANCE. 42 USC 8235h.

"The Secretary shall revoke the approval of any plan under section 262(a) for the establishment of a prototype residential energy efficiency program, and shall terminate the provision of financial assistance under section 262(c) to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commission and after notice and the opportunity for a hearing, that carrying out such plan—

"(1) causes unfair methods of competition;

"(2) has a substantial adverse effect on competition in the portion of the service area of the public utility designated by the contract entered into under the plan; or

"(3) provides a supplier or contractor of energy conservation measures with an unreasonably large share of the contracts for the supply or installation of such measures under such plan in the service area of the public utility designated by the contract entered into under such plan.

"SEC. 270. AUTHORIZATION OF APPROPRIATIONS. 42 USC 8235i.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part—

"(1) the sum of $10,000,000 for the fiscal year ending on September 30, 1981; and

"(2) the sum equal to $10,000,000 minus the amount appropriated for the fiscal year ending on September 30, 1981, under the authorization contained in this section, for the fiscal year ending on September 30, 1982.

"(b) AVAILABILITY.—Any funds appropriated under the authorization contained in this section shall remain available until expended.".

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 563. The table of contents of the National Energy Conservation Policy Act is amended by inserting after the item relating to section 255 the following new items:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

"Sec. 261. Definition.
"Sec. 262. Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs.
"Sec. 263. Applications for approval of plans for prototype residential energy efficiency programs.
"Sec. 264. Approval of applications for plans for prototype residential energy efficiency programs.
"Sec. 265. Rules and regulations.
"Sec. 266. Authority of the Federal Energy Regulatory Commission to exempt application of certain laws.
"Sec. 267. Application of other laws.
"Sec. 268. Records and reports.
"Sec. 269. Revoking approval of plans and terminating financial assistance.
"Sec. 270. Authorization of Appropriations.".

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SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 565. The National Energy Conservation Policy Act is amended by adding at the end thereof the following new title:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

42 USC 8281.

"SEC. 710. DEFINITIONS.

"(a) APPLICABILITY OF TITLE II DEFINITIONS.—The definitions in section 210 are applicable to this title, except as otherwise provided in this section.

Ante, p. 741.

"(b) ADDITIONAL DEFINITIONS.—As used in this title—

"(1) The term 'building heating supplier' means any person engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

"(2) The term 'commercial building' means a building—

"(A) which was completed on or before the date of enactment of this title,

"(B) which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities or administration of a State or local government,

"(C) which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities, and

"(D) for which the average monthly use of energy for the calendar year 1980 is less than 4,000 kilowatt hours of electricity or 1,000 therms of natural gas or the Btu equivalent thereof of any other fuel;

42 USC 8241.

except that such term does not include a Federal building as defined in section 521(2).

"(3) The term 'multifamily dwelling' means a building which is used for residential occupancy, was completed on or before the date of enactment of this title, and contains five or more dwelling units and a central heating or central cooling system.

"(4) The term 'energy efficient improvements' means any change in the operation or maintenance of a commercial building or multifamily dwelling, which change is designed primarily to reduce energy consumption in such building or dwelling and which has been identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under section 731, 732, or 741.

"(5) The term 'commercial energy conservation measure' means an installation or modification of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electrical power in a multifamily dwelling or commercial building, including—

"(A) caulking and weatherstripping;

"(B) the insulation of the building or dwelling structure and systems within the building or dwelling;

"(C) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

"(D) automatic energy control systems;

"(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, or ventilating systems;

"(F) furnace, or utility plant and distribution system, modifications, including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Secretary) substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building or dwelling (unless such increase in illumination is necessary to conform to any applicable State or local building code or the increase is considered appropriate by the Secretary);

"(H) energy recovery systems;

"(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Secretary may, by rule, prescribe;

"(J) a solar energy system, as defined in section 504(8) of the Solar Energy and Energy Conservation Bank Act; and

"(K) such other measures as the Secretary identifies, by rule, for purposes of this title.

"(6) The term 'eligible customer' means—

"(A) with respect to a public utility, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that public utility sells natural gas or electricity for use in such building or dwelling, or

"(B) with respect to a building heating supplier, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane for use in such building or dwelling.

"(7) The term 'energy audit' means an onsite inspection of a commercial building or a multifamily dwelling which determines and informs the eligible customer of at least—

"(A) the type, quantity, and rate of energy consumption of such building or dwelling;

"(B) energy efficient improvements appropriate to such building or dwelling; and

"(C) the need, if any, for the purchase and installation of commercial energy conservation measures in such building or dwelling.

The Secretary, after consulting with appropriate State officials, may establish criteria for such audits on a regional basis to account for regional variations in energy use.

"(8) The term 'utility program' means a program meeting the requirements of section 731.

"(9) The term 'building heating supplier program' means a program meeting the requirements of section 732.

42 USC 8281a.

"SEC. 711. COVERAGE.

42 USC 8212.

"This title shall apply to any public utility for which coverage is provided under section 211.

42 USC 8281b.

"SEC. 712. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

"(a) PROMULGATION OF RULES BY THE SECRETARY.—The Secretary shall, not later than 120 days after enactment of this title and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as the Secretary deems appropriate, publish proposed rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings which meet the requirements of this title. After publication of such proposed rules, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on such proposed rules. Rules prescribing the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings shall be published not earlier than forty-five days after publication of the proposed rules.

Oral and written comments.

"(b) ENERGY EFFICIENT IMPROVEMENTS OF DIFFERENT TYPES AND CATEGORIES.—The rules promulgated under subsection (a) may identify energy efficient improvements in different types of commercial buildings and multifamily dwellings by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary deems appropriate. Such improvements shall be considered in the energy audits offered to eligible customers under sections 731, 732, and 741.

"(c) COORDINATION.—The rules promulgated under subsection (a) shall, to the extent practicable, coordinate the requirements of this title with the provisions of section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II, part 1 of this Act. Such rules shall not have the effect of delaying the submission, approval, or implementation of residential energy conservation plans under title II, part 1 of this Act.

42 USC 6327.
42 USC 8211.

"(d) OTHER RULES.—The Secretary may prescribe any other rules necessary to carry out the provisions of this title.

"PART 2—ENERGY CONSERVATION PLANS

42 USC 8282.

"SEC. 721. PROCEDURES FOR SUBMISSION AND APPROVAL OF STATE ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS.

"(a) SUBMISSION AND APPROVAL OF STATE PLANS.—Not later than 180 days after the promulgation of rules under section 712(a), the Governor of each State (or any State agency specifically authorized to do so under State law) may submit to the Secretary a proposed energy conservation plan for commercial buildings and multifamily dwellings which meets the requirements of the rules promulgated under section 712. Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under section 712, to the Secretary unless a plan

submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in subsection (b). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend for good cause shown, the time period for submission of a plan. Each plan submitted in accordance with this subsection shall be reviewed and approved or disapproved in accordance with the procedures of subparagraphs (B) and (C) of section 212(c)(1). 42 USC 8213.

"(b) NONREGULATED UTILITIES.—Any plan submitted by a Governor or State agency under subsection (a) may, in the discretion of the Governor if he notifies the Secretary within 30 days after promulgation of rules under section 712(a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case, reference elsewhere in this title to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this title to nonregulated utilities shall not apply. For purposes of this subsection, the term 'nonregulated utility' shall not include any public utility which is a Federal agency. "Nonregulated utility."

"(c) PLAN FOR BUILDING HEATING SUPPLIERS.—A plan applicable to building heating suppliers may be submitted by the Governor in his discretion.

"(d) TENNESSEE VALLEY AUTHORITY.—In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

"SEC. 722. REQUIREMENTS FOR STATE PLANS FOR REGULATED UTILITIES. 42 USC 8282a.

"No proposed energy conservation plan for commercial buildings and multifamily dwellings submitted for regulated utilities shall be approved by the Secretary unless such plan—

"(1) requires each regulated utility to implement a program which meets the requirements of section 731 and such other requirements as may be contained in the rules promulgated by the Secretary under section 712, except that no such program may be required to apply to all of the multifamily dwellings and commercial buildings located within such utility's service area if, within 6 months from the date on which the Secretary's rules are promulgated with respect to such program, the State regulatory authority which exercises ratemaking authority over such utility determines that the inclusion of such additional buildings or dwellings would significantly impair such utility's ability—

"(A) to fulfill the requirements of section 215, or *Ante*, p. 742.

"(B) to provide utility service to its customers.

"(2) provides adequate State procedures for implementing the enforcment of the plan;

"(3) provides procedures for insuring that effective coordination exists among various local, State, and Federal energy conserving programs within and affecting such State; and

"(4) is adopted after notice and public hearing. Hearing.

42 USC 8282b.

"SEC. 723. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND BUILDING HEATING SUPPLIERS.

"(a) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 722 for regulated utilities. In applying the requirements of section 722 in the case of a plan for a nonregulated utility under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility and the reference to the State regulatory authority shall be treated as a reference to the Governor.

"(b) REQUIREMENTS FOR PLANS FOR BUILDING HEATING SUPPLIERS.—No plan proposed for building heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under paragraphs (3) and (4) of section 722 and—

"(1) meets the requirements of section 732 and contains adequate enforcement procedures with respect to such requirements;

"(2) meets such requirements applicable to building heating suppliers as may be contained in the rules promulgated under section 712; and

"(3) takes into account the resources of small building heating suppliers.

"PART 3—UTILITY PROGRAMS

42 USC 8283.

"SEC. 731. UTILITY PROGRAMS.

"(a) GENERAL REQUIREMENTS.—Each utility program shall include procedures designed to provide that each public utility—

"(1) offers to each eligible customer, no later than 12 months after the approval of the applicable plan and every 24 months thereafter until 1990, an energy audit of the eligible customer's commercial building or multifamily dwelling;

"(2) conditions the availability of an energy audit in the case of a multifamily dwelling upon the agreement by the eligible customer to provide to the tenants of the customer's multifamily dwelling the information developed by such audit concerning energy efficient improvements and commercial energy conservation measures applicable to the individual dwelling units in such dwelling;

"(3) maintains a report of each audit performed pursuant to this subsection with respect to a commercial building or multifamily dwelling for not less than 10 years, which report shall be available to any subsequent eligible customer of such commercial building or multifamily dwelling; and

"(4) shall not be required to conduct an energy audit of a commercial building or multifamily dwelling which has been audited previously pursuant to this title or title III;

Ante, p. 752, 42 USC 6371 note.

except that any public utility may contract with one or more persons, including another utility, to carry out directly some or all of the responsibilities required by this subsection.

"(b) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—Each State regulatory authority or nonregulated utility shall, within 180 days after promulgation of rules under section 712(a), or such longer period as the Secretary for good cause may allow, provide—

"(1) that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 741) are accounted for on the books and records of the public utility separately from amounts attributable to all other activities of such utility;

"(2) that all amounts expended by a utility for providing information concerning the availability of the energy audit offered pursuant to subsection (a)(1) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service; and

"(3) that all other amounts expended by a public utility to carry out the provisions of this title, are recovered in the manner specified by the State regulatory authority which has rate-making authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that, in the case of a multifamily dwelling, the amount which may be recovered directly from an eligible customer for whom the activities described in subsection (a) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this paragraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

"(c) RATEPAYER.—For purposes of subsection (b), the term 'ratepayer' means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility for purposes other than for resale.

"SEC. 732. BUILDING HEATING SUPPLIER PROGRAM. 42 USC 8283a.

"(a) REQUIREMENTS.—Except as may be provided by the Secretary, the procedures for each building heating supplier program shall be identical to the procedures required for utilities in section 731(a).

"(b) WAIVER.—The Governor may waive, for any building heating supplier, any requirement established pursuant to this section, upon demonstration to the Governor's satisfaction that the resources of such supplier do not enable the supplier to comply with such requirement.

"PART 4—FEDERAL IMPLEMENTATION

"SEC. 741. FEDERAL STANDBY AUTHORITY. 42 USC 8284.

"(a) PROMULGATION OF PLAN BY THE SECRETARY.—If a State does not have a plan approved under section 721 within 270 days after promulgation of rules under section 712(a), or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

"(1) promulgate a plan which meets the requirements of section 722; and

"(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its eligible customers a utility program

prescribed in such order which meets the requirements specified in section 731.

"(b) NONREGULATED UTILITIES.—If a nonregulated utility which is not covered by an approved State plan under section 721 does not have a plan approved under such section within 270 days after promulgation of rules under section 712(a) or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility—

"(1) to promulgate a plan which meets the requirements of section 723 and which applies to the commercial buildings and multifamily dwellings which would have been covered had such a plan been so approved or implemented; and

"(2) no later than 90 days following the date of issuance of such order, to offer to its customers a utility program prescribed in such plan which meets the requirements specified in section 731.

"(c) ENFORCEMENT.—If the Secretary determines that any person has violated any provision of this title, any plan approved or promulgated under this title, or any order issued pursuant thereto, the Secretary may file a petition in the appropriate United States district court to enjoin such person from violating such provision, plan, or order. The provisions of subsections (c) and (d) of section 219 shall apply to any violation of any order or plan promulgated by the Secretary under authority of subsections (a) and (b) of this section.".

42 USC 8220.

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 566. The table of contents of the National Energy Conservation Policy Act is amended by adding the following new items at the end thereof:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

"Sec. 710. Definitions.
"Sec. 711. Coverage.
"Sec. 712. Rules of Secretary for submission and approval of plans.

"PART 2—ENERGY CONSERVATION PLANS

"Sec. 721. Procedures for submission and approval of State energy conservation plans for commercial buildings and multifamily dwellings.
"Sec. 722. Requirements for State plans for regulated utilities.
"Sec. 723. Plan requirements for nonregulated utilities and building heating suppliers.

"PART 3—UTILITY PROGRAMS

"Sec. 731. Utility programs.
"Sec. 732. Building heating supplier program.

"PART 4—FEDERAL IMPLEMENTATION

"Sec. 741. Federal standby authority.".

SUBTITLE E—WEATHERIZATION PROGRAM

LIMITATIONS ON ADMINISTRATIVE EXPENDITURES

SEC. 571. Section 415(a) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out ", except that" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ". Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes." 42 USC 6865.

EXPENDITURES FOR LABOR

SEC. 572. Section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by inserting the following new paragraph at the end thereof:

"(3) In areas where the Secretary, after consultation with the Secretary of Labor, determines that there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary may increase the limitation of $800 to not more than $1,600 to cover the costs of paying persons who will install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973." 29 USC 801 note.

SELECTION OF LOCAL AGENCIES

SEC. 573. (a) Section 415(b)(2) of the Energy Conservation in Existing Buildings Act of 1976 is amended— 42 USC 6865.

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Section 413(c) of such Act is amended by striking out the second sentence thereof. 42 USC 6863.

(c) Section 414(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended— 42 USC 6864.

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph at the end thereof:

"(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1), and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this title: *Provided,* Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further,*

That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.".

42 USC 6851, 2781.

STANDARDS AND PROCEDURES FOR THE WEATHERIZATION PROGRAM

42 USC 6863.

SEC. 574. Section 413(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended by adding the following new paragraph at the end thereof:

"(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.".

LIMITATIONS ON EXPENDITURES

Ante, p. 759.

SEC. 575. Section 415(c)(1)(D) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out "$100" and inserting in lieu thereof "$150".

AUTHORIZATION OF APPROPRIATIONS

42 USC 6872.

SEC. 576. Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There is authorized to be appropriated for purposes of carrying out the weatherization program under this part, the sum of $55,000,000 for the fiscal year ending on September 30, 1977, the sum of $130,000,000 for the fiscal year ending on September 30, 1978, the sum of $200,000,000 for the fiscal year ending on September 30, 1979, the sum of $200,000,000 for the fiscal year ending on September 30, 1980, and the sum of $200,000,000 for the fiscal year ending on September 30, 1981, such sums to remain available until expended.".

TECHNICAL AMENDMENTS

SEC. 577. Part A of the Energy Conservation in Existing Buildings Act of 1976 is amended—

42 USC 6862.

(1) by striking out section 412(1) and inserting in lieu thereof the following:

"(1) The term 'Secretary' means the Secretary of Energy.";

(2) by striking out "Administrator" each time it appears therein and inserting in lieu thereof "Secretary"; and

42 USC 6869.

(3) by striking out "Administrator's" in the first sentence of section 419(a) and inserting in lieu thereof "Secretary's".

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

PURPOSE

42 USC 8285.

SEC. 581. It is the purpose of this subtitle to encourage the training and certification of individuals to conduct energy audits for residen-

tial and commercial buildings in order to serve the various private and public needs of the Nation for energy audits.

DEFINITIONS

SEC. 582. For the purposes of this subtitle— 42 USC 8285a.

(1) the term "Governor" means the chief executive officer of each State, including the Mayor of the District of Columbia;

(2) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands;

(3) the term "energy audit" means an inspection as described in section 215(b)(1)(A) of the National Energy Conservation Policy Act, or an energy audit as defined in section 710(b)(7) of such Act, which in addition may provide information on the utilization of renewable resources and may make energy-related improvements in the building; and

(4) the term "Secretary" means the Secretary of Energy.

GRANTS

SEC. 583. (a) The Secretary may make grants to any Governor of a State for the training and certification of individuals to conduct energy audits. 42 USC 8285b.

(b) Before making a grant under subsection (a) to a Governor, the Secretary must receive from the Governor an application containing— Applications.

(A) any information which the Secretary deems is necessary to carry out this subtitle; and

(B) an assurance that the grant will supplement and not supplant other funds available for such training and certification and will be used to increase the total amount of funds available for such training and certification.

(c)(1) Before making any grant under subsection (a) the Secretary shall establish minimum standards for the training and certification of individuals to conduct energy audits.

(2) The Secretary shall require each Governor receiving any grant under this subtitle to agree to meet the standards established pursuant to paragraph (1) in any training and certification conducted using funds provided under this subtitle.

AUTHORIZATION OF APPROPRIATIONS

SEC. 584. (a) To carry out this subtitle there is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending on September 30, 1981, and the sum of $15,000,000 for the fiscal year ending on September 30, 1982. 42 USC 8285c.

(b) Any funds appropriated under the authorization contained in this section shall remain available until expended.

SUBTITLE G—INDUSTRIAL ENERGY CONSERVATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 591. To accelerate the program of the Department of Energy involving the research, development, and demonstration of energy conserving activities designed to substantially increase productivity 42 USC 6347.

in industry, there is authorized to be appropriated to the Secretary of Energy for industrial energy conservation demonstration projects designed to substantially increase productivity in industry, in addition to any other sums which may be available for such purposes, the sum of $40,000,000 for each of the fiscal years ending on September 30, 1981, and on September 30, 1982.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

CONSENSUS ON FACTORS AND DATA FOR ENERGY CONSERVATION STANDARDS

42 USC 8286.

SEC. 595. The Secretary of Energy shall assure that within 6 months after the date of the enactment of this Act, the Secretary of Energy, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Defense, the Administrator of the General Services Administration, and the head of any other agency responsible for developing energy conservation standards for new or existing residential, commercial, or agricultural buildings shall reach a consensus regarding factors and data used to develop such standards. This consensus shall apply to, but not be limited to—

(1) fuel price projections;

(2) discount rates;

(3) inflation rates;

(4) climatic conditions and zones; and

(5) the cost and energy saving characteristics of construction materials.

USE OF FACTORS AND DATA

42 USC 8286a.

SEC. 596. Factors and data consented to pursuant to section 595 may be revised and agreed to by a consensus of the heads of the various Federal agencies involved. Such factors and data shall be used by all Federal agencies in establishing and revising various energy conservation standards used by such agencies, except that other factors and data may be used with respect to the standards applicable to any program if—

(1) the other factors and data are approved by the Secretary of Energy solely on the basis that such other factors and data are critical to meet the unique needs of the program concerned;

(2) using the consented to factors and data would cause a violation of an express provision of law; or

(3) statutory requirements or responsibilities require a modification of the consented to factors and data.

REPORT

Submittal to Congress.
42 USC 8286b.

SEC. 597. The President shall report to the Congress on January 1, 1981, and annually thereafter, with respect to—

(1) the activities which have been carried out under this subtitle; and

(2) other efforts which are being carried out to coordinate the various Federal energy conservation programs.

TITLE VI—GEOTHERMAL ENERGY

Geothermal Energy Act of 1980.

SHORT TITLE

SEC. 601. This title may be cited as the "Geothermal Energy Act of 1980". 30 USC 1501 note.

FINDINGS

SEC. 602. The Congress finds that— 30 USC 1501.

(1) domestic geothermal reserves can be developed into regionally significant energy sources promoting the economic health and national security of the Nation;

(2) there are institutional and economic barriers to the commercialization of geothermal technology; and

(3) Federal agencies should consider the use of geothermal energy in the Government's buildings.

SUBTITLE A

LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

SEC. 611. (a) The Secretary of Energy (hereafter in this title referred to as the "Secretary") is authorized to make a loan to any person, from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144), to assist such person in undertaking and carrying out a project which (1) is designed to explore for or determine the economic viability of a geothermal reservoir and (2) consists of surface exploration and the drilling of one or more exploratory wells. 30 USC 1511.

(b) Subject to subsection (c) and to section 613(b), any loan under subsection (a) shall be repayable out of revenue from production of the geothermal energy reservoir with respect to which the loan was made, at a rate, in any year, not to exceed 20 per centum of the gross revenue from the reservoir in that year; except that if any disposition of the geothermal rights to the reservoir is made to one or more other persons by the borrower, the full amount of the loan balance outstanding, or so much of the loan balance outstanding as is equal to the full amount of the compensation realized by the borrower upon such disposition, whichever is less, shall be repaid immediately. In any case where the reservoir is confirmed (as determined by the Secretary), the Secretary may impute a reasonable revenue for purposes of determining repayment if— Repayment.

(1) reasonable efforts are not made to put such reservoir in commercial operation,

(2) the borrower (or any such other person) utilizes the resources of the reservoir without a sale of the energy or geothermal energy resources therefrom, or

(3) a sale of energy or geothermal energy resources from the reservoir is made for an unreasonably low price;

except that no such imputation of revenue shall be made during the three-year period immediately following such reservoir confirmation. In the event of failure to begin production of revenue (or, where no sale of energy or geothermal energy resources is made, to begin production of energy for commercial use) within five years after the date of such reservoir confirmation, the Secretary may take action to Production failure.

recover the value, not to exceed the amount of the unpaid balance of the loan plus any accrued interest thereon, of any assets of the project in question, including resource rights.

Cancellation.

(c) The Secretary may at any time cancel the unpaid balance and any accrued interest on any loan made under this section if he determines, on the basis of evidence presented by the loan recipient or otherwise, that the geothermal energy reservoir with respect to which the loan was made has characteristics which make that reservoir economically or technically unacceptable for commercial development.

"Person."

(d) As used in this subtitle, the term "person" includes municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the entities included within such term under 1 U.S.C. 1.

LOAN SIZE LIMITATION

30 USC 1512.

SEC. 612. The amount of any loan made under section 611(a) with respect to a project described in that section shall not exceed 50 percent of the cost of such project; except that if the loan is made to a person proposing to make application of the resources of the reservoir involved primarily for space heating or cooling or process heat for one or more structures or facilities then existing or under construction, the loan may be in any amount up to 90 per centum of such cost. In any event no loan shall be made in an amount in excess of $3,000,000.

LOAN RATE AND REPAYMENT

30 USC 1513.

SEC. 613. (a) Each loan made under section 611 shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)).

42 USC 1962d-17.

(b) Each such loan shall be for a term which the Secretary deems appropriate, except that no loan term shall exceed twenty years beyond the date on which production of energy or geothermal energy resources begins from the reservoir involved. If revenues are inadequate (as determined by the Secretary) to fully repay the principal and accrued interest within twenty years after production begins, any remaining unpaid amounts shall be forgiven.

PROGRAM TERMINATION

30 USC 1514.

SEC. 614. No new loans shall be made under this subtitle after September 30, 1986. Amounts repaid on or before September 30, 1986, on loans theretofore made under section 611 shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle. Amounts repaid after that date on loans theretofore made under section 611, and amounts deposited in the Fund for purposes of this subtitle which remain in the Fund after that date and are not required to secure outstanding obligations under this subtitle, shall be deposited into the United States Treasury as miscellaneous receipts.

REGULATIONS

30 USC 1515.

SEC. 615. The Secretary shall promulgate regulations to carry out this subtitle no later than six months after the date of the enactment of this Act.

AUTHORIZATIONS

SEC. 616. There are hereby authorized to be appropriated for loans under this subtitle not to exceed $5,000,000 for fiscal year 1981, and not to exceed $20,000,000 for each of the four succeeding fiscal years. Amounts so appropriated shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle, and shall remain available for such purposes until expended. 30 USC 1516.

SUBTITLE B

RESERVOIR INSURANCE PROGRAM STUDY

SEC. 621. The Secretary shall conduct a detailed study of the need for and feasibility of establishing a reservoir insurance and reinsurance program incorporating the terms, conditions, and provisions set forth in section 622, and shall submit to the Congress within one year after the date of the enactment of this Act a report on the results of such study including his findings and recommendations with respect thereto. Report to Congress. 30 USC 1521.

ESTABLISHMENT OF PROGRAM

SEC. 622. (a) If the report of the Secretary submitted pursuant to section 621 affirmatively recommends the establishment of the program and the Congress by law (after review of such recommendation) specifically authorizes the establishment of the program, the Secretary shall establish and implement within six months after the date of the enactment of such authorization a program, in cooperation with the insurance and reinsurance industry, to provide reservoir insurance to qualified eligible applicants in accordance with this section. 30 USC 1522.

(b) For the purpose of this section— Definitions.

(1) the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase or construction of machinery, equipment, and facilities manufactured, or for services contracted to be furnished, for the development and utilization of a geothermal resource in the United States to provide energy in the form of heat for direct use or for generation of electricity;

(2) the term "geothermal resource" means a resource in the United States including (A) all products of geothermal processes embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproducts derived from them, where "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with other geothermal resources and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) the term "risk" means the hazard that a reservoir of geothermal resources will cease to provide sufficient quantities of geothermal resources at minimum conditions required to

maintain an economically or technically viable operation for utilization of the geothermal resource;

(4) the term "reasonable premiums" means premium amounts determined by the Secretary to be reasonable in light of the amount of investment subject to the risk and premiums charged in similar or analogous situations by private insurers where private insurance is concerned and by insurers or guarantors, both public and private, where public insurance is concerned;

(5) the term "other insurance" means any combination of private or public insurance other than investment insurance provided by the Secretary under this section;

(6) the term "reservoir" means the physical subsurface geologic structure which forms the natural repository for the undisturbed geothermal resource; and

(7) the term "person" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which is a United States citizen as determined by application of the test for United States citizenship contained in section 2(a)-(c) of the Shipping Act, 1916 (46 U.S.C. 802), or in the first sentence of section 27A of the Merchant Marine Act, 1920 (46 U.S.C. 883-1(a)-(e)).

Investment insurance.

(c) Any person with a total direct investment of not less than $1,000,000 in the development and use, not including exploration and testing, of a geothermal resource associated with a reservoir, and unable to obtain other insurance at reasonable premiums for the amount of the investment subject to risk, as determined by the Secretary under this section, shall be eligible for investment insurance.

(d) Any eligible person seeking investment insurance under this section shall file an application with the Secretary setting forth (1) the total amount of the contemplated investment in a geothermal resource and associated reservoir; (2) the views of the applicant concerning the nature and extent of the risk, including a geologic, engineering, and financial assessment based on site specific results of exploration and testing of the geothermal resource and the reservoir, stated with as much specificity as is possible; (3) the status of all required Federal, State, and local approvals, permits, and leases for the proposed development and utilization operations at the site; (4) the extent to which the applicant has been able to obtain other insurance against the risk; and (5) such other information as the Secretary may require.

(e) Unless the Secretary determines the risk proposed by the applicant is unreasonable, the Secretary, within ninety days after receipt of a satisfactory application, shall determine in writing and submit to the applicant (1) the risk which may cause loss of investment for the applicant; (2) the total investment subject to the risk; (3) the amount of the other insurance which is available at reasonable premiums for the purpose of indemnifying the applicant against the risk; (4) the amount of investment insurance available pursuant to this section, which shall be the difference between the total investment subject to the risk and the total other insurance determined to be available at reasonable premiums, but not in excess of the lesser of 90 per centum of, or $50,000,000 of, the loss of investment subject to the risk; and (5) any reasonable terms and conditions necessary for the prudent administration of the program, including reasonable premiums for the insurance pursuant to this section (which shall be deposited in the Geothermal Resources Development Fund).

(f) The Secretary, within ninety days after making and submitting the determinations under subsection (e), and upon agreement of the applicant to such determinations, shall issue a certificate of insurance containing such terms and conditions as the Secretary shall specify, which shall not be transferrable without the express approval of the Secretary for good cause shown, and shall execute a contract with the applicant setting forth the terms and conditions of the investment insurance and such other provisions as may be necessary to protect the interests of the United States, including provisions with respect to the ownership, use, and disposition of any currency, credits, assets, or investments on account of which payment under such insurance is to be made and any right, title, claim, or course of action existing in relation thereto.

Compensation.

(g) Any holder of a certificate of insurance pursuant to subsection (f) who claims a loss of value of his investment by reason of the specified risk shall receive compensation, to the extent the Secretary determines that the holder is eligible to receive compensation pursuant to the certificate and the contract, in the amount of the loss incurred by the holder which is subject to insurance and for which the holder has not received and will not receive compensation from other insurance.

(h) Any compensation received by the holder shall be withdrawn from the Geothermal Resources Development Fund. The full faith and credit of the United States is hereby pledged to the payment of any compensation under this section.

(i) A person shall not be denied insurance pursuant to this section solely because such person is the recipient of other Federal assistance under this or any other Act.

(j) There may be appropriated to the Geothermal Resources Development Fund (established pursuant to section 204 of the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1144)), for purposes of this section, such amounts as are authorized for such purposes in the law referred to in subsection (a) or in other legislation hereafter enacted.

Agreements.

(k) The Secretary may enter into agreements to reinsure any private insurer for any risk associated with insurance for the development and utilization of a geothermal resource and associated reservoir, using the procedures set forth in subsections (c) through (i), to the extent that he deems it appropriate in order to provide an incentive for the participation of the private insurance industry in geothermal development; and he may also use any other available authority to obtain such participation. The Secretary shall submit a report to the Congress, within one year after the enactment of the law referred to in subsection (a), on the need for any additional authority to obtain such participation.

Report to Congress.

SUBTITLE C

FEASIBILITY STUDY LOAN PROGRAM

30 USC 1531.

SEC. 631. (a) The Secretary is authorized and directed to establish a program of assistance for the accelerated development of geothermal resources for nonelectric applications by geothermal utility districts, geothermal industrial development districts, and other persons.

(b)(1) In providing assistance under the program established pursuant to subsection (a), the Secretary is authorized to make a loan to any person to defray up to 90 per centum of the costs of (A) studies to

determine the feasibility of any geothermal development described in such subsection, and (B) preparing applications for any necessary licenses or other Federal, State, and local approvals respecting such development.

Cancellation.

(2) The Secretary may cancel the unpaid balance and any accrued interest on any loan granted for a study pursuant to clause (A) of paragraph (1) if he determines, on the basis of the study, that the geothermal development is not technically or economically feasible.

(c) In providing assistance under such program, the Secretary is also authorized to make a loan to any person to defray up to 75 per centum of the costs directly related to the construction of a system or systems for nonelectric geothermal development pursuant to such subsection, where the Secretary finds that—

(1) all necessary licenses and other required Federal, State, and local approvals for construction of such system or systems have been or will be issued,

(2) the project involved will comply with all applicable laws relating to protection of the environment, and

(3) the applicant requires such assistance to undertake and complete the project.

(d) Each loan made pursuant to this section shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Each loan shall be for such term as the Secretary deems appropriate, but not in excess of ten years for loans under subsection (b) or thirty years for loans under subsection (c).

42 USC 1962d-17.

(e) Loans pursuant to this section shall be made from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144); and amounts repaid on such loans shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle.

(f) For loans under clause (A) of subsection (b)(1) for fiscal year 1981, there is authorized to be appropriated to the Geothermal Resources Development Fund not to exceed $5,000,000, which shall remain available until expended. For loans under such clause (A) for subsequent fiscal years, and for loans under clause (B) of subsection (b)(1) or under subsection (c) (for any such subsequent fiscal year), there may be appropriated to such Fund only such sums as are authorized by legislation hereafter enacted.

"Person."

(g) As used in this section, the term "person" includes municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection (a) and the other entities included within such term under 1 U.S.C. 1.

SUBTITLE D

AMENDMENTS TO GEOTHERMAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 641. Title II of the Geothermal Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101 et seq.) is amended—

30 USC 1141.

(1) by striking out the period at the end of the first sentence in section 201(c) and inserting in lieu thereof the following: ", except that any guarantee made for a loan to an electric, housing, or

other cooperative, or to a municipality (as defined in section 3(7), part I, of the Federal Power Act), may apply to so much of the principal amount of the loan as does not exceed 90 percent of the aggregate cost of the project. In determining the aggregate cost of a project for purposes of the preceding sentence, there shall be excluded the cost of constructing electrical transmission lines to the extent that the cost of constructing such lines exceeds 25 percent of the aggregate cost of the project (as determined without regard to this sentence); except that the Secretary may waive or limit the application of this sentence with respect to any project located in the State of Hawaii upon a finding that such project is remote from the area of primary consumption, that a transmission line is required before the geothermal reservoir can be developed, and that the particular transmission line involved will be used for more than the plant which is the subject of the loan guarantee."; 16 USC 796.

(2) by striking out "the ten-calendar-year period following the date of enactment of this Act" in section 203 and inserting in lieu thereof "fiscal year 1990"; and 30 USC 1143.

(3) by adding at the end thereof the following new sections:

"APPROVAL OR DISAPPROVAL OF LOAN GUARANTEE APPLICATIONS

"SEC. 206. The Secretary, within sixty days after the enactment of this section, shall establish and implement procedures providing for a final decision on any loan guarantee application within four months of the date of filing. To the maximum extent practical, an applicant should be advised (prior to the submission of the application) of all information which will be required of the applicant in processing the application; and the date of filing shall be considered to be the date when all of such information has been submitted by the applicant. Any application proposed and filed as of the date of the enactment of this section shall be subject to final decision within not more than four months after such date. 30 USC 1146.

"APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 207. The Secretary shall ensure, to the maximum extent possible, that any action undertaken pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 which is associated with the granting of a loan guarantee under this title takes the maximum cognizance allowable under law of any other action theretofore undertaken pursuant to such section 102(2)(C) with respect to the project which is the subject of such loan guarantee, and that no such action associated with the loan guarantee shall duplicate any action theretofore undertaken under such section 102(2)(C) in connection with such project, so long as all of the requirements which are applicable to such project under such section 102(2)(C) will have been satisfied.". 30 USC 1147. 42 USC 4332.

USE OF GEOTHERMAL ENERGY IN FEDERAL FACILITIES

SEC. 642. The option of using geothermal energy or geothermal energy resources shall be considered fully in any new Federal building, facility, or installation which is located in a geothermal resource area as designated by the Secretary. 30 USC 1541.

AMENDMENTS TO FEDERAL POWER ACT AND PUBLIC UTILITY REGULATORY POLICIES ACT

SEC. 643. (a) The Federal Power Act is amended—

16 USC 796.

(1) by inserting "geothermal resources," after "renewable resources," in section 3(17)(A)(i);

16 USC 824i.

(2) by inserting "geothermal power producer (including a producer which is not an electric utility)," after "Federal power marketing agency," in section 210(a)(1); and

16 USC 824j.

(3) by striking out "Any electric utility" at the beginning of section 211(a) and inserting in lieu thereof "Any electric utility, geothermal power producer (including a producer which is not an electric utility),".

16 USC 824a-3.

(b) Section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) is amended—

(1) by inserting ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity," after "to encourage cogeneration and small power production" in the first sentence of subsection (a);

(2) by striking out "qualifying cogeneration facilities" in subsection (e)(1) and inserting in lieu thereof "geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities,"; and

(3) by inserting ", or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source," after "30 megawatts" in subsection (e)(2).

REGULATIONS

30 USC 1542.

SEC. 644. All regulations made with respect to this subtitle shall be promulgated no later than six months after the date of the enactment of this Act.

Acid Precipitation Act of 1980.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

SUBTITLE A—ACID PRECIPITATION

SHORT TITLE

42 USC 8901 note.

SEC. 701. This title may be cited as the "Acid Precipitation Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

42 USC 8901.

SEC. 702. (a) The Congress finds and declares that acid precipitation resulting from other than natural sources—

(1) could contribute to the increasing pollution of natural and man-made water systems;

(2) could adversely affect agricultural and forest crops;

(3) could adversely affect fish and wildlife and natural ecosystems generally;

(4) could contribute to corrosion of metals, wood, paint, and masonry used in construction and ornamentation of buildings and public monuments;

(5) could adversely affect public health and welfare; and

(6) could affect areas distant from sources and thus involve issues of national and international policy.

(b) The Congress declares that it is the purpose of this subtitle—

(1) to identify the causes and sources of acid precipitation;

(2) to evaluate the environmental, social, and economic effects of acid precipitation; and

(3) based on the results of the research program established by this subtitle and to the extent consistent with existing law, to take action to the extent necessary and practicable (A) to limit or eliminate the identified emissions which are sources of acid precipitation, and (B) to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation.

(c) For purposes of this subtitle the term "acid precipitation" means the wet or dry deposition from the atmosphere of acid chemical compounds.

"Acid precipitation."

INTERAGENCY TASK FORCE; COMPREHENSIVE PROGRAM

SEC. 703. (a) There is hereby established a comprehensive ten-year program to carry out the provisions of this subtitle; and to implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subtitle referred to as the "Task Force"), of which the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration shall be joint chairmen. The remaining membership of the Task Force shall consist of—

Acid Precipitation Task Force. 42 USC 8902.

(1) one representative each from the Department of the Interior, the Department of Health and Human Services, the Department of Commerce, the Department of Energy, the Department of State, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Tennessee Valley Authority;

(2) the director of the Argonne National Laboratory, the director of the Brookhaven National Laboratory, the director of the Oak Ridge National Laboratory, and the director of the Pacific Northwest National Laboratory; and

(3) four additional members to be appointed by the President.

(b) The four National Laboratories (referred to in subsection (a)(2)) shall constitute a research management consortium having the responsibilities described in section 704(b)(13) as well as the general responsibilities required by their representation on the Task Force. In carrying out these responsibilities the consortium shall report to, and act pursuant to direction from, the joint chairmen of the Task Force.

Research management consortium.

(c) The Administrator of the National Oceanic and Atmospheric Administration shall serve as the director of the research program established by this subtitle.

Director.

COMPREHENSIVE RESEARCH PLAN

SEC. 704. (a) The Task Force shall prepare a comprehensive research plan for the ten-year program (hereafter in this subtitle referred to as the "comprehensive plan"), setting forth a coordinated program (1) to identify the causes and effects of acid precipitation and (2) to identify actions to limit or ameliorate the harmful effects of acid precipitation.

42 USC 8903.

(b) The comprehensive plan shall include programs for—

(1) identifying the sources of atmospheric emissions contributing to acid precipitation;

(2) establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation;

(3) research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation;

(4) development and application of atmospheric transport models to enable prediction of long-range transport of substances causing acid precipitation;

(5) defining geographic areas of impact through deposition monitoring, identification of sensitive areas, and identification of areas at risk;

(6) broadening of impact data bases through collection of existing data on water and soil chemistry and through temporal trend analysis;

(7) development of dose-response functions with respect to soils, soil organisms, aquatic and amphibious organisms, crop plants, and forest plants;

(8) establishing and carrying out system studies with respect to plant physiology, aquatic ecosystems, soil chemistry systems, soil microbial systems, and forest ecosystems;

(9) economic assessments of (A) the environmental impacts caused by acid precipitation on crops, forests, fisheries, and recreational and aesthetic resources and structures, and (B) alternative technologies to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation;

(10) documenting all current Federal activities related to research on acid precipitation and ensuring that such activities are coordinated in ways that prevent needless duplication and waste of financial and technical resources;

(11) effecting cooperation in acid precipitation research and development programs, ongoing and planned, with the affected and contributing States and with other sovereign nations having a commonality of interest;

(12) subject to subsection (f)(1), management by the Task Force of financial resources committed to Federal acid precipitation research and development;

(13) subject to subsection (f)(2), management of the technical aspects of Federal acid precipitation research and development programs, including but not limited to (A) the planning and management of research and development programs and projects, (B) the selection of contractors and grantees to carry out such programs and projects, and (C) the establishment of peer review procedures to assure the quality of research and development programs and their products; and

(14) analyzing the information available regarding acid precipitation in order to formulate and present periodic recommendations to the Congress and the appropriate agencies about actions to be taken by these bodies to alleviate acid precipitation and its effects.

Submittal to Congress; public review.

(c) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within six months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1);

(3) shall be submitted in final form, incorporating such needed revisions as arise from comments received during the review

period, to the President and the Congress within forty-five days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which requests for authorizations and appropriations are to be made for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under paragraph (3).

(d) The Task Force shall convene as necessary, but no less than twice during each fiscal year of the ten-year period covered by the comprehensive plan.

(e) The Task Force shall submit to the President and the Congress by January 15 of each year an annual report which shall detail the progress of the research program under this subtitle and which shall contain such recommendations as are developed under subsection (b)(14). Annual report to President and Congress.

(f)(1) Subsection (b)(12) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (A) the department or agency to which funds are appropriated, or (B) the obligations of such department or agency with respect to the use of such funds.

(2) Subsection (b)(13) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of law (relating to or involving a department or agency) which specifies (A) procurement practices for the selection, award, or management of contracts or grants by such department or agency, or (B) program activities, limitations, obligations, or responsibilities of such department or agency.

IMPLEMENTATION OF COMPREHENSIVE PLAN

SEC. 705. (a) The comprehensive plan shall be carried out during the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in its final form under section 704(c)(3); and— 42 USC 8904.

(1) shall be carried out in accord with, and meet the program objectives specified in, paragraphs (1) through (11) of section 704(b);

(2) shall be managed in accord with paragraphs (12) through (14) of such section; and

(3) shall be funded by annual appropriations, subject to annual authorizations which shall be made for each fiscal year of the program (as provided in section 706) after the submission of the Task Force progress report which under section 704(e) is required to be submitted by January 15 of the calendar year in which such fiscal year begins.

(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. (a) For the purpose of establishing the Task Force and developing the comprehensive plan under section 704 there is authorized to be appropriated to the National Oceanic and Atmospheric 42 USC 8905.

Administration for fiscal year 1981 the sum of $5,000,000, to remain available until expended.

(b) Authorizations of appropriations for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under section 704(c)(3), for purposes of carrying out the comprehensive ten-year program established by section 703(a) and implementing the comprehensive plan under sections 704 and 705, shall be provided on an annual basis in authorization Acts hereafter enacted; but the total sum of dollars authorized for such purposes for such nine fiscal years shall not exceed $45,000,000 except as may be specifically provided by reference to this paragraph in the authorization Acts involved.

SUBTITLE B—CARBON DIOXIDE

STUDY

42 USC 8911.

SEC. 711. (a)(1) The Director of the Office of Science and Technology Policy shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study of the projected impact, on the level of carbon dioxide in the atmosphere, of fossil fuel combustion, coal-conversion and related synthetic fuels activities authorized in this Act, and other sources. Such study should also include an assessment of the economic, physical, climatic, and social effects of such impacts. In conducting such study the Office and the Academy are encouraged to work with domestic and foreign governmental and non-governmental entities, and international entities, so as to develop an international, worldwide assessment of the problems involved and to suggest such original research on any aspect of such problems as the Academy deems necessary.

Report to Congress.

(2) The President shall report to the Congress within six months after the date of the enactment of this Act regarding the status of the Office's negotiations to implement the study required under this section.

Results, report to Congress.

(b) A report including the major findings and recommendations resulting from the study required under this section shall be submitted to the Congress by the Office and the Academy not later than three years after the date of the enactment of this Act. The Academy contribution to such report shall not be subject to any prior clearance or review, nor shall any prior clearance or conditions be imposed on the Academy as part of the agreement made by the Office with the Academy under this section. Such report shall in any event include recommendations regarding—

Recommendations.

(1) how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of varying levels of atmospheric carbon dioxide should be structured, including comments by the Office on the interagency requirements of such a program and comments by the Secretary of State on the international agreements required to carry out such a program;

(2) how the United States can best play a role in the development of such a long-term program on an international basis;

(3) what domestic resources should be made available to such a program;

(4) how the ongoing United States Government carbon dioxide assessment program should be modified so as to be of increased

utility in providing information and recommendations of the highest possible value to government policy makers; and

(5) the need for periodic reports to the Congress in conjunction with any long-term program the Office and the Academy may recommend under this section.

(c) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall furnish to the Office or the Academy upon request any information which the Office or the Academy determines to be necessary for purposes of conducting the study required by this section.

(d) The Office shall provide a separate assessment of the interagency requirements to implement a comprehensive program of the type described in the third sentence of subsection (b).

AUTHORIZATION OF APPROPRIATIONS

SEC. 712. For the expenses of carrying out the carbon dioxide study authorized by section 711 (as determined by the Office of Science and Technology Policy) there are authorized to be appropriated such sums, not exceeding $3,000,000 in the aggregate, as may be necessary. At least 80 percent of any amounts appropriated pursuant to the preceding sentence shall be provided to the National Academy of Sciences. 42 USC 8912.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

PRESIDENT REQUIRED TO RESUME FILL OPERATIONS

SEC. 801. (a) Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b) and the requirements of section 159, the President shall immediately undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for fiscal year 1981 and for each fiscal year thereafter.

"(2) The requirement in paragraph (1) shall cease to apply when storage in the Strategic Petroleum Reserve equals or exceeds the final storage level set forth in the Strategic Petroleum Reserve Plan.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter). 42 USC 6240 note.

USE OF CRUDE OIL FROM ELK HILLS RESERVE

SEC. 802. (a) Section 160 of such Act (42 U.S.C. 6240), as amended by section 801, is further amended by adding at the end thereof the following:

"(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum Reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

"(A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 500,000,000 barrels; or

"(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for that fiscal year.

"(2)(A) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

"(i) sold to small refiners under section 7430(d) of title 10, United States Code;

"(ii) produced, consistent with sound engineering practices, for the purpose of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

"(iii) produced for national defense purposes under section 7422(b)(2) of title 10, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.".

Effective date. 42 USC 6240 note.

(b) The amendments made by subsection (a) shall take effect October 1, 1980.

SUSPENSION DURING EMERGENCY SITUATIONS

SEC. 803. Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240), as amended by sections 801 and 802, is further amended by adding at the end thereof the following new subsection:

"(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

"(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program;

"(ii) the President has transmitted such finding to the Congress in accordance with section 552, together with a request for a suspension of such provisions; and

42 USC 6422.

"(iii) such request has been approved by a resolution by each House of the Congress within 60 days of continuous session after the date of its transmittal, in accordance with the provisions of section 552 applicable to energy conservation contingency plans.

"(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii).

"(3) In applying the provisions of section 552 for purposes of paragraph (1)(B)—

"(A) subsections (d)(2) and (d)(7) shall not apply; and

"(B) the references to any energy conservation contingency plan shall be considered to refer to a request under this subsection.

"(4) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any crude oil involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension.".

NAVAL PETROLEUM RESERVES

SEC. 804. (a) Section 7430(b) of title 10, United States Code, is amended by striking out "for periods of not more than one year," and inserting at the end thereof the following: "Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.".

(b) Section 7430(k) of title 10, United States Code, is amended to read as follows:

"(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

"(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231-6246); or

"(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

"(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.".

(c) Section 7430 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

"(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

"(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

"(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) of this section or placed in the Strategic Petroleum Reserve under subsection (k) of this section.".

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL; USE OF FEDERAL ROYALTY OIL

SEC. 805. (a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the

42 USC 6240 note.

Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall, within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.

15 USC 753.

(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.

(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.

42 USC 7191.

(b) In addition to the requirement under subsection (a), the President may direct that—

(1) all or any portion of Federal royalty oil be placed in storage in the Reserve,

(2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or

(3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).

(c)(1) Any proceeds—

(A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and

(B) to the extent provided in subsection (b), from the sale of Federal royalty oil,

shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.

(2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act, such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.

42 USC 7270.

(B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).

Definitions.

(d) For purposes of this section—

(1) the terms "entitlements", "crude oil", and "allocation" shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 (and the regulation thereunder);

15 USC 751 note.

(2) the term "lower tier crude oil" means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;

(3) the term "Federal royalty oil" means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

(4) the term "proceeds from the sale of Federal royalty oil" means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.

Approved June 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-165 accompanying H.R. 3930 (Comm. on Banking, Finance, and Urban Affairs) and No. 96-1104 (Comm. of Conference).

SENATE REPORTS: No. 96-166 (Comm. on Banking, Housing, and Urban Affairs), No. 96-387 (Comm. on Energy and Natural Resources and Comm. on Banking, Housing, and Urban Affairs), and No. 96-824 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 20, considered and passed Senate.
June 26, H.R. 3930 considered and passed House; passage vacated and S. 932, amended, passed in lieu.
Nov. 5, 7, 8, Senate concurred in House amendments with amendments.

Vol. 126 (1980): June 19, Senate agreed to conference report.
June 26, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 27 (1980): June 30, Presidential statement.