SEC. 7401. SHORT TITLE.

This subtitle may be cited as the 'Synthetic Fuels Corporation Act of 1986'.

SEC. 7402. CESSATION OF FINANCIAL ASSISTANCE AUTHORITY.

Effective on the date of enactment of this Act [Apr. 7, 1986], the United States Synthetic Fuels Corporation (hereafter in this subtitle referred to as the 'Corporation') may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act [Pub. L. 96–294; see Short Title note set out under section 8801 of this title] for synthetic fuel project proposals, except that nothing in this Act (see Tables for classification) shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of this Act.

SEC. 7403. TERMINATION OF THE CORPORATION.

(a) Within 60 days of the date of enactment of this Act [Apr. 7, 1986], the Directors of the Corporation shall terminate their duties under the Energy Security Act [Pub. L. 96–294; see Short Title note set out under section 8801 of this title] and be discharged.

(b) Within 120 days of the date of enactment of this Act [Apr. 7, 1986], the Corporation shall terminate, except as otherwise provided in this subtitle, in accordance with subtitle J of part B of title I of the Energy Security Act [42 U.S.C. 8791 to 8793].

SEC. 7404. DUTIES OF SECRETARY OF THE TREASURY.

(a) Within 60 days of the date of enactment of this Act [Apr. 7, 1986] (or earlier, in the event of absence of a Chairman of the Board of Directors of the Corporation), the Secretary of the Treasury shall assume the duties of the Chairman of the Board of Directors of the Corporation. The Secretary of the Treasury shall have the authority to negotiate and execute agreements modifying an existing contract relating to the production of synthetic crude oil from oil shale, entered into under the Defense Production Act Amendments of 1980 [Pub. L. 96–294, title I, part A, see Short Title of 1980 Amendment note set out under Title 50, Appendix, War and National Defense] and subsequently transferred to the Secretary of the Treasury for administration, provided the terms and conditions of any modifications are revenue neutral or result in a fiscal savings to the United States Government, and in no event would increase the financial exposure of the United States Government under the contract: Provided, however, That the Secretary of the Treasury shall have no authority to increase the total amount of funds originally authorized for the existing contract: And provided further, That the Secretary shall have no authority to negotiate and execute any agreement modifying the existing contract if such modification(s) would increase or accelerate the financial support per unit for the synthetic fuel to be produced under the contract.

(b) Notwithstanding any other provision of law, the duties and responsibilities of the Secretary of the Treasury under subtitle J of part B of title I of the Energy Security Act [42 U.S.C. 8791 to 8793] or this Act [see Tables for classification] may not be transferred to any other Federal department or agency.

(c) Notwithstanding such termination of the Corporation, the Advisory Committee established under section 123 of the Energy Security Act [42 U.S.C. 8719] shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of part B of title I of such Act [42 U.S.C. 8731 to 8740].

(d) To the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act [42 U.S.C. 8731(q)] in connection with an award or commitment of financial assistance under such Act [Pub. L. 96–294; see Short Title note set out under section 8801 of this title], the Secretary shall complete such action within 30 days of the date of enactment of this Act [Apr. 7, 1986].

SEC. 7405. SALARIES AND COMPENSATION RIGHTS.

(a) The Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation or benefits which each Director, officer, or employee of the Corporation shall be legally entitled to under any contract as of the date of enactment of this Act [Apr. 7, 1986].

(b) Effective on the date of enactment of this Act [Apr. 7, 1986], no change in any Director, officer, or employee compensation or benefits shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable.

(c) Effective on the date of enactment of this Act [Apr. 7, 1986],

"(1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and

"(2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act [Apr. 7, 1986].

SEC. 7406. REPORT TO THE CONGRESS.

The Corporation shall, within 60 days of the date of enactment of this Act [Apr. 7, 1986], transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report—

"(1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985; and

"(2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act [42 U.S.C. 8722(b)(3)]."


SUBCHAPTER XI—DEPARTMENT OF THE TREASURY

§ 8795. Omitted

SEC. 8795. Omitted

Explanation

Section, Pub. L. 96–294, title I, § 195, June 30, 1980, 94 Stat. 682, which authorized appropriations to purchase corporate obligations and authorized public debt status for purchases and redemptions of corporate obligations, was omitted from the Code in view of termination of United States Synthetic Fuels Corporation. See note set out under section 8791 of this title.

CHAPTER 96—BIOMASS ENERGY AND ALCOHOL FUELS

Sec.

8801. Congressional findings.

8802. Definitions.

8803. Funding.

8804. Coordination with other authorities and programs.

SUBCHAPTER I—GENERAL BIOMASS ENERGY DEVELOPMENT

8811. Biomass energy development plans.

8812. Program responsibility and administration and effect on other programs.
Sec. 
8813. Insured loans. 
8814. Loan guarantees. 
8815. Purchase agreements. 
8816. General requirements regarding financial assist ance. 
8817. Review; reorganization. 
8818. Termination of authorities; modification of purchase agreements. 
Appendix to Title 50, War and National Defense, amending section 1723h of Title 12, section 753 of Title 15, sections 590h, 796, 824a–3, 824i, 1642, 2705, and 2706 of Title 16, Conservation, sections 1141 and 1143 of Title 30, and sections 2062, 2091 to 2093, 2151, 2161, and 2166 of the Appendix to Title 50, repealing section 1723f of Title 12, and enacting provisions set out as notes under this section and sections 6240, 7317, 8211, 8235, 8701, and 8901 of this title, section 3601 of Title 12, section 3602 of Title 16, and section 1501 of Title 30, and sections 2061 and 2062 of the Appendix to Title 50; may be cited as the ‘Energy Security Act’.

§ 8802. Definitions

As used in this chapter—

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

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

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

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

(4) The term ‘‘biomass energy’’ means—

(A) biomass fuel; or

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

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

(A) the production of biomass fuel (and by-products); or

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

(6) The term ‘‘Btu’’ means British thermal unit.

(7) The term ‘‘cogeneration’’ means the combined generation by any facility of—

(A) electrical or mechanical power, and

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

(8) The term ‘‘cooperative’’ means any agricultural association, as that term is defined in section 1141j(a) of title 12.
§ 8803. Funding

(a) Authorization of appropriations

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

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

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

(3) $250,000,000 shall be available to the Secretary of Energy for carrying out activities under subchapter II of this chapter.

(b) Availability of funds until expended

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

(c) Determinations respecting amount of appropriations remaining available

(1) For purposes of determining the amount of such appropriations which remain available for purposes of this chapter—

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

(B) loan guarantees shall be counted at the initial face value of such loan guarantee;

(C) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary’s determination of the maximum potential liability of the United States under the contract; and

(D) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

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

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

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

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

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


References in Text

The Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes" (Public Law 96–126; 93 Stat. 970), referred to in subsec. (a), was established by Pub. L. 96–126, title II, §201, Nov. 27, 1979, 93 Stat. 970, which is set out as a note under section 9515 of this title.

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

Amendments

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

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

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

Section 8804. Coordination with other authorities and programs

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


References in Text

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 681, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

Subchapter I—General Biomass Energy Development

§8811. Biomass energy development plans

(a) Plan respecting maximized production and use by December 31, 1982; preparation, transmission, etc.

Not later than 180 days after June 30, 1980, the Secretary of Agriculture and the Secretary of Agriculture for carrying out activities under subchapter I of this chapter, except of the amount of the financial assistance provided by the Secretary of Agriculture under subchapter I of this chapter, up to one-third shall be for small-scale biomass energy projects;
§ 8812. Program responsibility and administration and effect on other programs

(a) Duties and functions of Secretary of Agriculture and Secretary of Energy over projects

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

(A) the Secretary of Agriculture, in the case of any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use foodstocks 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 why such project should not proceed, the Secretary concerned shall defer the final decision on the application for an additional 30 days. During such 30-day period, both Secretaries shall attempt to reach agreement regarding all issues raised in the written notice. Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of such period, concurrence shall be deemed to have been given.

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

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

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

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

(b) Procedural requirements applicable

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

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

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

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

(D) any application is evaluated and a decision made on such application within 120 days after the receipt of the application, including
review under subsections (a)(2)(C), (a)(2)(D), or (c) of this section; and
(E) all interested persons are provided the easiest possible access to the application process, including procedures which assure that—
(1) information concerning financial assistance from either Secretary is available through all appropriate offices of the Department of Agriculture and the Department of Energy, and other regional and local offices of the Federal Government, as may be appropriate;
(ii) all such locations where such information is available will be able to accept and file applications, and will forward them to the Secretary concerned; and
(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.
(2) The procedural requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.
(c) Notice to and reviewing functions of other Secretary concerning application for financial assistance
(1) After evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with—
(A) a copy of the application and such supporting material as may be appropriate, and
(B) an opportunity of not less than 15 days to review the application.
This subsection shall not apply in the case of a project subject to review under subsection (a)(2)(C) of this section.
(2) If the reviewing Secretary provides written notice specifying any issues regarding matters subject to the Secretary’s review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned shall defer a final decision on the application for an additional 30 days to provide an opportunity for both Secretaries to answer and resolve such issues. At the expiration of the 30-day period, the Secretary concerned may make a final decision with respect to the application, using the best judgment of the Secretary concerned to resolve any remaining issues.
(3) Reviews of projects under the provisions of subsection (a)(2)(C) of this section or paragraph (1)(B) by the Secretary of Agriculture shall be for the purpose of considering the national, regional, and local agricultural policy impacts of such project on agricultural supply, production, and use, and reviews by the Secretary of Energy under such provisions shall be for the purpose of considering national energy policy impacts and the technical feasibility of the project.
(4) The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which paragraphs (1) and
(2) shall not apply. Within 90 days after June 30, 1980, the Secretaries shall identify potential categories and make an initial determination of exempted categories.
(d) Notification of applicant upon disapproval of application for financial assistance
If any application for financial assistance under this subchapter is disapproved, the applicant shall be provided written notice of the reasons for the disapproval.
(e) Implementation of functions assigned to Secretary of Agriculture by administrative entities within Department of Agriculture; issuance of regulations; coordination of functions by designated entities
(1) The functions assigned under this subchapter to the Secretary of Agriculture may be carried out by any of the administrative entities in the Department of Agriculture which the Secretary of Agriculture may designate. Within 30 days after June 30, 1980, the Secretary of Agriculture shall make such designations and notify the Congress of the administrative entity or entities so designated and the officials in such administrative entity or entities who are to be responsible for such functions.
(2) The Secretary of Agriculture may issue such regulations as are necessary to carry out functions assigned to the Secretary of Agriculture under this subchapter.
(3) The entities or entity designated under paragraph (1) shall coordinate the administration of functions assigned to it under this subchapter with any other biomass energy programs within the Department of Agriculture established under other provisions of law.
(f) Implementation of functions assigned to Secretary of Energy by Office of Alcohol Fuels
The functions under this subchapter which are assigned to the Secretary of Energy and which relate to alcohol production shall be carried out by the Office of Alcohol Fuels.
(g) Energy equivalency determinations respecting biomass energy and ethanol
For purposes of this subchapter, the quantity of any biomass energy or other fuel which is the energy equivalent to 15,000,000 gallons of ethanol shall be prescribed jointly by the Secretary of Agriculture and the Secretary of Energy within 30 days after June 30, 1980.
§ 8813. Insured loans
(a) Authority of Secretary of Agriculture; maximum amount per project
Subject to sections 8812 and 8817 of this title, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not to exceed $1,000,000 per project for the construction of small-scale biomass energy projects.
(b) Estimated project construction costs as determinative of initial and revised amount of loan; interest rate
(1) Any insured loan under this section—
(A) may not exceed 90 per centum of the total estimated cost of construction of the biomass energy project involved, and
(B) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum.

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

(c) Funding requirements; "insured loan" defined

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

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

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

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

(d) Preconditions

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


§ 8814. Loan guarantees

(a) Authority of Secretary concerned

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

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

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

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

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

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

(d) Terms and conditions

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

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

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

(f) Payment to lender

If the Secretary concerned determines that—
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) Preconditions

(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 loan bears a reasonable degree of risk in the financing of such project.


REFERENCES IN TEXT


DEFRAUGHT LOANS UNDER DEPARTMENT OF ENERGY ALCOHOL FUELS LOAN GUARANTEE PROGRAM; SALE OF ASSETS; UNOBLIGATED FUNDS

Provided, That the use of these unobligated funds for payment of defaulted loans and associated costs shall be available only for loans guaranteed prior to January 1, 1987. Provided further, That such funds shall be used only after the unobligated balance in the Department of Energy Alcohol Fuel Loan Guarantee reserve has been exhausted.''

§ 8815. Price guarantees

(a) Authority of Secretary concerned; minimum sales price

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

(b) Cost-plus arrangements as basis

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

(2) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of paragraph (1).

(c) Maximum dollar amount of liability of United States

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

(d) Renegotiation of sales price and maximum liability

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

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

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

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


REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(2), was in the original "this title", meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 681, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

§ 8816. Purchase agreements

(a) Authority of Secretary concerned; consultative requirements

Subject to sections 8812 and 8817 of this title, the Secretary concerned may commit to make, and make, purchase agreements for all or part of
the biomass energy production of any biomass energy project, if the Secretary determines—
   (1) that such biomass energy is of a type, quantity, and quality that can be used by Fed-
       eral 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 determina-

(b) Maximum sales price

The sales price specified in a purchase agree-

ment under this section may not exceed the es-

timated prevailing market price as of the date

of delivery, as determined by the Secretary of

Energy, unless the Secretary concerned deter-

mines that such sales price must exceed the es-

timated prevailing market price in order to en-

sure the production of biomass energy to

achieve the purposes of this chapter.

(c) Assurances required

The Secretary concerned in entering into, or

committing to enter into, a purchase agreement

under this section shall require—
   (1) assurances that the quality of the bio-

mass energy purchased will meet standards for

the use for which such energy is purchased;
   (2) assurances that the ordered quantities of

such energy will be delivered on a timely

basis; and
   (3) such other assurances as may reasonably

be required.

(d) Arrangements for delivery pursuant to agree-

ment; charge to Federal agency receiving de-

livery

The Secretary concerned may take delivery of

biomass energy pursuant to a purchase agree-

ment under this section if appropriate arrange-

ments have been made for its distribution to and

use by one or more Federal agencies. Any Fed-

eral agency receiving such energy shall be

charged (in accordance with otherwise applica-

ble law), from sums appropriated to such Fed-

eral agency, for the prevailing market price as

of the date of delivery, as determined by the

Secretary of Energy, for the product which the

biomass energy is replacing.

(e) Consultative requirements

The Secretary concerned shall consult with

the Secretary of Defense and the Administrator

of the General Services Administration in carry-

ing out this section.

(f) Terms and conditions

Each purchase agreement, and commitment to

enter into a purchase agreement, under this sec-

tion shall provide that the Secretary concerned

retains the right to refuse delivery of the bio-

mass energy involved upon such terms and con-

ditions as shall be specified in the purchase agree-

ment.

(g) Maximum dollar amount of liability of United

States

Each purchase agreement, or commitment to

enter into a purchase agreement, which is made

under this section shall specify the maximum
dollar amount of liability of the United States

under that agreement.

(h) Renegotiation of sales price and maximum li-

ability

If the Secretary concerned determines, in the
discretion of the Secretary, that—
   (1) a biomass energy project would not

otherwise be satisfactorily completed or con-
tinued, and
   (2) completion or continuation of such

project would be necessary to achieve the pur-

poses of this chapter,

the sales price set forth in the purchase agree-

ment, and maximum liability under such agree-

ment, may be renegotiated.

Stat. 692.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (b)(2),
was in the original “this title”, meaning title II of Pub.
L. 96–294, June 30, 1980, 94 Stat. 693, known as the Bio-
mass Energy and Alcohol Fuels Act of 1980, which is
classified principally to this chapter. For complete
classification of title II to the Code, see Short Title
note set out under section 8801 of this title and Tables.

§ 8817. General requirements regarding financial

assistance

(a) Priorities, terms, availability, etc.

   (1) Priority for financial assistance under this

subchapter, and the most favorable financial

terms available, shall be provided to a person for

any biomass energy project that—

(A) uses a primary fuel other than petroleum

or natural gas in the production of biomass

fuel, such as geothermal energy resources,

solar energy resources, or waste heat; or

(B) applies new technologies which expand

the possible feedstocks, produces new forms of

biomass energy, or produces biomass fuel

using improved or new technologies.

Nothing in this paragraph shall be construed to

exclude financial assistance for any project

which does not use such a fuel or apply such a

technology.

(2)(A) Financial assistance under this sub-

chapter shall be available for a biomass energy

project only if the Secretary concerned finds

that the process to be used by the project

will not extract the protein content of the feed-

stocks for utilization as food or feed for readily

available markets in any case in which to do so

would be technically and economically prac-

ticable.

(3) No financial assistance may be provided

under this subchapter to any person for any bio-

mass energy project if the Secretary concerned

finds that the process to be used by the project

will not exceed the Btu content of the motor

fuels to be used in the facility involved to produce the bio-

mass fuel; and

(B) In making the determination under sub-

paragraph (A), the Secretary concerned shall

take into account any displacement of motor

fuel or other petroleum products which the ap-

licant has demonstrated to the satisfaction of

the Secretary would result from the use of the

biomass fuel produced in the facility.

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 sub-

chapter shall be available for a biomass energy

project only if the Secretary concerned finds

that the process to be used by the project

will not exceed the Btu content of the motor

fuels to be used in the facility involved to produce the bio-

mass fuel; and

(B) In making the determination under sub-

paragraph (A), the Secretary concerned shall

take into account any displacement of motor

fuel or other petroleum products which the ap-

licant has demonstrated to the satisfaction of

the Secretary would result from the use of the

biomass fuel produced in the facility.

(3) No financial assistance may be provided

under this subchapter to any person for any bio-

mass energy project if the Secretary concerned

finds that the process to be used by the project

will not exceed the Btu content of the motor

fuels to be used in the facility involved to produce the bio-

mass fuel, or produces biomass fuel

using improved or new technologies.

(4) Financial assistance may not be provided

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

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

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

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

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

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

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

(c) Application requirements

(1) No financial assistance may be provided to any person under this subchapter unless an application 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 subchapter; and

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

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

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

(B) such assurances,
as the Secretary concerned may require.

(d) Reports and recordkeeping

(1) Every recipient of financial assistance under this subchapter shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.

(2) With respect to each biomass energy project for which financial assistance is provided under this subchapter, the Secretary shall—

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

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

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

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

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

(f) Contestability of contracts

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

(g) Fees for loan guarantees, etc.

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

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

(h) Deposit of amounts received by Secretary concerned

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


References in Text

This chapter, referred to in subsec. (a)(4)(C), was in the original “‘this title’”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8601 of this title and Tables.

§ 8818. Reports


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

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

(1)(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 subchapter and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving such goals.

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

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


AMENDMENTS

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

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

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


§ 8820. Office of Alcohol Fuels

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

There is hereby established within the Department of Energy an Office of Alcohol Fuels (hereinafter in this section referred to as the “Office”) to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(b) Responsibilities of Director

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

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

(c) Annual authorization and appropriation requests for support of Office

In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office (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.

(d) Consultations respecting coordination of programs

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.


COMMUNITY SERVICES ADMINISTRATION


§ 8821. Termination of authorities; modification of terms and conditions of conditional commitments for loan guarantees

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


REFERENCES IN TEXT

CODIFICATION

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


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

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

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

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

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

SUBCHAPTER II—MUNICIPAL WASTE BIO Mass Energy

§ 8831. Municipal waste energy development plan
(a) Preparation by Secretary of Energy; consultative requirements
The Secretary of Energy shall prepare a comprehensive plan for carrying out this subchapter. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the head of such other Federal agencies as the Secretary deems appropriate.

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

(c) Required statements
The comprehensive plan under this section shall include a statement setting forth—
(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;
(2) the management structure and approach to be adopted to carry out such plan;
(3) the program strategies, including detailed milestone goals to be achieved;
(4) the specific funding requirements for individual program elements and activities, including the total estimated construction costs of proposed projects; and
(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

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


§ 8832. Construction loans
(a) Authority of Secretary of Energy
Subject to sections 8835 and 8836 of this title, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects.

(b) Estimated project construction costs as determinative of initial and revised amount of loan; interest rate
(1) Any loan under this section—
§ 8833

(a) Authority of Secretary of Energy

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

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

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

(c) Preconditions

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

§ 8833. Guaranteed construction loans

(a) Authority of Secretary of Energy

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

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

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

(c) Terms and conditions

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

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

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

(e) Payment to lender

If the Secretary of Energy determines that—

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

(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default,

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

(f) Preconditions

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

(g) Payment of interest; tax consequences

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

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

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

(C) not supported by the full faith and credit of the issuer as a general obligation of the issuer,

the interest paid on such obligation and received by the purchaser thereof (or the purchaser’s successors in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

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

(h) Fees

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

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


REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 663, as amended, known as the Biomass Energy and Alcohol Fuels Act of 1980, which enacted this chapter, sections 1435 and 3129 of Title 7, Agriculture, and section 3391a of Title 15, Commerce and Trade, and amended sections 341, 342, 427, and 3154 of Title 7, section 783 of Title 15, and sections 890b and 1642 of Title 16, Conservation. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

AMENDMENTS


§ 8834. Price support loans and price guarantees

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

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

(2)(A) In the case of any support loan under this section for an existing municipal waste energy project—

(i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;

(ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;

(iii) commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Secretary) or 10 years, whichever is shorter; and

(iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Secretary of Energy taking into consideration the current average market yield on outstanding marketable obligations of the United States with 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 any existing municipal waste energy project shall be equal to—

(A)(i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or (ii) $2.00, whichever is lower, multiplied by

(B) the amount of such biomass energy sold (in millions of Btu’s).

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

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

(2) In the case of any loan under this subsection for a new municipal waste energy project—

(A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods (with reductions as provided in subsection (a)(2)(A)(i)) of this section;

(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a) of this section; and

(C) the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable, commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Secretary) or 15 years, whichever is shorter.

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

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

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

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

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

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

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

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

For purposes of this section—

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

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

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

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

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

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

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

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

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

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

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


§ 8835. General requirements regarding financial assistance

(a) Priorities, terms, availability, etc.

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

(A) produce a liquid fuel from municipal waste; or

(B) will displace petroleum or natural gas as a fuel.

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

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

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

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

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

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

(A) the project will be technically and economically viable;

(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;

(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance.
which are engaged in the separation or recovery of reusable materials from municipal waste; and

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

(b) Terms, conditions, maturity, etc.

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

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

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

(c) Application requirements

(1) No financial assistance may be provided to any person under section 8832, 8833, or 8834 of this title unless an application therefor—

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

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

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

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

(B) such assurances,
as the Secretary of Energy may require.

(d) Reports and recordkeeping

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

(2) With respect to each municipal waste energy project for which financial assistance is provided under section 8832, 8833, or 8834 of this title, the Secretary shall—

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

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

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

(e) Deposit of amounts received

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

(f) Contracts and instruments backed by full faith and credit of United States

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

(g) Contestability of contracts

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

(h) Eligibility of debt obligations for purchase, sale, or issuance to Federal Financing Bank or any Federal agency

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

(Sec. 96-294, title II, §235, June 30, 1980, 94 Stat. 701.)

References in Text

This chapter, referred to in subsec. (a)(6)(D), was in the original “this title”, meaning title II of Pub. L. 96-294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

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

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

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

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

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

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

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

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

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

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

(b) Financial assistance

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

(c) Priority for funding

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

(d) Obligation and expenditure of funds

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

(e) Deposit of moneys received

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


REFERENCES IN TEXT


This chapter, referred to in subsec. (d), was in the original “this title”, meaning title II of Pub. L. 96–294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 6881 of this title and Tables.

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

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


REFERENCES IN TEXT


§ 8839. Office of Energy from Municipal Waste

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

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

(b) Functions

It shall be the function of the Office to perform—

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

1 See References in Text note below.
(2) such other duties relating to the production of energy from municipal waste as the Secretary of Energy may assign to the Office.

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

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

§ 8840. Termination of authorities
No financial assistance may be committed to or made under this subchapter after September 30, 1984. This section shall not be construed to affect the authority of the Secretary of Energy to spend funds after such date pursuant to any award of financial assistance made on or before that date.

§ 8851. Model demonstration biomass energy facilities; establishment, public inspection, etc.; authorization of appropriations
(a) The Secretary of Agriculture shall establish not more than ten model demonstration biomass energy facilities for purposes of exhibiting the most advanced technology available for producing biomass energy. Such facilities and information regarding the operation of such facilities shall be available for public inspection, and, to the extent practicable, such facilities shall be established in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate departments, agencies, or other instrumentalities of the United States.

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

§ 8852. Coordination of research and extension activities; consultative requirements
(a) The Secretary of Agriculture shall coordinate the applied research and extension programs conducted under this subchapter and under the amendments made by this subchapter to section 1419 (7 U.S.C. 3154) and subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3129), section 1 of the Bankhead-Jones Act (7 U.S.C. 427), section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642), and sections 1 and 2 of the Smith-Lever Act (7 U.S.C. 341, 342) with the programs of the Department of Energy.

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

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

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

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

for the purpose of coordinating research and extension activities.

§ 8853. Lending for energy production and conservation projects by production credit associations, Federal land banks, and banks for cooperatives
The Farm Credit Administration shall encourage production credit associations, Federal land banks, and banks for cooperatives to use existing authorities to make loans to eligible persons for commercially feasible biomass energy projects.

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

2 See References in Text note below.
§ 8854. Utilization of National Forest System in wood energy development projects

The Secretary of Agriculture may make available at reasonable prices and in reasonable quantities, for use by biomass energy projects, timber resources of the National Forest System, in accordance with appropriate timber appraisal and sale procedures, for use by Federal agencies and departments, to permit the Department of Defense, and the Administrator of the General Services Administration, to make available to the Department of Energy, upon request, relevant data or information they possess concerning agency gasohol usage.

For purposes of this Order “Gasohol” means a motor fuel which has an octane rating of not less than 87 (R+M)/2 and which consists of approximately 90 percent unleaded gasoline and approximately 10 percent anhydrous (199 proof or above) ethanol derived from biomass, as defined in Section 203(2)(A) of the Energy Security Act, 1980 (93 Stat. 817; Public Law 96–107; 10 U.S.C. 2388 note) which provides for the use of gasohol for local market availability of gasohol or its components, and other such factors, as may be appropriate.

JIMMY CARTER.
CHAPTER 97—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

SUBCHAPTER I—ACID PRECIPITATION

§ 8901. Introductory provisions
(a) Congressional statement of findings and purpose
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) Congressional declaration of purpose
The Congress declares that it is the purpose of this subchapter—
(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 subchapter 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) “Acid precipitation” defined
For purposes of this subchapter the term “acid precipitation” means the wet or dry deposition from the atmosphere of acid chemical compounds.

§ 8902. Comprehensive ten-year program
(a) Implementation by Acid Precipitation Task Force; membership, etc., of Task Force
There is hereby established a comprehensive ten-year program to carry out the provisions of this subchapter; and to implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subchapter 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—
(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) Research management consortium; membership, responsibilities, etc.
The four National Laboratories (referred to in subsection (a)(2) of this section) shall constitute a research management consortium having the responsibilities described in section 8903(b)(13) of this title 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 chairman of the Task Force.

(c) Director of research program
The Administrator of the National Oceanic and Atmospheric Administration shall serve as the director of the research program established by this subchapter.

§ 8903. Comprehensive research plan
(a) Preparation by Task Force for ten-year program; purposes
The Task Force shall prepare a comprehensive research plan for the ten-year program (hereafter in this subchapter 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.

(b) Scope
The comprehensive plan shall include programs for—
(1) identifying the sources of atmospheric emissions contributing to acid precipitation;