

SUBCHAPTER VI—COAL

PART A—RESEARCH, DEVELOPMENT,
DEMONSTRATION, AND COMMERCIAL APPLICATION**§ 13331. Coal research, development, demonstration, and commercial application programs****(a) Establishment**

The Secretary shall, in accordance with section¹ 13541 and 13542 of this title, conduct programs for research, development, demonstration, and commercial application on coal-based technologies. Such research, development, demonstration, and commercial application programs shall include the programs established under this part, and shall have the goals and objectives of—

- (1) ensuring a reliable electricity supply;
- (2) complying with applicable environmental requirements;
- (3) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to applicable currently available commercial technology;
- (4) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;
- (5) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;
- (6) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost sharing participation;
- (7) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve—
 - (A) greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal; and
 - (B) the control of emissions from the utilization of coal; and
- (8) ensuring the availability for commercial use of such technologies by the year 2010.

(b) Demonstration and commercial application programs

(1) In selecting either a demonstration project or a commercial application project for financial assistance under this part, the Secretary shall seek to ensure that, relative to otherwise comparable commercially available technologies or products, the selected project will meet one or more of the following criteria:

- (A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.
- (B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.
- (C) It will be a more cost-effective technological alternative, based on life cycle capital

and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(2) In administering demonstration and commercial application programs authorized by this part, the Secretary shall establish accounting and project management controls that will be adequate to control costs.

(3)(A) Not later than 180 days after October 24, 1992, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of each cost shared demonstration and commercial application project authorized pursuant to this part. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not later than 20 years following such date, taking into account the effect of recoupment on—

- (i) the commercial competitiveness of the entity carrying out the project;
- (ii) the profitability of the project; and
- (iii) the commercial viability of the coal-based technology utilized.

(B) The Secretary may at any time waive or defer all or some portion of the recoupment requirement as necessary for the commercial viability of the project.

(4) Projects selected by the Secretary under this part for demonstration or commercial application of a technology shall, in the judgment of the Secretary, be capable of enhancing the state of the art for such technology.

(c) Report

Within 240 days after October 24, 1992, the Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research, development, demonstration, and commercial application activities regarding coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this part.

(3) Recommendations regarding the manner in which any ongoing coal-based demonstration and commercial application program might be modified and extended in order to ensure the timely demonstrations of advanced coal-based technologies so as to ensure that the goals established under this section are achieved and that such demonstrated technologies are available for commercial use by the year 2010.

(4) Recommendations, if any, regarding the manner in which the cost sharing demonstrations conducted pursuant to the Clean Coal

¹ So in original. Probably should be "sections".

Program established by Public Law 98-473 might be modified and extended in order to ensure the timely demonstration of advanced coal-based technologies.

(5) A detailed plan for conducting the research, development, demonstration, and commercial application programs to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

- (A) the program elements and management structure to be utilized;
- (B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and
- (C) the dates at which further deadlines for additional cost sharing demonstrations shall be established.

(d) Status reports

Within one year after transmittal of the report described in subsection (c) of this section, and every 2 years thereafter for a period of 6 years, the Secretary shall transmit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, demonstration, and commercial application activities undertaken to carry out the programs required by this part.

(e) Consultation

In carrying out research, development, demonstration, and commercial application activities under this part, the Secretary shall consult with the National Coal Council and other representatives of the public and private sectors as the Secretary considers appropriate.

(Pub. L. 102-486, title XIII, § 1301, Oct. 24, 1992, 106 Stat. 2970.)

REFERENCES IN TEXT

Public Law 98-473, referred to in subsec. (c)(4), is Pub. L. 98-473, Oct. 12, 1984, 98 Stat. 1837, as amended. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 13332. Coal-fired diesel engines

The Secretary shall conduct a program of research, development, demonstration, and commercial application for utilizing coal-derived liquid or gaseous fuels, including ultra-clean coal-water slurries, in diesel engines. The program shall address—

- (1) required engine retrofit technology;
- (2) coal-fuel production technology;
- (3) emission control requirements;
- (4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

(Pub. L. 102-486, title XIII, § 1302, Oct. 24, 1992, 106 Stat. 2972.)

§ 13333. Clean coal, waste-to-energy

The Secretary shall establish a program of research, development, demonstration, and commercial application with respect to the use of solid waste combined with coal as a fuel source for clean coal combustion technologies. The program shall address—

- (1) the feasibility of cofiring coal and used vehicle tires in fluidized bed combustion units;
- (2) the combined gasification of coal and municipal sludge using integrated gasification combined cycle technology;
- (3) the creation of fuel pellets combining coal and material reclaimed from solid waste;
- (4) the feasibility of cofiring, in fluidized bed combustion units, waste methane from coal mines, including ventilation air, together with coal or coal wastes; and
- (5) other sources of waste and coal mixtures in other applications that the Secretary considers appropriate.

(Pub. L. 102-486, title XIII, § 1303, Oct. 24, 1992, 106 Stat. 2972.)

§ 13334. Nonfuel use of coal

(a) Program

The Secretary shall prepare a plan for and carry out a program of research, development, demonstration, and commercial application with respect to technologies for the nonfuel use of coal, including—

- (1) production of coke and other carbon products derived from coal;
- (2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;
- (3) production of chemicals from coal-derived synthesis gas;
- (4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and
- (5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) Plan contents

The plan described in subsection (a) of this section shall address and evaluate—

- (1) the known and potential processes for using coal in the creation of products in the chemical, utility, fuel, and carbon-based materials industries;
- (2) the costs, benefits, and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;
- (3) the economics of coproduction of products from coal in conjunction with the production of electric power, thermal energy, and fuel;

(4) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of technologies developed under the program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel uses of coal.

(Pub. L. 102-486, title XIII, § 1304, Oct. 24, 1992, 106 Stat. 2973.)

§ 13335. Coal refinery program

(a) Program

The Secretary shall conduct a program of research, development, demonstration, and commercial application for coal refining technologies.

(b) Objectives

The program shall include technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals, and lignites to produce clean-burning transportation fuels, compliance boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or in conjunction with the generation of electricity or process heat, or the manufacture of a variety of products from coal. The objectives of such program shall be to achieve—

(1) the timely commercial application of technologies, including mild gasification, hydrocracking and other hydrolysis processes, and other energy production processes or systems to produce coal-derived fuels and coproducts, which achieve greater efficiency and economy in the conversion of coal to electrical energy and coproducts than currently available technology;

(2) the production of energy, fuels, and products which, on a complete energy system basis, will result in environmental emissions no greater than those produced by existing comparable energy systems utilized for the same purpose;

(3) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(4) reduction in the cost of producing such coal-derived fuels and coproducts;

(5) the control of emissions from the combustion of coal-derived fuels; and

(6) the availability for commercial use of such technologies by the year 2000.

(Pub. L. 102-486, title XIII, § 1305, Oct. 24, 1992, 106 Stat. 2973.)

§ 13336. Coalbed methane recovery

(a) Study of barriers and environmental and safety aspects

The Secretary, in consultation with the Administrator of the Environmental Protection

Agency and the Secretary of the Interior, shall conduct a study of—

(1) technical, economic, financial, legal, regulatory, institutional, or other barriers to coalbed methane recovery, and of policy options for eliminating such barriers; and

(2) the environmental and safety aspects of flaring coalbed methane liberated from coal mines.

Within two years after October 24, 1992, the Secretary shall submit a report to the Congress detailing the results of such study.

(b) Information dissemination

Beginning one year after October 24, 1992, the Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall disseminate to the public information on state-of-the-art coalbed methane recovery techniques, including information on costs and benefits.

(c) Demonstration and commercial application program

The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall establish a coalbed methane recovery demonstration and commercial application program, which shall emphasize gas enrichment technology. Such program shall address—

(1) gas enrichment technologies for enriching medium-quality methane recovered from coal mines to pipeline quality;

(2) technologies to use mine ventilation air in nearby power generation facilities, including gas turbines, internal combustion engines, or other coal fired powerplants;

(3) technologies for cofiring methane recovered from mines, including methane from ventilation systems and degasification systems, together with coal in conventional or clean coal technology boilers; and

(4) other technologies for producing and using methane from coal mines that the Secretary considers appropriate.

(Pub. L. 102-486, title XIII, § 1306, Oct. 24, 1992, 106 Stat. 2974.)

§ 13337. Metallurgical coal development

(a) The Secretary shall establish a research, development, demonstration, and commercial application program on metallurgical coal utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of the Nation's metallurgical coal resources.

(b) The program referred to in subsection (a) of this section shall include the use of metallurgical coal—

(1) as a boiler fuel for the purpose of generating steam to produce electricity, including blending metallurgical coal with other coals in order to enhance its efficient application as a boiler fuel;

(2) as an ingredient in the manufacturing of steel; and

(3) as a source of pipeline quality coalbed methane.

(Pub. L. 102-486, title XIII, § 1307, Oct. 24, 1992, 106 Stat. 2975.)

§ 13338. Utilization of coal wastes**(a) Coal waste utilization program**

The Secretary, in consultation with the Secretary of the Interior, shall establish a research, development, demonstration, and commercial application program on coal waste utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of coal wastes from mining and processing, other than coal ash.

(b) Use as boiler fuel

The program referred to in subsection (a) of this section shall include projects to facilitate the use of coal wastes from mining and processing as a boiler fuel for the purpose of generating steam to produce electricity.

(Pub. L. 102-486, title XIII, § 1308, Oct. 24, 1992, 106 Stat. 2975.)

§ 13339. Underground coal gasification**(a) Program**

The Secretary shall conduct a research, development, demonstration, and commercial application program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) Demonstration projects

As part of the program authorized in subsection (a) of this section, the Secretary may solicit proposals for underground coal gasification technology projects to fulfill the goal and objective of subsection (a) of this section.

(Pub. L. 102-486, title XIII, § 1309, Oct. 24, 1992, 106 Stat. 2975.)

§ 13340. Low-rank coal research and development

The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to, the following areas—

- (1) high value-added carbon products;
- (2) fuel cell applications;
- (3) emissions control and combustion efficiencies;
- (4) coal water fuels and underground coal gasification;
- (5) distillates; and
- (6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

(Pub. L. 102-486, title XIII, § 1310, Oct. 24, 1992, 106 Stat. 2975.)

§ 13341. Magnetohydrodynamics**(a) Program**

The Secretary shall carry out a research, development, demonstration, and commercial ap-

plication program in magnetohydrodynamics. The purpose of this program shall be to determine the adequacy of the engineering and design information completed to date under Department of Energy contracts related to magnetohydrodynamics retrofit systems and to determine whether any further Federal investment in this technology is warranted.

(b) Solicitation of proposals

In order to carry out the program authorized in subsection (a) of this section, the Secretary may solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

(Pub. L. 102-486, title XIII, § 1311, Oct. 24, 1992, 106 Stat. 2976.)

§ 13342. Oil substitution through coal liquefaction**(a) Program direction**

The Secretary shall conduct a program of research, development, demonstration, and commercial application for the purpose of developing economically and environmentally acceptable advanced technologies for oil substitution through coal liquefaction.

(b) Program goals

The goals of the program established under subsection (a) of this section shall include—

- (1) improved resource selection and product quality;
- (2) the development of technologies to increase net yield of liquid fuel product per ton of coal;
- (3) an increase in overall thermal efficiency; and
- (4) a reduction in capital and operating costs through technology improvements.

(c) Proposals

Within 180 days after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(Pub. L. 102-486, title XIII, § 1312, Oct. 24, 1992, 106 Stat. 2976.)

§ 13343. Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this part \$278,139,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 through 1997.

(Pub. L. 102-486, title XIII, § 1313, Oct. 24, 1992, 106 Stat. 2976.)

PART B—CLEAN COAL TECHNOLOGY PROGRAM**§ 13351. Additional clean coal technology solicitations****(a) Program design**

Additional clean coal technology solicitations described in subsection (b) of this section shall be designed to ensure the timely development of cost-effective technologies or energy production processes or systems utilizing coal that achieve greater efficiency in the conversion of coal to useful energy when compared to currently commercially available technology for the use of

coal and the control of emissions from the combustion of coal. Such program shall be designed to ensure, to the greatest extent possible, the availability for commercial use of such technologies by the year 2010.

(b) Additional solicitations

In conducting the Clean Coal Program established by Public Law 98-473, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to such program and, based on the results of that consideration, may carry out such additional solicitations, which shall be similar in scope and percentage of Federal cost sharing as that provided by Public Law 101-121.

(Pub. L. 102-486, title XIII, § 1321, Oct. 24, 1992, 106 Stat. 2976.)

REFERENCES IN TEXT

Public Law 98-473, referred to in subsec. (b), is Pub. L. 98-473, Oct. 12, 1984, 98 Stat. 1837, as amended. For complete classification of this Act to the Code, see Tables.

Public Law 101-121, referred to in subsec. (b), is Pub. L. 101-121, Oct. 23, 1989, 103 Stat. 701, as amended. For complete classification of this Act to the Code, see Tables.

PART C—OTHER COAL PROVISIONS

§ 13361. Clean coal technology export promotion and interagency coordination

(a) Establishment

There shall be established within the Trade Promotion Coordinating Committee (established by the President on May 23, 1990) a Clean Coal Technology Subgroup (in this part referred to as the "CCT Subgroup") to focus interagency efforts on clean coal technologies. The CCT Subgroup shall seek to expand the export and use of clean coal technologies, particularly in those countries which can benefit from gains in the efficiency of, and the control of environmental emissions from, coal utilization.

(b) Membership

The CCT Subgroup shall include 1 member from each agency represented on the Energy, Environment, and Infrastructure Working Group of the Trade Promotion Coordinating Committee as of October 24, 1992. The Secretary shall serve as chair of the CCT Subgroup and shall be responsible for ensuring that the functions of the CCT Subgroup are carried out through its member agencies.

(c) Consultation

(1) In carrying out this section, the CCT Subgroup shall consult with representatives from the United States coal industry, representatives of railroads and other transportation industries, organizations representing workers, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies that are developed, manufactured, or controlled by United States firms, and other appropriate interested members of the public.

(2) The CCT Subgroup shall maintain ongoing liaison with other elements of the Trade Pro-

motion Coordinating Committee relating to clean coal technologies or regions where these technologies could be important, including Eastern Europe, Asia, and the Pacific.

(d) Duties

The Secretary, acting through the CCT Subgroup, shall—

(1) facilitate the establishment of technical training for the consideration, planning, construction, and operation of clean coal technologies by end users and international development personnel;

(2) facilitate the establishment of and, where practicable, cause to be established, consistent with the goals and objectives stated in section 13331(a) of this title, within existing departments and agencies—

(A) financial assistance programs (including grants, loan guarantees, and no interest and low interest loans) to support prefeasibility and feasibility studies for projects that will utilize clean coal technologies; and

(B) loan guarantee programs, grants, and no interest and low interest loans designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and ensure the execution of programs, including the establishment of financial incentives, to encourage and support private sector efforts in exports of clean coal technologies that are developed, manufactured, or controlled by United States firms;

(4) encourage the training in, and understanding of, clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops, and other educational programs sponsored by United States firms;

(5) educate loan officers and other officers of international lending institutions, commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technology projects;

(6) develop policies and practices to be conducted by commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, in order to promote the exports of clean coal technologies to those countries interested in or intending to utilize coal resources;

(7) augment budgets for trade and development programs supported by Federal agencies for the purpose of financially supporting prefeasibility or feasibility studies for projects in foreign countries that will utilize clean coal technologies;

(8) review ongoing clean coal technology projects and review and advise Federal agencies on the approval of planned clean coal technology projects which are sponsored abroad by any Federal agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(9) coordinate the activities of the appropriate Federal agencies in order to ensure that Federal clean coal technology export promotion policies are implemented in a timely fashion;

(10) work with CCT Subgroup member agencies to develop an overall strategy for promoting clean coal technology exports, including setting goals and allocating specific responsibilities among member agencies, consistent with applicable statutes; and

(11) coordinate with multilateral institutions to ensure that United States technologies are properly represented in their projects.

(e) Data and information

(1) The CCT Subgroup, consistent with other applicable provisions of law, shall ensure the development of a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, relating to the availability of clean coal technologies and the potential need for such technologies, particularly in developing countries and countries making the transition from nonmarket to market economies.

(2) The Secretary, acting through the CCT Subgroup, shall assess and prioritize foreign markets that have the most potential for the export of clean coal technologies that are developed, manufactured, or controlled by United States firms. Such assessment shall include—

(A) an analysis of the financing requirements for clean coal technology projects in foreign countries and whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions;

(B) the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology projects;

(C) the priority of environmental considerations in the selection of such projects;

(D) the technical competence of those entities likely to be involved in the planning and operation of such projects;

(E) an objective comparison of the environmental, energy, and economic performance of each clean coal technology relative to conventional technologies;

(F) a list of United States vendors of clean coal technologies; and

(G) answers to commonly asked questions about clean coal technologies.¹

The Secretary, acting through the CCT Subgroup, shall make such information available to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, industry, Federal and international financing organizations, nongovernmental organizations, potential customers abroad, governments of countries where such clean coal technologies might be used, and such others as the CCT Subgroup considers appropriate.

(f) Report

Within 180 days after the Secretary submits the report to the Congress as required by section

409 of Public Law 101-549, the Secretary, acting through the CCT Subgroup, shall provide to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101-549. As a part of the plan required by this subsection, the Secretary, acting through the CCT Subgroup, shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would use a clean coal technology in developing countries and countries making the transition from nonmarket to market economies.

(Pub. L. 102-486, title XIII, § 1331, Oct. 24, 1992, 106 Stat. 2977.)

REFERENCES IN TEXT

This part, referred to in subsec. (a), was in the original "this subtitle" meaning subtitle C of title XIII of Pub. L. 102-486, which enacted this part and provisions set out as a note under section 824a-3 of Title 16, Conservation.

Section 409 of Public Law 101-549, referred to in subsec. (f), is section 409 of Pub. L. 101-549, title IV, Nov. 15, 1990, 104 Stat. 2634, which directed the Secretary of Energy, in consultation with the Secretary of Commerce, to submit a report to Congress within one year of November 15, 1990, respecting clean coal technology programs, and which is not classified to the Code.

§ 13362. Innovative clean coal technology transfer program

(a) Establishment of program

The Secretary, through the Agency for International Development, and in consultation with the other members of the CCT Subgroup, shall establish a clean coal technology transfer program to carry out the purposes described in subsection (b) of this section. Within 150 days after October 24, 1992, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate United States agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) Purposes of program

The purposes of the technology transfer program under this section are to—

¹ So in original. The comma probably should be a period.

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from coal resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) provide for the accelerated deployment of United States technologies that will serve to introduce into foreign countries United States technologies intended to use coal resources in a more efficient, cost-effective, and environmentally acceptable manner;

(7) serve to ensure the introduction of United States firms and expertise in foreign countries;

(8) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of clean coal technology projects in foreign countries;

(9) assist foreign countries in meeting their energy needs through the use of coal in an environmentally acceptable manner, consistent with sustainable development policies; and

(10) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) Identification

Pursuant to the agreements required by subsection (a) of this section, the Secretary, through the Agency for International Development, and after consultation with the CCT Subgroup, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after October 24, 1992, and periodically thereafter.

(d) Financial mechanisms

(1) Pursuant to the agreements under subsection (a) of this section, the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States clean coal technologies, and services related thereto, in developing countries and countries making the transition from nonmarket to market economies;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects, including—

(i) financing the incremental costs of a clean coal technology project attributable only to expenditures to prevent or abate emissions;

(ii) providing the difference between the costs of a conventional energy project in the host country and a comparable project that would utilize a clean coal technology capable of achieving greater efficiency of energy products and improved environmental emissions compared to such conventional project; and

(iii) such other forms of financial assistance as the Secretary, through the Agency for International Development, considers appropriate.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms to develop innovative financing packages for clean coal technology projects that seek to utilize other financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) Solicitations for project proposals

(1) Pursuant to the agreements under subsection (a) of this section, the Secretary, through the Agency for International Development, within one year after October 24, 1992, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) of this section which propose to utilize a United States technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE-PS01-90FE62271 Clean Coal Technology IV as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States clean coal technology, including services related thereto, and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) Assistance to United States firms

Pursuant to the agreements under subsection (a) of this section, the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) of this section where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) Other program requirements

Pursuant to the agreements under subsection (a) of this section, the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall—

- (1) establish eligibility criteria for countries that will host projects;
- (2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;
- (3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and
- (4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) Selection of projects

- (1) Pursuant to the agreements under subsection (a) of this section, the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e) of this section, select one or more proposals under this section.
- (2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—
 - (A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;
 - (B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;
 - (C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;
 - (D) the extent of technical and financial involvement of the host country in the project;
 - (E) the extent to which the proposed project meets the goals and objectives stated in section 13331(a) of this title;
 - (F) the extent of technical, financial, management, and marketing capabilities of the

participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) United States-Asia Environmental Partnership

Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) Buy America

In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a) of this section, shall ensure—

- (1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and
- (2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) Reports to Congress

The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce clean coal technologies into foreign countries.

(l) "Host country" defined

For purposes of this section, the term "host country" means a foreign country which is—

- (1) the participant in or the site of the proposed clean coal technology project; and
- (2) either—
 - (A) classified as a country eligible to participate in development assistance programs

of the Agency for International Development pursuant to applicable law or regulation; or

(B) a developing country or country with an economy in transition from a nonmarket to a market economy.

(m) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program required by this section, \$100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

(Pub. L. 102-486, title XIII, § 1332, Oct. 24, 1992, 106 Stat. 2979.)

§ 13363. Conventional coal technology transfer

If the Secretary determines that the utilization of a clean coal technology is not practicable for a proposed project and that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the technology being used in a developing country or country making the transition from nonmarket to market economies, with significant indigenous coal resources, such technology shall, for purposes of sections 13361 and 13362¹ of this title, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section. In carrying out this section, the Secretary shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

(Pub. L. 102-486, title XIII, § 1333, Oct. 24, 1992, 106 Stat. 2984.)

REFERENCES IN TEXT

Sections 13361 and 13362 of this title, referred to in text, was in the original “sections 1321 and 1322” and was translated as reading “sections 1331 and 1332” meaning sections 1331 and 1332 of Pub. L. 102-486, to reflect the probable intent of Congress, because Pub. L. 102-486 does not contain a section 1322 and sections 1331 and 1332 of Pub. L. 102-486 relate to export of clean coal technology.

§ 13364. Study of utilization of coal combustion byproducts

(a) “Coal combustion byproducts” defined

As used in this section, the term “coal combustion byproducts” means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials.

(b) Study and report to Congress

(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, which may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with

other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than one year after October 24, 1992, the Secretary shall submit a report to the Congress containing the results of the study required by paragraph (1) and the Secretary’s recommendations for action to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in—

(A) bridge and highway construction;

(B) stabilizing wastes;

(C) procurement by departments and agencies of the Federal Government and State and local governments; and

(D) federally funded or federally subsidized procurement by the private sector.

(Pub. L. 102-486, title XIII, § 1334, Oct. 24, 1992, 106 Stat. 2984.)

§ 13365. Coal fuel mixtures

Within one year following October 24, 1992, the Secretary shall submit a report to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

(Pub. L. 102-486, title XIII, § 1336, Oct. 24, 1992, 106 Stat. 2985.)

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 13366. National clearinghouse

(a) Feasibility

(1) The Secretary shall assess the feasibility of establishing a national clearinghouse for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In assessing the feasibility, the Secretary shall consider whether such a clearinghouse would be appropriate for purposes of—

¹ See References in Text note below.

(A) collecting information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminating to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this section;

(C) maintaining a library of technology publications and treatises relating to technology information and data collected pursuant to this section;

(D) organizing and conducting seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gathering information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translating into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encouraging, during the testing of technologies, the use of coal from a variety of domestic sources, and collecting or developing, or both, complete listings of test results using coals from all sources;

(H) establishing and maintaining an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conducting economic modeling for feasibility of projects.

(b) Authority to establish clearinghouse

Based upon the assessment under subsection (a) of this section, the Secretary may establish a clearinghouse.

(Pub. L. 102-486, title XIII, § 1337, Oct. 24, 1992, 106 Stat. 2985.)

§ 13367. Coal exports

(a) Plan

Within 180 days after October 24, 1992, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall submit to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for expanding exports of coal mined in the United States.

(b) Plan contents

The plan submitted under subsection (a) of this section shall include—

(1) a description of the location, size, and projected growth in potential export markets for coal mined in the United States;

(2) the identification by country of the foreign trade barriers to the export of coal mined in the United States, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and a plan for addressing any such trade barriers;

(4) an evaluation of existing infrastructure in the United States and any new infrastructure requirements in the United States to support an expansion of exports of coal mined in the United States, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) an assessment of environmental implications of coal exports and the identification of export opportunities for blending coal mined in the United States with coal indigenous to other countries to enhance energy efficiency and environmental performance.

(Pub. L. 102-486, title XIII, § 1338, Oct. 24, 1992, 106 Stat. 2986.)

§ 13368. Ownership of coalbed methane

(a) Federal lands and mineral rights

In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary of the Interior shall administer this section. This section and the definitions contained herein shall be applicable only on lands within Affected States.

(b) Affected States

Not later than 180 days after October 24, 1992, the Secretary of the Interior, with the participation of the Secretary of Energy, shall publish in the Federal Register a list of Affected States which shall be comprised of States—

(1) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that disputes, uncertainty, or litigation exist, regarding the ownership of coalbed methane gas;

(2) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that development of significant deposits of coalbed methane gas is being impeded by such existing disputes, uncertainty, or litigation regarding ownership of such coalbed methane;

(3) which do not have in effect a statutory or regulatory procedure or existing case law permitting and encouraging the development of coalbed methane gas within that State; and

(4) which do not have extensive development of coalbed methane gas.

The Secretary of the Interior, with the participation of the Secretary of Energy, shall revise such list of Affected States from time to time. Any Affected State shall be deleted from the list of Affected States upon the receipt by the Secretary of the Interior of a Governor's petition requesting such deletion, a State law requesting such deletion, or a resolution requesting such deletion enacted by the legislative body of the State. A Governor intending to petition the Secretary of the Interior to delete a State from the list of Affected States shall provide the State's legislative body with 6 months notice of such petition during a legislative session. At the end of such 6-month period, the Governor may petition the Secretary of the Interior to delete a State

from the list of Affected States, unless during such 6-month period, the State's legislative body has enacted a law or resolution disapproving the Governor's petition. Until the Secretary of the Interior, with the participation of the Secretary of Energy, publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the Affected States, effective on October 24, 1992. The States of Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, Washington, Mississippi, Louisiana, and Alabama shall not be included on the Secretary of the Interior's list of Affected States or any extension or revision thereof.

(c) Failure to adopt statutory or regulatory procedure

If an Affected State has not placed in effect, by statute or by regulation, a substantial program promoting the permitting, drilling and production of coalbed methane wells (including pooling arrangements) within that State within 3 years after becoming an Affected State, the Secretary of the Interior, with the participation of the Secretary of Energy, shall administer this section and shall promulgate such regulations as are necessary to carry out this section in that State.

(d) Implementation by Secretary of the Interior

In implementing this section, the Secretary of the Interior, with the participation of the Secretary of Energy, shall—

- (A) consider existing and future coal mining plans,
- (B) preserve the mineability of coal seams, and
- (C) provide for the prevention of waste and maximization of recovery of coal and coalbed methane gas in a manner which will protect the rights of all entities owning an interest in such coalbed methane resource.

(e) Spacing

Except where State law in an Affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the Secretary of the Interior shall establish such requirements within 90 days after the assertion of jurisdiction pursuant to subsection (c) of this section.

(f) Spacing units

Applications to establish spacing units for the drilling and operation of coalbed methane gas wells may be filed by any entity claiming a coalbed methane ownership interest within a proposed spacing unit. Upon receipt and approval of an application, the Secretary of the Interior shall issue an order establishing the boundaries of the coalbed methane spacing unit. Spacing units shall generally be uniform in size.

(g) Development under pooling arrangement

Following issuance of an order establishing a spacing unit under subsection (f) of this section, and pursuant to an application for pooling filed by the entity claiming a coalbed methane ownership interest and proposing to drill a coalbed methane gas well, the Secretary of the Interior

shall hold a hearing to consider the application for pooling and shall, if the criteria of this section are met, issue an order allowing the proposed pooling of acreage within the designated spacing unit for purposes of drilling and production of coalbed methane from the spacing unit. The pooling order shall not be issued before notice or a reasonable and diligent effort to provide notice has been made to each entity which may claim an ownership interest in the coalbed methane gas within such spacing unit and each such entity has been offered an opportunity to appear before the Secretary of the Interior at the hearing. Upon issuance of a pooling order, each owner or claimant of an ownership interest shall be allowed to make one of the following elections:

(1) An election to sell or lease its coalbed methane ownership interest to the unit operator at a rate determined by the Secretary of the Interior as set forth in the pooling order.

(2) An election to become a participating working interest owner by bearing a share of the risks and costs of drilling, completing, equipping, gathering, operating (including all disposal costs), plugging and abandoning the well, and receiving a share of production from the well.

(3) An election to share in the operation of the well as a nonparticipating working interest owner by relinquishing its working interest to participating working interest owners until the proceeds allocable to its share equal 300 percent of the share of such costs allocable to its interest. Thereafter, the nonparticipating working interest owner shall become a participating working interest owner.

The pooling order shall designate a unit operator who shall be authorized to drill and operate the spacing unit. The pooling order shall provide that any entity claiming an ownership interest in the coalbed methane within such spacing unit which does not make an election under the pooling order shall be deemed to have leased its coalbed methane interest to the unit operator under such terms and conditions as the pooling order may provide. No pooling order may be issued under this paragraph for any spacing unit if all entities claiming an ownership interest in the coalbed methane in the spacing unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for the spacing unit.

(h) Escrow account

(1) Each pooling order issued under subsection (g) of this section shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

(A) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account its proportionate share of the costs allocable to the ownership interest claimed by each such participating working interest owner as set forth in the pooling order issued by the Secretary of the Interior.

(B) The unit operator shall deposit in the escrow account all proceeds attributable to the

conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses (including reasonable overhead costs) attributable to conflicting working interests.

(2) The Secretary of the Interior shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within 30 days of receipt by the Secretary of the Interior of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane gas. Upon such final determination—

(A) each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(B) each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner (as determined by the election of the entity under the applicable pooling order);

(C) each entity leasing (or deemed to have leased) its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds (as set out in the applicable pooling order) attributable to the conflicting interests of lessees; and

(D) the unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner.

The Secretary of the Interior shall enact rules and regulations for the administration and protection of funds delivered to the escrow accounts.

(i) Approval of Secretary of the Interior

No entity may drill any well for the production of coalbed methane gas from a coal seam, subject to the provisions of subsection (g) of this section, in an Affected State unless the drilling of such well has been approved by the Secretary of the Interior.

(j) Authorization to stimulate coal seam

(1) No operator of a coalbed methane well may stimulate a coal seam without the written consent of each entity which, at the time that the coalbed methane operator applies for a drilling permit, is operating a coal mine, or has by virtue of his property rights in the coal the ability to operate a coal mine, located within a horizontal or vertical distance from the point of stimulation as established by the Secretary of the Interior pursuant to paragraph (3) of this subsection. In seeking the coal operator's consent, a coalbed methane well operator shall provide the coal operator with necessary information about such stimulation, including relevant information to ensure compliance with coal mine safety laws and rules.

(2) In the absence of a written consent pursuant to paragraph (1) and at the request of a coalbed methane operator, the Secretary of the Interior shall make a determination regarding stimulation of a coal seam. Such request shall include an affidavit which shall—

(A) state that an entity from which consent is required pursuant to paragraph (1) has refused to provide written consent;

(B) set forth in detail the efforts undertaken by the applicant to obtain such written consent;

(C) state the known reasons for the consent not being provided;

(D) set forth the conditions and compensation, if any, offered by the applicant as part of the efforts to obtain consent; and

(E) provide prima facie evidence that the method of stimulation proposed by the coalbed methane operator will not (i) cause unreasonable loss or damage to the coal seam considering all factors, including the prospect, taking into consideration the economics of the coal industry, that coal seams for which no actual or proposed mining plans exist will be mined at some future date, or (ii) violate mine safety requirements. If a denial of consent by a coal operator is based on reasons related to safety, the Secretary of the Interior shall seek the views and recommendations of the appropriate State or Federal coal mine safety agency. Any determination by the Secretary of the Interior shall be in accordance with all applicable Federal and State coal mine safety laws and such views and recommendations. A determination by the Secretary of the Interior approving a method of stimulation may include reasonable conditions including, but not limited to, conditions to mitigate, to the extent practicable, economic damage to the coal seam. Any determination approving or denying a method of stimulation by the Secretary of the Interior shall be subject to appeal. Interested entities shall be allowed to participate in and comment on proceedings under this paragraph.

(3) The Secretary of the Interior shall by rule establish, for an Affected State, a region thereof, or a multi-State region comprised of Affected States, the boundaries within which a coalbed methane operator shall be required to obtain written consent from a coal operator pursuant to paragraph (1). Such boundaries shall be stated in terms of a horizontal and a vertical distance from the point of stimulation and shall be determined based on an evaluation of the maximum length, height and depth of fracture producible in a coal seam in such Affected State, region thereof, or multi-State region comprised of Affected States.

(4) The consent required under this subsection shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of October 24, 1992,¹ between the coalbed methane operator and the coal operator, and the existence of such lease or contractual agreement and any extensions or renewals of such lease shall be deemed to fully meet the requirements of this section.

(5) Nothing in this subsection precludes either a coal operator or a coalbed methane operator from seeking in the appropriate State forum compensation for the consequences of a deter-

¹ See Codification note below.

mination by the Secretary of the Interior pursuant to paragraph (2).

(k) Notice and objection

(1) The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless the unit operator has notified each entity which is operating, or has the ability, by virtue of his property rights in the coal, to operate, a coal mine in any portion of the coalbed that would be affected by such well within the distances established pursuant to the rules promulgated under subsection (j)(3) of this section. Any notified entity may object to the drilling of such well within 30 days after receipt of a notice. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted by a notified entity, the Secretary of the Interior may refuse to approve the drilling of the well based on any of the following:

(A) The proposed activity, due to its proximity to any coal mine opening, shaft, underground workings, or to any proposed extension of the coal mine, would adversely affect any operating, inactive or abandoned coal mine, including any coal mine already surveyed and plated but not yet being operated.

(B) The proposed activity would not conform with a coal operator's development plan for an existing or proposed operation.

(C) There would be an unreasonable interference from the proposed activity with present or future coal mining operations, including the ability to comply with other applicable laws and regulations.

(D) The presence of evidence indicating that the proposed drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

(E) The proposed activity would unreasonably interfere with the safe recovery of coal, oil and gas.

(2) In the event the Secretary of the Interior does not approve the drilling of a coalbed methane well pursuant to paragraph (1), the Secretary of the Interior shall consider whether such drilling could be approved if the unit operator modifies the proposed activities to take into account any of the following:

(A) The proposed activity could instead be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

(B) The proposed activity could instead be moved to a mined-out area, below the coal outcrop or to some other feasible area.

(C) The unit operator agrees to a drilling moratorium of not more than two years in order to permit completion of coal mining operations.

(D) The practicality of locating the proposed spacing unit or well on a uniform pattern with other spacing units or wells.

(l) Plugging

All coalbed methane wells drilled after October 24, 1992, that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with

standards prescribed by the Secretary of the Interior, in consultation with any Federal and State agencies having authority over coal mine safety. Well plugging costs should be allocated in accordance with State law or private contractual arrangement, as the case may be.

(m) Notice and objection by other parties

The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless such well complies with the spacing and other requirements established by the Secretary of the Interior and each of the following:

(1) The unit operator of such well has notified, or has made a reasonable and diligent effort to notify, all entities claiming ownership of coalbed methane to be drained by such well and provided an opportunity to object in accordance with requirements established by the Secretary of the Interior.

(2) Where conflicting interests exist, an order under subsection (g) of this section establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (k) of this section. The Secretary of the Interior shall establish the conditions under which entities claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

(n) Venting for safety

Nothing in this section shall be construed to prevent or inhibit the entity which has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

(o) Other laws

The Secretary of the Interior shall comply with all applicable Federal and State coal mine safety laws and regulations.

(p) Definitions

As used in this section—

(1) The term "Affected State" means a State listed by the Secretary of the Interior, with the participation of the Secretary of Energy, under subsection (b) of this section.

(2) The term "coalbed methane gas" means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

(3) The term "unit operator" means the entity designated in a pooling order to develop a spacing unit by the drilling of one or more wells on the unit.

(4) The term "nonparticipating working interest owner" means a gas or oil owner of a tract included in a spacing unit which elects to share in the operation of the well on a carried basis by agreeing to have its proportionate share of the costs allocable to its interest charged against its share of production of the well in accordance with subsection (f)(3) of this section.

(5) The term "participating working interest owner" means a gas or oil owner which elects to bear a share of the risks and costs of drilling, completing, equipping, gathering, operating (including any and all disposal costs)²

²So in original. Probably should be followed by a comma.

plugging, and abandoning a well on a spacing unit and to receive a share of production from the well equal to the proportion which the acreage in the spacing unit it owns or holds under lease bears to the total acreage of the spacing unit.

(6) The term “coal seam” means any stratum of coal 20 inches or more in thickness, unless a stratum of less thickness is being commercially worked, or can in the judgment of the Secretary of the Interior foreseeably³ be commercially worked and will require protection if wells are being drilled through it.

(Pub. L. 102-486, title XIII, § 1339, Oct. 24, 1992, 106 Stat. 2986.)

CODIFICATION

October 24, 1992, referred to in subsec. (j)(4), was in the original “the effective date of this section”, which was translated as meaning the date of enactment of Pub. L. 102-486, which enacted this section.

FEDERAL COALBED METHANE REGULATION

Pub. L. 109-58, title III, § 387, Aug. 8, 2005, 119 Stat. 744, provided that: “Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act [Aug. 8, 2005], the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 1339(b).”

§ 13369. Establishment of data base and study of transportation rates

(a) Data base

The Secretary shall review the information currently collected by the Federal Government and shall determine whether information on transportation rates for rail and pipeline transport of domestic coal, oil, and gas during the period of January 1, 1988, through December 31, 1997, is reasonably available. If he determines that such information is not reasonably available, the Secretary shall establish a data base containing, to the maximum extent practicable, information on all such rates. The confidentiality of contract rates shall be preserved. To obtain data pertaining to rail contract rates, the Secretary shall acquire such data in aggregate form only from the Surface Transportation Board, under terms and conditions that maintain the confidentiality of such rates.

(b) Study

The Energy Information Administration shall determine the extent to which any agency of the Federal Government is studying the rates and distribution patterns of domestic coal, oil, and gas to determine the impact of the Clean Air Act [42 U.S.C. 7401 et seq.] as amended by the Act entitled “An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.”, enacted November 15, 1990 (Public Law 101-549), and other Federal policies on such rates and distribution patterns. If the Energy Information Administration finds that no such study is underway, or that reports of the results of such

study will not be available to the Congress providing the information specified in this subsection and subsection (a) of this section by the dates established in subsection (c) of this section, the Energy Information Administration shall initiate such a study.

(c) Reports to Congress

Within one year after October 24, 1992, the Secretary shall report to the Congress on the determination the Energy Information Administration is required to make under subsection (b) of this section. Within three years after October 24, 1992, the Secretary shall submit reports on any data base or study developed under this section. Any such reports shall be updated and resubmitted to the Congress within eight years after October 24, 1992. If the Energy Information Administration has determined pursuant to subsection (b) of this section that another study or studies will provide all or part of the information called for in this section, the Secretary shall transmit the results of that study by the dates established in this subsection, together with his comments.

(d) Consultation with other agencies

The Secretary and the Energy Information Administration shall consult with the Chairmen of the Federal Energy Regulatory Commission and the Surface Transportation Board in implementing this section.

(Pub. L. 102-486, title XIII, § 1340, Oct. 24, 1992, 106 Stat. 2992; Pub. L. 104-88, title III, § 320, Dec. 29, 1995, 109 Stat. 949.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, referred to in subsec. (b), is Pub. L. 101-549, Nov. 15, 1990, 104 Stat. 2399, popularly known as the Clean Air Act Amendments of 1990. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 7401 of this title and Tables.

AMENDMENTS

1995—Subsecs. (a), (d). Pub. L. 104-88 substituted “Surface Transportation Board” for “Interstate Commerce Commission”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

§ 13370. Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this part, other than section 13362¹ of this title, such sums as may be necessary for fiscal years 1993 through 1998.

(Pub. L. 102-486, title XIII, § 1341, Oct. 24, 1992, 106 Stat. 2993.)

³ So in original. Probably should be “foreseeably”.

¹ See References in Text note below.

REFERENCES IN TEXT

Section 13362 of this title, referred to in text, was in the original “section 1322” and was translated as reading “section 1332” meaning section 1332 of Pub. L. 102-486, to reflect the probable intent of Congress, because Pub. L. 102-486 does not contain a section 1322.

SUBCHAPTER VII—GLOBAL CLIMATE CHANGE

§ 13381. Report

Not later than 2 years after October 24, 1992, the Secretary shall submit a report to the Congress that includes an assessment of—

(1) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of stabilizing the generation of greenhouse gases in the United States by the year 2005;

(2) the recommendations made in chapter 9 of the 1991 National Academy of Sciences report entitled “Policy Implications of Greenhouse Warming”, including an analysis of the benefits and costs of each recommendation;

(3) the extent to which the United States is responding, compared with other countries, to the recommendations made in chapter 9 of the 1991 National Academy of Sciences report;

(4) the feasibility of reducing the generation of greenhouse gases;

(5) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of achieving a 20 percent reduction from 1988 levels in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(6) the potential economic, energy, social, environmental, and competitive implications, including implications for jobs, of implementing the policies necessary to enable the United States to comply with any obligations under the United Nations Framework Convention on Climate Change or subsequent international agreements.

(Pub. L. 102-486, title XVI, § 1601, Oct. 24, 1992, 106 Stat. 2999.)

§ 13382. Least-cost energy strategy**(a) Strategy**

The first National Energy Policy Plan (in this subchapter referred to as the “Plan”) under section 7321 of this title prepared and required to be submitted by the President to Congress after February 1, 1993, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, environmental, and competitive costs and benefits, including costs and benefits for jobs, of his choices. Such strategy shall also take into account the report required under section 13381 of this title and relevant Federal, State, and local requirements. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(1) the energy production, utilization, and energy conservation priorities of subsection (d) of this section;

(2) the stabilization and eventual reduction in the generation of greenhouse gases;

(3) an increase in the efficiency of the Nation’s total energy use by 30 percent over 1988 levels by the year 2010;

(4) an increase in the percentage of energy derived from renewable resources by 75 percent over 1988 levels by the year 2005; and

(5) a reduction in the Nation’s oil consumption from the 1990 level of approximately 40 percent of total energy use to 35 percent by the year 2005.

(b) Additional contents

The least-cost energy strategy shall also include—

(1) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, distribution, and utilization of such resources, including—

(A) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(B) energy efficiency, including existing technologies for increased efficiency in production, transportation, distribution, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(C) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, hydro-power, and natural gas;

(2) a proposed two-year program for ensuring adequate supplies of the energy and energy efficiency resources and technologies described in paragraph (1), and an identification of administrative actions that can be undertaken within existing Federal authority to ensure their adequate supply;

(3) estimates of life-cycle costs for existing energy production facilities;

(4) basecase forecasts of short-term and long-term national energy needs under low and high case assumptions of economic growth; and

(5) an identification of all applicable Federal authorities needed to achieve the purposes of this section, and of any inadequacies in those authorities.

(c) Secretarial consideration

In developing the least-cost energy strategy, the Secretary shall give full consideration to—

(1) the relative costs of each energy and energy efficiency resource based upon a comparison of all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, distribution, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply; and

(2) the economic, energy, social, environmental, and competitive consequences resulting from the establishment of any particular order of Federal priority as determined under subsection (d) of this section.

(d) Priorities

The least-cost energy strategy shall identify Federal priorities, including policies that—