CHAPTER 124—PUBLIC HOUSING DRUG ELIMINATION

SUBCHAPTER I—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

SUBCHAPTER I—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

§11901. Congressional findings

The Congress finds that—

(1) the Federal Government has a duty to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs;

(2) public and other federally assisted low-income housing in many areas suffers from rampant drug-related or violent crime;

(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants;

(4) the increase in drug-related and violent crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures;

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted low-income housing, particularly in light of the recent reductions in Federal aid to cities;

(6) the Federal Government should provide support for effective safety and security measures to combat drug-related and violent crime, primarily in and around public housing projects with severe crime problems;

(7) closer cooperation should be encouraged between public and assisted housing managers, local law enforcement agencies, and residents in developing and implementing anti-crime programs; and

(8) anti-crime strategies should be improved through the expansion of community-oriented policing initiatives.

(Pub. L. 100–690, title V, §5122, Nov. 18, 1988, 102 Stat. 4301; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4245; Pub. L. 105–276, title V, §586(b), Oct. 21, 1998, 112 Stat. 2646.)

EDITORIAL NOTES

AMENDMENTS

1998—Par. (2). Pub. L. 105–276, §586(b)(1), inserted "or violent" after "drug-related".

Par. (4). Pub. L. 105–276, §586(b)(2)(A), inserted "and violent" after "drug-related".

Pars. (6) to (8). Pub. L. 105–276, §586(b)(2)(B), (3), (4), added pars. (6) to (8).

1990—Pub. L. 101–625 amended section generally. Prior to amendment, section read as follows: "The Congress finds that—

"(1) the Federal Government has a duty to provide public housing that is decent, safe, and free from illegal drugs;

"(2) public housing projects in many areas suffer from rampant drug-related crime;

"(3) drug dealers are increasingly imposing a reign of terror on public housing tenants;

"(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

"(5) local law enforcement authorities often lack the resources to deal with the drug problem in public housing, particularly in light of the recent reductions in Federal aid to cities."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §586(a), Oct. 21, 1998, 112 Stat. 2646, provided that: "This section [enacting sections 11906 to 11908 of this title, amending this section and sections 11902, 11903, 11904, and 11905 of this title, and repealing sections 11906 to 11909 of this title] may be cited as the 'Public and Assisted Housing Drug Elimination Program Amendments of 1998'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–227, title X, §1051, Mar. 31, 1994, 108 Stat. 274, provided that: "This part [part D (§§1051–1053) of title X of Pub. L. 103–227, amending section 11903a of this title] may be cited as the 'Midnight Basketball League Training and Partnership Act'."

SHORT TITLE

Pub. L. 100–690, title V, §5121, Nov. 18, 1988, 102 Stat. 4301, as amended by Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4245, provided that: "This chapter [chapter 2 (§§5121–5130) of subtitle C of title V of Pub. L. 100–690, enacting this subchapter] may be cited as the 'Public and Assisted Housing Drug Elimination Act of 1990'."

Pub. L. 100–690, title V, §5141, Nov. 18, 1988, 102 Stat. 4303, provided that: "This chapter [chapter 3 (§§5141–5146) of subtitle C of title V of Pub. L. 100–690, enacting subchapter II of this chapter] may be cited as the 'Drug-Free Public Housing Act of 1988'."

§11902. Authority to make grants

(a) In general

The Secretary of Housing and Urban Development, in accordance with the provisions of this subchapter, may make grants to public housing agencies, public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies, recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.], Indian tribes [1] and private,

for-profit and nonprofit owners of federally assisted low-income housing for use in eliminating drug-related and violent crime.

(b) Consortia

Subject to terms and conditions established by the Secretary, public housing agencies may form consortia for purposes of applying for grants under this subchapter.

(Pub. L. 100–690, title V, §5123, Nov. 18, 1988, 102 Stat. 4301; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4246; Pub. L. 102–550, title I, §161(d)(1), Oct. 28, 1992, 106 Stat. 3719; Pub. L. 104–330, title VII, §704(1), Oct. 26, 1996, 110 Stat. 4051; Pub. L. 105–276, title II, §220(1), title V, §586(c), Oct. 21, 1998, 112 Stat. 2488, 2647.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (a), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

AMENDMENTS

1998—Pub. L. 105–276, §586(c), designated existing provisions as subsec. (a), inserted heading, substituted "recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996" for "tribally designated housing entities", inserted "and violent" after "drug-related", and added subsec. (b).

Pub. L. 105–276, §220(1), inserted "Indian tribes" before "and private".

1996—Pub. L. 104–330 struck out "(including Indian Housing Authorities)" after "grants to public housing agencies" and inserted "tribally designated housing entities," before "and private".

1992—Pub. L. 102–550 inserted ", public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies," after "Authorities)".

1990—Pub. L. 101–625 amended section generally. Prior to amendment, section read as follows: "The Secretary of Housing and Urban Development, in accordance with the provisions of this subchapter, may make grants to public housing agencies (including Indian housing authorities) for use in eliminating drug-related crime in public housing projects."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

[1] *So in original. Probably should be followed by a comma.*

§11903. Eligible activities

(a) Public and assisted housing

Grants under this subchapter may be used in public housing or other federally assisted low-income housing projects for—

(1) the employment of security personnel;

(2) reimbursement of local law enforcement agencies for additional security and protective services;

(3) physical improvements which are specifically designed to enhance security;

(4) the employment of one or more individuals—

(A) to investigate drug-related or violent crime in and around the real property comprising any public or other federally assisted low-income housing project; and

(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

(6) programs designed to reduce use of drugs in and around public or other federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs;

(7) where a public housing agency, an Indian tribe, or recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.] receives a grant, providing funding to nonprofit resident management corporations and resident councils to develop security and drug abuse prevention programs involving site residents; and

(8) sports programs and sports activities that serve primarily youths from public or other federally assisted low-income housing projects and are operated in conjunction with, or in furtherance of, an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects.

(b) Other PHA-owned housing

Notwithstanding any other provision of this subchapter, grants under this subchapter may be used to eliminate drug-related crime in and around housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1504 [1] of title 21; and

(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related or violent activity in or around the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.

(Pub. L. 100–690, title V, §5124, Nov. 18, 1988, 102 Stat. 4301; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4246; Pub. L. 102–550, title I, §161(c), (d)(2), Oct. 28, 1992, 106 Stat. 3718, 3719; Pub. L. 104–330, title VII, §704(2), Oct. 26, 1996, 110 Stat. 4051; Pub. L. 105–276, title II, §220(2), title V, §586(d), Oct. 21, 1998, 112 Stat. 2488, 2647.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (a)(7), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

The United States Housing Act of 1937, referred to in subsec. (b), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Section 1504 of title 21, referred to in subsec. (b)(1), was repealed by Pub. L. 100–690, title I, §1009, Nov. 18, 1988, 102 Stat. 4188, as amended.

AMENDMENTS

1998—Subsec. (a)(4)(A). Pub. L. 105–276, §586(d)(1)(A), substituted "drug-related or violent crime in and around" for "drug-related crime on or about".

Subsec. (a)(7). Pub. L. 105–276, §586(d)(1)(C)(i), substituted "recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996" for "tribally designated housing entity".

Pub. L. 105–276, §220(2), inserted ", an Indian tribe," after "public housing agency".

Subsec. (a)(8). Pub. L. 105–276, §586(d)(1)(B), (C)(ii), (8)[(D)], added par. (8).

Subsec. (b). Pub. L. 105–276, §586(d)(2)(A), substituted "drug-related crime in and around" for "drug-related crime in" in introductory provisions.

Subsec. (b)(2). Pub. L. 105–276, §586(d)(2)(B), substituted "drug-related or violent activity in or around" for "drug-related activity at".

1996—Subsec. (a)(7). Pub. L. 104–330 inserted "or tribally designated housing entity" after "public housing agency" and struck out "public housing" after "nonprofit".

1992—Pub. L. 102–550 designated existing provisions as subsec. (a), inserted heading, inserted "where a public housing agency receives a grant," in par. (7), and added subsec. (b).

1990—Pub. L. 101–625 amended section generally. Prior to amendment, section read as follows: "A public housing agency may use a grant under this subchapter for—

"(1) the employment of security personnel in public housing projects;

"(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

"(3) physical improvements in public housing projects which are specifically designed to enhance security;

"(4) the employment of 1 or more individuals—

"(A) to investigate drug-related crime on or about the real property comprising any public housing project; and

"(B) to provide evidence relating to any such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary public housing tenant patrols acting in cooperation with local law enforcement officials;

"(6) innovative programs designed to reduce use of drugs in and around public housing projects; and

"(7) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

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

§11903a. Repealed. Pub. L. 105–276, title V, §582(a)(13), Oct. 21, 1998, 112 Stat. 2644

Section, Pub. L. 101–625, title V, §520, Nov. 28, 1990, 104 Stat. 4202; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1587; Pub. L. 102–550, title I, §126(b), Oct. 28, 1992, 106 Stat. 3710; Pub. L. 103–227, title X, §§1052, 1053, Mar. 31, 1994, 108 Stat. 274, 280; Pub. L. 104–330, title V, §501(d)(2), Oct. 26, 1996, 110 Stat. 4043, authorized grants for public and assisted housing youth sports programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§11904. Applications

(a) In general

To receive a grant under this subchapter, a public housing agency, a public housing resident management corporation, an Indian tribe [1] a recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.], or an owner of federally assisted low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related or violent crime in and around of [2] the housing administered or owned by the applicant for which the application is being submitted, which plan shall be coordinated with and may be included in the public housing agency plan submitted to the Secretary pursuant to section 1437c–1 of this title.

(b) One-year renewable grants

(1) In general

An eligible applicant that is a public housing agency may apply for a 1-year grant under this subchapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 additional years, except that such renewal shall be contingent upon the Secretary finding, upon an annual or more frequent review, that the grantee agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe. The Secretary may adjust the amount of any grant received or renewed under this paragraph to take into account increases or decreases in amounts appropriated for these purposes or such other factors as the Secretary determines to be appropriate.

(2) Eligibility and preference

The Secretary may not provide assistance under this subchapter to an applicant that is a public housing agency unless—

(A) the agency will use the grants to continue or expand activities eligible for assistance under this subchapter, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, in which case the Secretary shall provide preference to such applicant; except that preference under this subparagraph shall not preclude selection by the Secretary of other meritorious applications that address urgent or serious crime problems nor be construed to require continuation of activities determined by the Secretary to be unworthy of continuation; or

(B) the agency is in the class established under paragraph (3).

(3) PHAs having urgent or serious crime problems

The Secretary shall, by regulations issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have urgent or serious crime problems. The Secretary may reserve a portion of the amount appropriated to carry out this subchapter in each fiscal year only for grants for public housing agencies in such class, except that any amounts from such portion reserved that are not obligated to agencies in the class shall be made available only for agencies that are subject to a preference under paragraph (2)(A).

(4) Inapplicability to federally assisted low-income housing

The provisions of this subsection shall not apply to federally assisted low-income housing.

(c) Criteria

The Secretary shall approve applications under subsection (b) that are not subject to a preference under subsection (b)(2)(A) on the basis of thresholds or criteria such as—

(1) the extent of the drug-related or violent crime problem in and around the public or federally assisted low-income housing project or projects proposed for assistance;

(2) the quality of the plan to address the crime problem in the public or federally assisted low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

(3) the capability of the applicant to carry out the plan; and

(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

(d) Federally assisted low-income housing

In addition to the selection criteria specified in subsection (c), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted low-income housing, or

(2) relevant differences between the problem of drug-related or violent crime in public housing and the problem of drug-related or violent crime in federally assisted low-income housing.

(e) High intensity drug trafficking areas

In evaluating the extent of the drug-related crime problem pursuant to subsection (c), the Secretary may consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1504 [3] of title 21.

(Pub. L. 100–690, title V, §5125, Nov. 18, 1988, 102 Stat. 4302; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4246; Pub. L. 102–550, title I, §161(d)(3), Oct. 28, 1992, 106 Stat. 3719; Pub. L. 104–330, title VII, §704(3), Oct. 26, 1996, 110 Stat. 4051; Pub. L. 105–276, title II, §220(3), title V, §586(e), Oct. 21, 1998, 112 Stat. 2488, 2647.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (a), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

Section 503(a) of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (b)(2)(A), is section 503(a) of Pub. L. 105–276, which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

Section 1504 of title 21, referred to in subsec. (e), was repealed by Pub. L. 100–690, title I, §1009, Nov. 18, 1988, 102 Stat. 4188, as amended.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–276, §586(e)(1), substituted "recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996" for "tribally designated housing entity" in first sentence and "or violent crime in and around" for "crime on the premises" in second sentence, and inserted before period at end ", which plan shall be coordinated with and may be included in the public housing agency plan submitted to the Secretary pursuant to section 1437c–1 of this title".

Pub. L. 105–276, §220(3), inserted "an Indian tribe" after "resident management corporation,".

Subsec. (b). Pub. L. 105–276, §586(e)(5), (6), added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 105–276, §586(e)(2)(A), inserted introductory provisions and struck out former introductory provisions which read as follows: "Except as provided by subsections (c) and (d) of this section the Secretary shall approve applications under this subchapter based exclusively on—".

Subsec. (b)(1). Pub. L. 105–276, §586(e)(2)(B), substituted "or violent crime problem in and around" for "crime problem in".

Subsec. (c). Pub. L. 105–276, §586(e)(5), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Pub. L. 105–276, §586(e)(3)(A), substituted "subsection (c)" for "subsection (b)" in introductory provisions.

Subsec. (c)(2). Pub. L. 105–276, §586(e)(3)(B), inserted "or violent" after "drug-related" in two places.

Subsec. (d). Pub. L. 105–276, §586(e)(5), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 105–276, §586(e)(4), substituted "subsection (c)" for "subsection (b)".

Subsec. (e). Pub. L. 105–276, §586(e)(5), redesignated subsec. (d) as (e).

1996—Subsec. (a). Pub. L. 104–330 inserted "a tribally designated housing entity," after "resident management corporation,".

1992—Subsec. (a). Pub. L. 102–550 inserted ", a public housing resident management corporation," after "public housing agency" in first sentence.

1990—Pub. L. 101–625 amended section generally, substituting present provisions for provisions relating generally to applications for grants under this subchapter and to criteria for approval of such applications.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

[1] So in original. Probably should be followed by a comma.

[2] So in original.

[3] See References in Text note below.

§11905. Definitions

For the purposes of this subchapter:

(1) Controlled substance

The term "controlled substance" has the meaning given such term in section 802 of title 21.

(2) Drug-related crime

The term "drug-related crime" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

(3) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(4) Federally assisted low-income housing

The term "federally assisted low-income housing" means housing assisted under—

(A) section 1715l(d)(3), section 1715l(d)(4), or 1715z–1 of title 12;

(B) section 1701s of title 12; or

(C) section 1437f of this title.

(5) Recipient

The term "recipient", when used in reference to the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.], has the meaning given such term in section 4 of such Act [25 U.S.C. 4103].

(6) Indian tribe

The term "Indian tribe" has the meaning given the term in section 4(12) [1] of the Native American Housing Assistance and Self Determination Act of 1996, 25 U.S.C. 4103(12).

(Pub. L. 100–690, title V, §5126, Nov. 18, 1988, 102 Stat. 4302; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4247; Pub. L. 104–330, title VII, §704(4), Oct. 26, 1996, 110 Stat. 4051; Pub. L. 105–276, title II, §220(4), title V, §586(f), Oct. 21, 1998, 112 Stat. 2488, 2649; Pub. L. 106–74, title II, §227(a), as added Pub. L. 106–113, div. A, title I, §175(d), Nov. 29, 1999, 113 Stat. 1534.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in par. (5), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

Section 4(12) of the Native American Housing Assistance and Self Determination Act of 1996, referred to in par. (6), was redesignated section 4(13) by Pub. L. 110–411, §3(2), Oct. 14, 2008, 122 Stat. 4320.

AMENDMENTS

1999—Par. (4)(D). Pub. L. 106–74, §227(a), as added by Pub. L. 106–113, struck out subpar. (D) which read as follows: "the Native American Housing Assistance and Self-Determination Act."

1998—Par. (5). Pub. L. 105–276, §586(f), added par. (5) and struck out heading and text of former par. (5). Text read as follows: "The term 'tribally designated housing entity' has the meaning given such term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996."

Par. (6). Pub. L. 105–276, §220(4), added par. (6).

1996—Par. (4)(D). Pub. L. 104–330, §704(4)(A), added subpar. (D).

Par. (5). Pub. L. 104–330, §704(4)(B), added par. (5).

1990—Pub. L. 101–625 amended section generally, adding provisions defining "Federally assisted low-income housing".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–74, title II, §227(b), as added by Pub. L. 106–113, div. A, title I, §175(d), Nov. 29, 1999, 113 Stat. 1534, provided that: "The amendments made by subsection (a) [amending this section] shall be construed to have taken effect on October 21, 1998."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

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

§11906. Reports

(a) Grantee reports

The Secretary shall require grantees under this subchapter to provide periodic reports that include

the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 11904(a) of this title, and any change in the incidence of drug-related crime in projects assisted under this subchapter.

(b) HUD reports

The Secretary shall submit a report to the Congress not later than 18 months after October 21, 1998, describing the system used to distribute funding to grantees under this section, which shall include descriptions of—

(1) the methodology used to distribute amounts made available under this subchapter among public housing agencies, including provisions used to provide for renewals of ongoing programs funded under this subchapter; and

(2) actions taken by the Secretary to ensure that amounts made available under this subchapter are not used to fund baseline local government services, as described in section 11907(b) of this title.

(c) Notice of funding awards

The Secretary shall cause to be published in the Federal Register notice of all grant awards made pursuant to this subchapter, which shall identify the grantees and the amount of the grants. Such notice shall be published not less frequently than annually.

(Pub. L. 100–690, title V, §5127, as added Pub. L. 105–276, title V, §586(g), Oct. 21, 1998, 112 Stat. 2649.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11906, Pub. L. 100–690, title V, §5127, Nov. 18, 1988, 102 Stat. 4303; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4248, related to implementation of this subchapter, prior to repeal by Pub. L. 105–276, title V, §§503, 586(g), Oct. 21, 1998, 112 Stat. 2521, 2649, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, except to extent otherwise provided, and with savings provision.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§11907. Monitoring

(a) In general

The Secretary shall audit and monitor the programs funded under this subchapter to ensure that assistance provided under this subchapter is administered in accordance with the provisions of this subchapter.

(b) Prohibition of funding baseline services

(1) In general

Amounts provided under this subchapter may not be used to reimburse or support any local law enforcement agency or unit of general local government for the provision of services that are included in the baseline of services required to be provided by any such entity pursuant to a local cooperation agreement under section 1437c(e)(2) of this title or any provision of an annual contributions contract for payments in lieu of taxation pursuant to section 1437d(d) of this title.

(2) Description

Each public housing agency that receives grant amounts under this subchapter shall describe, in the report under section 11906(a) of this title, such baseline of services for the unit of general local government in which the jurisdiction of the agency is located.

(c) Enforcement

The Secretary shall provide for the effective enforcement of this section, which may include the use of on-site monitoring, independent public audit requirements, certification by local law enforcement or local government officials regarding the performance of baseline services referred to in subsection (b), and entering into agreements with the Attorney General to achieve compliance, and verification of compliance, with the provisions of this subchapter.

(Pub. L. 100–690, title V, §5128, as added Pub. L. 105–276, title V, §586(g), Oct. 21, 1998, 112 Stat. 2649.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 11907, Pub. L. 100–690, title V, §5128, Nov. 18, 1988, 102 Stat. 4303; Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4248, related to provision of periodic reports by grantees, prior to repeal by Pub. L. 105–276, title V, §§503, 586(g), Oct. 21, 1998, 112 Stat. 2521, 2649, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, except to extent otherwise provided, and with savings provision.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

REVIEW OF DRUG ELIMINATION PROGRAM CONTRACTS

Pub. L. 105–276, title V, §587, Oct. 21, 1998, 112 Stat. 2650, provided that:

"(a) REQUIREMENT.—The Secretary of Housing and Urban Development shall investigate all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) that are public housing agencies that own or operate more than 4,500 public housing dwelling units—

"(1) to determine whether the contractors under such contracts have complied with all laws and regulations regarding prohibition of discrimination in hiring practices;

"(2) to determine whether such contracts were awarded in accordance with the applicable laws and regulations regarding the award of such contracts;

"(3) to determine how many such contracts were awarded under emergency contracting procedures; and

"(4) to evaluate the effectiveness of the contracts.

"(b) REPORT.—Not later than 180 days after the date of the enactment of this Act [Oct. 21, 1998], the Secretary shall complete the investigation required under subsection (a) and submit a report to the Congress regarding the findings under the investigation. With respect to each such contract, the report shall (1) state whether the contract was made and is operating, or was not made or is not operating, in full compliance with applicable laws and regulations, and (2) for each contract that the Secretary determines is in such compliance issue a certification of such compliance by the Secretary of Housing and Urban Development.

"(c) ACTIONS.—For each contract that is described in the report under subsection (b) as not made or not operating in full compliance with applicable laws and regulations, the Secretary of Housing and Urban Development shall promptly take any actions available under law or regulation that are necessary—

"(1) to bring such contract into compliance; or

"(2) to terminate the contract.

"(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

§11908. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter $310,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(b) Set-aside for federally assisted low-income housing

Of any amounts made available in any fiscal year to carry out this subchapter not more than 6.25 percent shall be available for grants for federally assisted low-income housing.

(c) Set-aside for technical assistance and program oversight

Of any amounts appropriated in any fiscal year to carry out this subchapter, amounts shall be available to the extent provided in appropriations Acts to provide training, technical assistance, contract expertise, program oversight, program assessment, execution, and other assistance for or on behalf of public housing agencies, recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.], resident organizations, and officials and employees of the Department (including training and the cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees). Assistance and other activities carried out using amounts made available under this subsection may be provided directly or indirectly by grants, contracts, or cooperative agreements.

(Pub. L. 100–690, title V, §5129, as added Pub. L. 105–276, title V, §586(g), Oct. 21, 1998, 112 Stat. 2650.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (c), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 11908, Pub. L. 100–690, title V, §5129, Nov. 18, 1988, 102 Stat. 4303; Pub. L. 101–625, title V, §§520(k), 581(a), Nov. 28, 1990, 104 Stat. 4205, 4248, related to auditing and monitoring of programs funded under this subchapter, prior to repeal by Pub. L. 105–276, title V, §§503, 586(g), Oct. 21, 1998, 112 Stat. 2521, 2649, effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, except to extent otherwise provided, and with savings provision.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§11909. Repealed. Pub. L. 105–276, title V, §586(g), Oct. 21, 1998, 112 Stat. 2649

A prior section 11909, Pub. L. 100–690, title V, §5130, as added Pub. L. 101–625, title V, §581(a), Nov. 28, 1990, 104 Stat. 4248; amended Pub. L. 102–550, title I, §§126(a), 161(a), (b), Oct. 28, 1992, 106 Stat. 3710, 3718, authorized appropriations to carry out this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement the repeal before such date, and with savings provision, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

SUBCHAPTER II—DRUG-FREE PUBLIC HOUSING

§11921. Statement of purpose

The purpose of this subchapter is to reaffirm the principle that decent affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require better coordination and training in drug prevention programs among the public officials and agencies responsible for administering the public housing programs of the Nation.

(Pub. L. 100–690, title V, §5142, Nov. 18, 1988, 102 Stat. 4303.)

§11922. Clearinghouse on drug abuse in public housing

(a) Establishment

The Secretary of Housing and Urban Development shall establish, in the Office of Public Housing in the Department of Housing and Urban Development, a clearinghouse to receive, collect, process, and assemble information regarding the abuse of controlled substances in public housing projects.

(b) Functions

The clearinghouse established under subsection (a) shall—

(1) respond to inquiries by members of the public requesting assistance in investigating, studying, and working on the problem of the abuse of controlled substances; and

(2) receive, collect, process, assemble, and provide information on programs, authorities, institutions, and agencies, that may further assist members of the public requesting information from the clearinghouse.

(Pub. L. 100–690, title V, §5143, Nov. 18, 1988, 102 Stat. 4303.)

§11923. Regional training program on drug abuse in public housing

(a) Establishment

The Secretary shall establish a regional training program for the training of public housing officials, to better prepare and educate the officials to confront the widespread abuse of controlled substances in the communities in which the officials work.

(b) Operation

The regional training program established under subsection (a) shall be conducted within 12 months after November 18, 1988, by a national training unit established by the Secretary.

(Pub. L. 100–690, title V, §5144, Nov. 18, 1988, 102 Stat. 4303.)

§11924. Definitions

For purposes of this subchapter:

(1) Controlled substance

The term "controlled substance" has the meaning given such term in section 802 of title 21.

(2) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 100–690, title V, §5145, Nov. 18, 1988, 102 Stat. 4304.)

§11925. Regulations

Not later than 6 months after November 18, 1988, the Secretary shall issue any regulations necessary to carry out this subchapter.

(Pub. L. 100–690, title V, §5146, Nov. 18, 1988, 102 Stat. 4304.)

CHAPTER 125—RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS

Sec.

§12001. Finding, purpose, and general authority

(a) Finding

The Congress finds that it is in the national security and economic interest of the United States to foster greater efficiency in the use of available energy supplies and greater use of renewable energy technologies.

(b) Purpose

It is the purpose of this chapter to authorize the Secretary of Energy, acting in accordance with section 13541 of this title, to pursue an aggressive national program of research, development, demonstration, and commercial application of renewable energy and energy efficiency technologies in order to ensure a stable and secure future energy supply by—

(1) achieving as soon as practicable cost competitive use of those technologies without need of Federal financial incentives;

(2) establishing long-term Federal research goals and multiyear funding levels;

(3) directing the Secretary to undertake initiatives to improve the ability of the private sector to commercialize in the near term renewable energy and energy efficiency technologies; and

(4) fostering collaborative efforts involving the private sector through government support of a program of demonstration and commercial application projects.

(c) General authority

The Secretary, acting in accordance with section 13541 of this title, is authorized and directed to—

(1) pursue a program of research, development, demonstration, and commercial application with the private sector, to achieve the purpose of this chapter, including the goals established under section 12003 of this title; and

(2) undertake demonstration and commercial application projects as provided in section 12005 of this title.

(Pub. L. 101–218, §2, Dec. 11, 1989, 103 Stat. 1859; Pub. L. 102–486, title XII, §1202(d)(1)–(3),

Oct. 24, 1992, 106 Stat. 2959, 2960.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c)(1), was in the original "this Act", meaning Pub. L. 101–218, Dec. 11, 1989, 103 Stat. 1859, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–486, §1202(d)(1), substituted "section 13541 of this title" for "authority contained in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920) and other law applicable to the Secretary" and "demonstration, and commercial application" for "and demonstration".

Subsec. (b)(4). Pub. L. 102–486, §1202(d)(2), substituted "efforts" for "research and development efforts" and "demonstration and commercial application projects" for "joint ventures".

Subsec. (c). Pub. L. 102–486, §1202(d)(3), substituted "section 13541 of this title, is authorized and directed to—" and pars. (1) and (2) for "the authority contained in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920) and other law applicable to the Secretary—

"(1) is authorized and directed to—

"(A) pursue a program of research, development, and demonstration, including the use of joint ventures with the private sector, to achieve the purpose of this chapter, including the goals established under section 12003 of this title; and

"(B) undertake joint ventures as provided in section 12005 of this title; and

"(2) is authorized to undertake, from time to time, joint ventures in technology areas other than those set forth in section 12005(c) of this title, subject to the conditions set forth in section 12005(b) of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 101–218, §1, Dec. 11, 1989, 103 Stat. 1859, provided: "That this Act [enacting this chapter and amending sections 6276 and 8243 of this title, section 2857 of Title 10, Armed Forces, and section 2194 of Title 22, Foreign Relations and Intercourse] may be referred to as the 'Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989'."

§12002. Definitions

As used in this chapter—

(1) the term "invention" means an invention or discovery that is patented or for which a patent may be obtained under title 35, or any novel variety of plant that is protected or for which plant variety protection may be obtained under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) and that is conceived or reduced to practice as a result of work under an agreement entered into under this chapter;

(2) the term "non-Federal person" means an entity located in the United States, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; and

(E) a unit of State or local government;

(3) the term "Secretary" means the Secretary of Energy;

(4) the term "small business", with respect to a participant in any demonstration and commercial application project under this chapter, means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 632(a) of title 15 for

the Standard Industrial Classification (SIC) code designated by the Secretary of Energy as the primary business activity to be undertaken in the demonstration and commercial application project;

(5) the term "source reduction" means any practice which—

(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants,

including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service; [1]

(6) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(Pub. L. 101–218, §3, Dec. 11, 1989, 103 Stat. 1859; Pub. L. 102–486, title XII, §1202(d)(4), Oct. 24, 1992, 106 Stat. 2960.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory provisions and pars. (1) and (4), was in the original "this Act", meaning Pub. L. 101–218, Dec. 11, 1989, 103 Stat. 1859, known as the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

The Plant Variety Protection Act, referred to in par. (1), is Pub. L. 91–577, Dec. 24, 1970, 84 Stat. 1542, as amended, which is classified principally to chapter 57 (§2321 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2321 of Title 7 and Tables.

AMENDMENTS

1992—Pars. (2) to (5). Pub. L. 102–486 redesignated pars. (3) to (5) as (2) to (4), respectively, in par. (4) substituted "any demonstration and commercial application project" for "any joint venture" and "in the demonstration and commercial application project;" for "in the venture; and", added par. (5), and struck out former par. (2) which read as follows: " 'joint venture' means any agreement entered into under this chapter by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31;".

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

§12003. National goals and multi-year funding for Federal alcohol from biomass and other technology programs

(a) National goals

The following are declared to be the national goals for the alcohol from biomass and other energy technology programs being carried out by the Secretary:

(1) Alcohol from biomass

(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

(B)(i) Specific goals for producing ethanol from biomass shall be to—

(I) reduce the cost of alcohol to 70 cents per gallon;

(II) improve the overall biomass carbohydrate conversion efficiency to 91 percent;

(III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon; and

(IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon.

(ii) Specific goals for producing methanol from biomass shall be to—

(I) reduce the cost of alcohol to 47 cents per gallon; and

(II) reduce the capital component of the cost of alcohol to 16 cents per gallon.

(2) Other technologies

The Secretary shall submit to the Congress, as part of the first report submitted under section 12006 of this title, recommendations for specific cost goals and other pertinent goals for 1995 for Department of Energy research, development, and demonstration programs in Biofuels Energy Systems, Biodiesel Energy Systems, Hydrogen Energy Systems, Solar Buildings Energy Systems, Marine Energy Systems, Geothermal Energy Systems, Low-Head Hydro, and Energy Storage Systems.

(b) Amended goals

Whenever the Secretary determines that any of the goals established under this section is no longer appropriate, the Secretary shall notify Congress, as part of a report submitted under section 12006 of this title, of the reason for the determination and provide an amended goal that is consistent with the purpose stated in section 12001(b) of this title.

(c) Authorizations

There are authorized to be appropriated to the Secretary for the following renewable energy research, development, and demonstration programs: the Biofuels Energy Systems Program, the Hydrogen Energy Systems Program, the Solar Buildings Energy Systems Program, the Marine Energy Systems Program, and the Geothermal Energy Systems Program—

(1) not to exceed $113,000,000 for fiscal year 1991, of which—

(A) not to exceed $19,000,000 shall be available for the Geothermal Energy Systems Program; and

(B) not to exceed $4,000,000 shall be available for the Hydrogen Energy Systems Program; and

(2) not to exceed $121,000,000 for fiscal year 1992, of which—

(A) not to exceed $20,500,000 shall be available for the Geothermal Energy Systems Program; and

(B) not to exceed $5,000,000 shall be available for the Hydrogen Energy Systems Program.

Each of the President's annual budget requests submitted to Congress after December 11, 1989, shall include as separate line items each of the categories of renewable energy programs described in this subsection.

(Pub. L. 101–218, §4, Dec. 11, 1989, 103 Stat. 1860; Pub. L. 102–486, title XII, §1202(b), title XXI, §2125(1)–(3), Oct. 24, 1992, 106 Stat. 2958, 3085; Pub. L. 116–260, div. Z, title III, §3006(a)(1), Dec. 27, 2020, 134 Stat. 2511.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260, §3006(a)(1)(A), substituted "alcohol from biomass and other technology" for "wind, photovoltaics, and solar thermal" in section catchline.

Subsec. (a). Pub. L. 116–260, §3006(a)(1)(B)(ii)–(iv), redesignated pars. (4) and (5) as (1) and (2), respectively, in par. (2), as redesignated, substituted "Marine" for "Ocean", and struck out former pars. (1) to (3) which related to national goals for wind energy, photovoltaic energy, and solar thermal energy programs, respectively.

Pub. L. 116–260, §3006(a)(1)(B)(i), substituted "alcohol from biomass and other energy technology" for "wind, photovoltaics, and solar thermal energy" in introductory provisions.

Subsec. (c). Pub. L. 116–260, §3006(a)(1)(C)(i), in introductory provisions, struck out "the Wind Energy Research Program, the Photovoltaic Energy Systems Program, the Solar Thermal Energy Systems Program," after "demonstration programs:" and substituted "Marine" for "Ocean".

Subsec. (c)(1). Pub. L. 116–260, §3006(a)(1)(C)(ii), redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: "not to exceed $39,000,000 shall be available for the Photovoltaic Energy Systems Program;".

Subsec. (c)(2). Pub. L. 116–260, §3006(a)(1)(C)(iii), redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out form subpar. (A) which read as follows: "not to exceed $40,000,000 shall be available for the Photovoltaic Energy Systems Program;".

1992—Subsec. (a)(4), (5). Pub. L. 102–486, §1202(b)(1), added par. (4), redesignated former par. (4) as (5), and inserted "Biodiesel Energy Systems," after "Biofuels Energy Systems,".

Subsec. (c)(3). Pub. L. 102–486, §2125(1)–(3), struck out par. (3) which read as follows: "not to exceed $124,000,000 for fiscal year 1993, of which—

"(A) not to exceed $40,000,000 shall be available for the Photovoltaic Energy Systems Program;

"(B) not to exceed $23,000,000 shall be available for the Geothermal Energy Systems Program; and

"(C) not to exceed $6,000,000 shall be available for the Hydrogen Energy Systems Program."

§12004. Energy efficiency authorizations

There are authorized to be appropriated to the Secretary for the following energy efficiency research, development, and demonstration programs: transportation, industrial, buildings and community systems, multi-sector, and policy and management—

(1) not to exceed $201,100,000 for fiscal year 1991, of which—

(A) not to exceed $68,300,000 shall be available for the transportation program; and

(B) not to exceed $53,500,000 shall be available for the industrial program; and

(2) not to exceed $210,600,000 for fiscal year 1992, of which—

(A) not to exceed $71,000,000 shall be available for the transportation program; and

(B) not to exceed $54,700,000 shall be available for the industrial program.

(Pub. L. 101–218, §5, Dec. 11, 1989, 103 Stat. 1862; Pub. L. 102–486, title XXI, §2125(4)–(6), Oct. 24, 1992, 106 Stat. 3085.)

EDITORIAL NOTES

AMENDMENTS

1992—Par. (3). Pub. L. 102–486 struck out par. (3) which read as follows: "not to exceed $225,000,000 for fiscal year 1993, of which—

"(A) not to exceed $73,900,000 shall be available for the transportation program; and

"(B) not to exceed $56,900,000 shall be available for the industrial program."

§12005. Demonstration and commercial application projects

(a) Purpose

The purpose of this section is to direct the Secretary to further the commercialization of renewable energy and energy efficiency technologies through a five-year program.

(b) Demonstration and commercial application projects

(1) Establishment

(A) The Secretary shall solicit proposals for demonstration and commercial application projects for renewable energy and energy efficiency technologies pursuant to subsection (c). Such projects may include projects for—

(i) the production and sale of electricity, thermal energy, or other forms of energy using a renewable energy technology;

(ii) increasing the efficiency of energy use; and

(iii) improvements in, or expansion of, facilities for the manufacture of renewable energy or energy efficiency technologies.

(B) REQUIREMENTS.—Each project selected under this section shall include at least one for-profit business. Activities supported under this section shall be performed in the United States. Each project under this section shall require the manufacture and reproduction substantially within the United States for commercial sale of any invention or product that may result from the project.

(2) Forms of financial assistance

(A) In supporting projects selected under subsection (c), the Secretary may choose from among the forms of agreements described in section 13541 of this title.

(B) In supporting projects selected under subsection (c), the Secretary may also enter into agreements with private lenders to pay a portion of the interest on loans made for such projects.

(3) Cost sharing

Cost sharing for projects under this section shall be conducted according to the procedures described in section 13542(b) and (c) of this title.

(4) Advisory Committee

(A) The Secretary shall establish an Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this chapter referred to as the "Advisory Committee") to advise the Secretary on the development of the solicitation and evaluation criteria for projects under this section, and on otherwise carrying out his responsibilities under this section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

(i) the Secretary of Commerce;

(ii) the National Laboratories of the Department of Energy;

(iii) the Solar Energy Research Institute;

(iv) the Electric Power Research Institute;

(v) the Gas Research Institute;

(vi) the National Institute of Building Sciences;

(vii) the National Institute of Standards and Technology;

(viii) associations of firms in the major renewable energy manufacturing industries; and

(ix) associations of firms in the major energy efficiency manufacturing industries.

Nothing in this subparagraph shall be construed to require the Secretary to reestablish the Advisory Committee in place under this subsection as of October 24, 1992, or to perform again any duties performed by such advisory committee before October 24, 1992.

(B) Not later than 18 months after October 24, 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the program under this section, including specific recommendations for improvements or changes to the program and solicitation process. The Secretary shall transmit such report and, if any, the Secretary's recommendations to the Congress.

(c) Selection of projects

(1) Solicitation

(A) Not later than 9 months after October 24, 1992, the Secretary shall solicit proposals for projects under this section. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(B) A solicitation for proposals under this paragraph shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

(C) Each solicitation under this paragraph shall include a description of the criteria, developed by the Secretary, according to which proposals will be evaluated. In developing such criteria, the Secretary shall consider—

(i) the need for Federal involvement to commercialize the technology or speed commercialization of the technology;

(ii) the potential for the technology to have significant market penetration;

(iii) the potential energy efficiency gains or energy supply contributions of the technology;

(iv) potential environmental improvements associated with the technology;

(v) the export potential of the technology;

(vi) the likelihood that the proposal is technically sufficient to achieve the objective of the solicitation;

(vii) the degree to which non-Federal financial participation is involved in the proposal;

(viii) the business and financial history of the proposer or proposers; and

(ix) any other factor the Secretary considers appropriate.

(2) Project technologies

Projects under this section may include the following technologies:

(A) Conversion of cellulosic biomass to liquid fuels.

(B) Ethanol and ethanol byproduct processes.

(C) Direct combustion or gasification of biomass.

(D) Biofuels energy systems.

(E) Photovoltaics, including utility scale and remote applications.

(F) Solar thermal, including solar water heating.

(G) Wind energy.

(H) High temperature and low temperature geothermal energy.

(I) Fuel cells, including transportation and stationary applications.

(J) Nondefense high-temperature superconducting electricity technology.

(K) Source reduction technology.

(L) Factory-made housing.

(M) Advanced district cooling.

(3) Project selection

The Secretary shall, within 120 days after the closing date established under paragraph (1)(B), select proposals to receive financial assistance under this section. In selecting proposals under this paragraph, the Secretary shall—

(A) consider each proposal's ability to meet the criteria developed pursuant to paragraph (1)(C); and

(B) attempt to achieve technological and geographic diversity.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $50,000,000 for fiscal year 1994.

(Pub. L. 101–218, §6, Dec. 11, 1989, 103 Stat. 1863; Pub. L. 102–486, title XII, §1202(a), Oct. 24, 1992, 106 Stat. 2956.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4)(A), was in the original "this Act", meaning Pub. L. 101–218, Dec. 11, 1989, 103 Stat. 1859, known as the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

AMENDMENTS

1992—Pub. L. 102–486 amended section generally, substituting provisions relating to demonstration and commercial application projects for renewable energy and energy efficiency technologies for provisions relating to use of joint ventures to further commercialization of renewable energy and energy efficiency technologies.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§12006. Reports

(a) Report by Secretary

One year after December 11, 1989, and annually thereafter, the Secretary shall report to Congress on the programs and projects supported under this chapter and the progress being made toward accomplishing the goals and purposes set forth in this chapter.

(b) National renewable energy and energy efficiency management plan

(1) The Secretary, in consultation with the Advisory Committee, shall prepare a three-year management plan to be administered and carried out by the Secretary in the conduct of activities under this chapter.

(2) After opportunity for public comment and consideration, as appropriate, of such comment, the Secretary shall publish the plan.

(3) In addition to describing the Secretary's intentions for administering this chapter, the plan shall include a comprehensive strategy for assisting the private sector—

(A) in commercializing the renewable energy and energy efficiency technologies developed under this chapter; and

(B) in meeting competition from foreign suppliers of products derived from renewable energy and energy efficiency technologies.

(4) The plan shall address the role of federally-assisted research, development, and demonstration in the achievement of applicable national policy goals of the National Energy Policy Plan required under section 7321 of this title and the plan developed under section 5905 of this title.

(5) In addition, the Plan [1] shall—

(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under section 12005 of this title;

(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

(C) establish milestones for setting forth specific technology transfer activities under each program area;

(D) include annual and five-year cost estimates for individual programs under this chapter; and

(E) identify program areas for which funding levels have been changed from the previous year's Plan.[1]

(6) Within one year after October 24, 1992, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.

(c) Report on options

As part of the first report submitted under subsection (a), the Secretary shall submit to Congress a report analyzing options available to the Secretary under existing law to assist the private sector with the timely commercialization of wind, photovoltaic, solar thermal, biofuels, hydrogen, solar buildings, marine, geothermal, low-head hydro, and energy storage renewable energy technologies and energy efficiency technologies through emphasis on development and demonstration assistance to specific technologies in the research, development, and demonstration programs of the Department of Energy that are near commercial application.

(Pub. L. 101–218, §9, Dec. 11, 1989, 103 Stat. 1868; Pub. L. 102–486, title XII, §1202(c), (d)(5), title XXIII, §2303(b), Oct. 24, 1992, 106 Stat. 2959, 2960, 3093; Pub. L. 116–260, div. Z, title III, §3006(a)(2), Dec. 27, 2020, 134 Stat. 2512.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), (3), (5)(D), was in the original "this Act", meaning Pub. L. 101–218, Dec. 11, 1989, 103 Stat. 1859, known as the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

AMENDMENTS

2020—Subsec. (c). Pub. L. 116–260 substituted "marine," for "ocean,".

1992—Subsec. (a). Pub. L. 102–486, §1202(d)(5), substituted "and projects" for ", projects, and joint ventures".

Subsec. (b)(1). Pub. L. 102–486, §1202(c)(1), inserted "three-year" before "management plan".

Subsec. (b)(4). Pub. L. 102–486, §2303(b), inserted before period at end "and the plan developed under section 5905 of this title".

Subsec. (b)(5), (6). Pub. L. 102–486, §1202(c)(2), added pars. (5) and (6) and struck out former par. (5) which read as follows: "The plan shall accompany the President's annual budget submission to the Congress."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which reports required under subsecs. (a) and (b) of this section are listed as the 20th item on page 84 and the 19th item on page 86), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

[1] *So in original. Probably should not be capitalized.*

§12007. No antitrust immunity or defenses

Nothing in this chapter shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in

section 12 of title 15.

(Pub. L. 101–218, §10, Dec. 11, 1989, 103 Stat. 1869.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–218, Dec. 11, 1989, 103 Stat. 1859, known as the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

CHAPTER 126—EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES

Sec.

§12101. Findings and purpose

(a) Findings

The Congress finds that—

(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose

It is the purpose of this chapter—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

(Pub. L. 101–336, §2, July 26, 1990, 104 Stat. 328; Pub. L. 110–325, §3, Sept. 25, 2008, 122 Stat. 3554.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–325, §3(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;".

Subsec. (a)(7) to (9). Pub. L. 110–325, §3(2), (3), redesignated pars. (8) and (9) as (7) and (8), respectively, and struck out former par. (7) which read as follows: "individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–325, §1, Sept. 25, 2008, 122 Stat. 3553, provided that: "This Act [enacting sections 12103 and 12205a of this title, amending this section, sections 12102, 12111 to 12114, 12201, and 12206 to 12213 of this title, section 705 and former section 706 of Title 29, Labor, and enacting provisions set out as notes under this section and section 705 of Title 29] may be cited as the 'ADA Amendments Act of 2008'."

SHORT TITLE

Pub. L. 101–336, §1(a), July 26, 1990, 104 Stat. 327, provided that: "This Act [enacting this chapter and section 225 of Title 47, Telecommunications, amending section 706 of Title 29, Labor, and sections 152, 221, and 611 of Title 47, and enacting provisions set out as notes under sections 12111, 12131, 12141, 12161, and 12181 of this title] may be cited as the 'Americans with Disabilities Act of 1990'."

FINDINGS AND PURPOSES OF PUB. L. 110–325

Pub. L. 110–325, §2, Sept. 25, 2008, 122 Stat. 3553, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) in enacting the Americans with Disabilities Act of 1990 (ADA) [42 U.S.C. 12101 et seq.], Congress intended that the Act 'provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities' and provide broad coverage;

"(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

"(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], that expectation has not been fulfilled;

"(4) the holdings of the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

"(5) the holding of the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

"(6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

"(7) in particular, the Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), interpreted the term 'substantially limits' to require a greater degree of limitation than was intended by Congress; and

"(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term 'substantially limits' as 'significantly restricted' are inconsistent with congressional intent, by expressing too high a standard.

"(b) PURPOSES.—The purposes of this Act [see Short Title of 2008 Amendment note above] are—

"(1) to carry out the ADA's objectives of providing 'a clear and comprehensive national mandate for the elimination of discrimination' and 'clear, strong, consistent, enforceable standards addressing discrimination' by reinstating a broad scope of protection to be available under the ADA;

"(2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

"(3) to reject the Supreme Court's reasoning in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

"(4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms 'substantially' and 'major' in the definition of disability under the ADA 'need to be interpreted strictly to create a demanding standard for qualifying as disabled,' and that to be substantially limited in performing a major life activity under the ADA 'an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives';

"(5) to convey congressional intent that the standard created by the Supreme Court in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) for 'substantially limits', and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and

"(6) to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term 'substantially limits' as 'significantly restricted' to be consistent with this Act, including the amendments made by this Act."

STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES

Pub. L. 106–170, title III, §303(a), Dec. 17, 1999, 113 Stat. 1903, provided that, as soon as practicable after Dec. 17, 1999, the Comptroller General was to undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other Federal laws, specifically addressing the extent to which such credits and other incentives would encourage employers to hire and retain individuals with disabilities; and that, not later than 3 years after Dec. 17, 1999, the Comptroller General was to transmit to the appropriate congressional committees a written report presenting the results of the study and any appropriate recommendations for legislative or administrative changes.

§12102. Definition of disability

As used in this chapter:

(1) Disability

The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment (as described in paragraph (3)).

(2) Major life activities

(A) In general

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(3) Regarded as having such an impairment

For purposes of paragraph (1)(C):

(A) An individual meets the requirement of "being regarded as having such an impairment" if the individual establishes that he or she has been subjected to an action prohibited under this chapter because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

(4) Rules of construction regarding the definition of disability

The definition of "disability" in paragraph (1) shall be construed in accordance with the following:

(A) The definition of disability in this chapter shall be construed in favor of broad coverage of individuals under this chapter, to the maximum extent permitted by the terms of this chapter.

(B) The term "substantially limits" shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

(II) use of assistive technology;

(III) reasonable accommodations or auxiliary aids or services; or

(IV) learned behavioral or adaptive neurological modifications.

(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

(iii) As used in this subparagraph—

(I) the term "ordinary eyeglasses or contact lenses" means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

(II) the term "low-vision devices" means devices that magnify, enhance, or otherwise augment a visual image.

(Pub. L. 101–336, §3, July 26, 1990, 104 Stat. 329; Pub. L. 110–325, §4(a), Sept. 25, 2008, 122 Stat. 3555.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The ADA Amendments Act of 2008, referred to in par. (4)(B), is Pub. L. 110–325, Sept. 25, 2008, 122 Stat. 3553. Section 2 of the Act, relating to the findings and purposes of the Act, is set out as a note under section 12101 of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note under section 12101 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–325 amended section generally. Prior to amendment, section consisted of pars. (1) to (3) defining for purposes of this chapter "auxiliary aids and services", "disability", and "State".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

§12103. Additional definitions

As used in this chapter:

(1) Auxiliary aids and services

The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

(Pub. L. 101–336, §4, as added Pub. L. 110–325, §4(b), Sept. 25, 2008, 122 Stat. 3556.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as an Effective Date of 2008 Amendment note under section 705 of Title 29, Labor.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER I—EMPLOYMENT

§12111. Definitions

As used in this subchapter:

(1) Commission

The term "Commission" means the Equal Employment Opportunity Commission established by section 2000e–4 of this title.

(2) Covered entity

The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) Direct threat

The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) Employee

The term "employee" means an individual employed by an employer. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.

(5) Employer

(A) In general

The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or

preceding calendar year, and any agent of such person, except that, for two years following the effective date of this subchapter, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) Exceptions

The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of title 26.

(6) Illegal use of drugs

(A) In general

The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) Drugs

The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act [21 U.S.C. 812].

(7) Person, etc.

The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 2000e of this title.

(8) Qualified individual

The term "qualified individual" means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this subchapter, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) Reasonable accommodation

The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) Undue hardship

(A) In general

The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) Factors to be considered

In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this chapter;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the

operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

(Pub. L. 101–336, title I, §101, July 26, 1990, 104 Stat. 330; Pub. L. 102–166, title I, §109(a), Nov. 21, 1991, 105 Stat. 1077; Pub. L. 110–325, §5(c)(1), Sept. 25, 2008, 122 Stat. 3557.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this subchapter, referred to in par. (5)(A), is 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as an Effective Date note below.

The Controlled Substances Act, referred to in par. (6)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

This chapter, referred to in par. (10)(B)(i), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

CONSTITUTIONALITY

For constitutionality of section 101 of Pub. L. 101–336, see note under section 12112 of this title.

AMENDMENTS

2008—Par. (8). Pub. L. 110–325 struck out "with a disability" after "individual" in heading and the first two places appearing in text.

1991—Par. (4). Pub. L. 102–166 inserted at end "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 inapplicable to conduct occurring before Nov. 21, 1991, see section 109(c) of Pub. L. 102–166, set out as a note under section 2000e of this title.

EFFECTIVE DATE

Pub. L. 101–336, title I, §108, July 26, 1990, 104 Stat. 337, provided that: "This title [enacting this subchapter] shall become effective 24 months after the date of enactment [July 26, 1990]."

§12112. Discrimination

(a) General rule

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) Construction

As used in subsection (a), the term "discriminate against a qualified individual on the basis of disability" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this subchapter (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) Covered entities in foreign countries

(1) In general

It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

(2) Control of corporation

(A) Presumption

If an employer controls a corporation whose place of incorporation is a foreign country, any practice that constitutes discrimination under this section and is engaged in by such corporation shall be presumed to be engaged in by such employer.

(B) Exception

This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(C) Determination

For purposes of this paragraph, the determination of whether an employer controls a corporation shall be based on—

(i) the interrelation of operations;
(ii) the common management;
(iii) the centralized control of labor relations; and
(iv) the common ownership or financial control,

of the employer and the corporation.

(d) Medical examinations and inquiries

(1) In general

The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) Preemployment

(A) Prohibited examination or inquiry

Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) Acceptable inquiry

A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) Employment entrance examination

A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this chapter shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this subchapter.

(4) Examination and inquiry

(A) Prohibited examinations and inquiries

A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) Acceptable examinations and inquiries

A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) Requirement

Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

(Pub. L. 101–336, title I, §102, July 26, 1990, 104 Stat. 331; Pub. L. 102–166, title I, §109(b)(2), Nov. 21, 1991, 105 Stat. 1077; Pub. L. 110–325, §5(a), Sept. 25, 2008, 122 Stat. 3557.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(3)(B)(iii), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

CONSTITUTIONALITY

For constitutionality of certain provisions of this subchapter, see Congressional Research Service, The Constitution of the United States of America: Analysis and Interpretation, Table of Laws Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–325, §5(a)(1), substituted "on the basis of disability" for "with a disability because of the disability of such individual".

Subsec. (b). Pub. L. 110–325, §5(a)(2), substituted "discriminate against a qualified individual on the basis of disability" for "discriminate" in introductory provisions.

1991—Subsecs. (c), (d). Pub. L. 102–166 added subsec. (c) and redesignated former subsec. (c) as (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 inapplicable to conduct occurring before Nov. 21, 1991, see section 109(c) of Pub. L. 102–166, set out as a note under section 2000e of this title.

EFFECTIVE DATE

Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§12113. Defenses

(a) In general

It may be a defense to a charge of discrimination under this chapter that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this subchapter.

(b) Qualification standards

The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) Qualification standards and tests related to uncorrected vision

Notwithstanding section 12102(4)(E)(ii) of this title, a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision

unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.

(d) Religious entities

(1) In general

This subchapter shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) Religious tenets requirement

Under this subchapter, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(e) List of infectious and communicable diseases

(1) In general

The Secretary of Health and Human Services, not later than 6 months after July 26, 1990, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

(D) widely disseminate such information regarding the list of diseases and their modes of transmissability [1] to the general public.

Such list shall be updated annually.

(2) Applications

In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) Construction

Nothing in this chapter shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability [1] published by the Secretary of Health and Human Services.

(Pub. L. 101–336, title I, §103, July 26, 1990, 104 Stat. 333; Pub. L. 110–325, §5(b), Sept. 25, 2008, 122 Stat. 3557.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (e)(3), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

AMENDMENTS

2008—Subsecs. (c) to (e). Pub. L. 110–325 added subsec. (c) and redesignated former subsecs. (c) and (d)

as (d) and (e), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

EFFECTIVE DATE

Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

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

§12114. Illegal use of drugs and alcohol

(a) Qualified individual with a disability

For purposes of this subchapter, a qualified individual with a disability shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) Rules of construction

Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) Authority of covered entity

A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under chapter 81 of title 41;

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such

regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) Drug testing

(1) In general

For purposes of this subchapter, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) Construction

Nothing in this subchapter shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) Transportation employees

Nothing in this subchapter shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

(Pub. L. 101–336, title I, §104, July 26, 1990, 104 Stat. 334; Pub. L. 110–325, §5(c)(2), Sept. 25, 2008, 122 Stat. 3557.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

CODIFICATION

In subsec. (c)(3), "chapter 81 of title 41" substituted for "the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–325 substituted "a qualified individual with a disability shall" for "the term 'qualified individual with a disability' shall".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

EFFECTIVE DATE

Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§12115. Posting notices

Every employer, employment agency, labor organization, or joint labor-management committee covered under this subchapter shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this chapter, in the manner prescribed by section 2000e–10 of this title.

(Pub. L. 101–336, title I, §105, July 26, 1990, 104 Stat. 336.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§12116. Regulations

Not later than 1 year after July 26, 1990, the Commission shall issue regulations in an accessible format to carry out this subchapter in accordance with subchapter II of chapter 5 of title 5.

(Pub. L. 101–336, title I, §106, July 26, 1990, 104 Stat. 336.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

§12117. Enforcement

(a) Powers, remedies, and procedures

The powers, remedies, and procedures set forth in sections 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9 of this title shall be the powers, remedies, and procedures this subchapter provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this chapter, or regulations promulgated under section 12116 of this title, concerning employment.

(b) Coordination

The agencies with enforcement authority for actions which allege employment discrimination

under this subchapter and under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] shall develop procedures to ensure that administrative complaints filed under this subchapter and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this subchapter and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this subchapter and Rehabilitation Act of 1973 not later than 18 months after July 26, 1990.

(Pub. L. 101–336, title I, §107, July 26, 1990, 104 Stat. 336.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

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

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 24 months after July 26, 1990, see section 108 of Pub. L. 101–336, set out as a note under section 12111 of this title.

SUBCHAPTER II—PUBLIC SERVICES

PART A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

§12131. Definitions

As used in this subchapter:

(1) Public entity

The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) [1] of title 49).

(2) Qualified individual with a disability

The term "qualified individual with a disability" means an individual with a disability who, with

or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

(Pub. L. 101–336, title II, §201, July 26, 1990, 104 Stat. 337.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 24102 of title 49, referred to in par. (1)(C), was subsequently amended, and section 24102(4) no longer defines "commuter authority". However, such term is defined elsewhere in that section.

CODIFICATION

In par. (1)(C), "section 24102(4) of title 49" substituted for "section 103(8) of the Rail Passenger Service Act" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 101–336, title II, §205, July 26, 1990, 104 Stat. 338, provided that:

"(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle [subtitle A (§§201–205) of title II of Pub. L. 101–336, enacting this part] shall become effective 18 months after the date of enactment of this Act [July 26, 1990].

"(b) EXCEPTION.—Section 204 [section 12134 of this title] shall become effective on the date of enactment of this Act."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13217. COMMUNITY-BASED ALTERNATIVES FOR INDIVIDUALS WITH DISABILITIES

Ex. Ord. No. 13217, June 18, 2001, 66 F.R. 33155, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to place qualified individuals with disabilities in community settings whenever appropriate, it is hereby ordered as follows:

SECTION 1. *Policy*. This order is issued consistent with the following findings and principles:

(a) The United States is committed to community-based alternatives for individuals with disabilities and recognizes that such services advance the best interests of Americans.

(b) The United States seeks to ensure that America's community-based programs effectively foster independence and participation in the community for Americans with disabilities.

(c) Unjustified isolation or segregation of qualified individuals with disabilities through institutionalization is a form of disability-based discrimination prohibited by Title II of the Americans With Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 [12131] *et seq*. States must avoid disability-based discrimination unless doing so would fundamentally alter the nature of the service, program, or activity provided by the State.

(d) In *Olmstead v. L.C.*, 527 U.S. 581 (1999) (the "*Olmstead* decision"), the Supreme Court construed Title II of the ADA [42 U.S.C. 12131 et seq.] to require States to place qualified individuals with mental disabilities in community settings, rather than in institutions, whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the State can reasonably accommodate the placement, taking into account the resources available to the State and the needs of others with disabilities.

(e) The Federal Government must assist States and localities to implement swiftly the *Olmstead* decision, so as to help ensure that all Americans have the opportunity to live close to their families and friends, to live more independently, to engage in productive employment, and to participate in community life.

SEC. 2. *Swift Implementation of the Olmstead Decision: Agency Responsibilities*. (a) The Attorney General, the Secretaries of Health and Human Services, Education, Labor, and Housing and Urban Development, and the Commissioner of the Social Security Administration shall work cooperatively to ensure that the *Olmstead*

decision is implemented in a timely manner. Specifically, the designated agencies should work with States to help them assess their compliance with the *Olmstead* decision and the ADA [42 U.S.C. 12101 et seq.] in providing services to qualified individuals with disabilities in community-based settings, as long as such services are appropriate to the needs of those individuals. These agencies should provide technical guidance and work cooperatively with States to achieve the goals of Title II of the ADA [42 U.S.C. 12131 et seq.], particularly where States have chosen to develop comprehensive, effectively working plans to provide services to qualified individuals with disabilities in the most integrated settings. These agencies should also ensure that existing Federal resources are used in the most effective manner to support the goals of the ADA. The Secretary of Health and Human Services shall take the lead in coordinating these efforts.

(b) The Attorney General, the Secretaries of Health and Human Services, Education, Labor, and Housing and Urban Development, and the Commissioner of the Social Security Administration shall evaluate the policies, programs, statutes, and regulations of their respective agencies to determine whether any should be revised or modified to improve the availability of community-based services for qualified individuals with disabilities. The review shall focus on identifying affected populations, improving the flow of information about supports in the community, and removing barriers that impede opportunities for community placement. The review should ensure the involvement of consumers, advocacy organizations, providers, and relevant agency representatives. Each agency head should report to the President, through the Secretary of Health and Human Services, with the results of their evaluation within 120 days.

(c) The Attorney General and the Secretary of Health and Human Services shall fully enforce Title II of the ADA, including investigating and resolving complaints filed on behalf of individuals who allege that they have been the victims of unjustified institutionalization. Whenever possible, the Department of Justice and the Department of Health and Human Services should work cooperatively with States to resolve these complaints, and should use alternative dispute resolution to bring these complaints to a quick and constructive resolution.

(d) The agency actions directed by this order shall be done consistent with this Administration's budget.

SEC. 3. *Judicial Review*. Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE W. BUSH.

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

§12132. Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

(Pub. L. 101–336, title II, §202, July 26, 1990, 104 Stat. 337.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 205(a) of Pub. L. 101–336, set out as a note under section 12131 of this title.

§12133. Enforcement

The remedies, procedures, and rights set forth in section 794a of title 29 shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of section 12132 of this title.

(Pub. L. 101–336, title II, §203, July 26, 1990, 104 Stat. 337.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 205(a) of Pub. L. 101–336, set out as a note under section 12131 of this title.

§12134. Regulations

(a) In general

Not later than 1 year after July 26, 1990, the Attorney General shall promulgate regulations in an accessible format that implement this part. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 12143, 12149, or 12164 of this title.

(b) Relationship to other regulations

Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this chapter and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 794 of title 29. With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under section 794 of title 29.

(c) Standards

Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this part, other than facilities, stations, rail passenger cars, and vehicles covered by part B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204(a) of this title.

(Pub. L. 101–336, title II, §204, July 26, 1990, 104 Stat. 337.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 205(b) of Pub. L. 101–336, set out as a note under section 12131 of this title.

PART B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

SUBPART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

§12141. Definitions

As used in this subpart:

(1) Demand responsive system

The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) Designated public transportation

The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 12161 of this title)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) Fixed route system

The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) Operates

The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) Public school transportation

The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) Secretary

The term "Secretary" means the Secretary of Transportation.

(Pub. L. 101–336, title II, §221, July 26, 1990, 104 Stat. 338.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 101–336, title II, §231, July 26, 1990, 104 Stat. 346, provided that:

"(a) GENERAL RULE.—Except as provided in subsection (b), this part [part I (§§221–231) of subtitle B of title II of Pub. L. 101–336, enacting this subpart] shall become effective 18 months after the date of enactment of this Act [July 26, 1990].

"(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 [sections 12142, 12143(b) to (f), 12144, 12145, 12147(b), 12148(b), and 12149 of this title] shall become effective on the date of enactment of this Act."

§12142. Public entities operating fixed route systems

(a) Purchase and lease of new vehicles

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following July 26, 1990, and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) Purchase and lease of used vehicles

Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system to purchase or lease, after the 30th day following July 26, 1990, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Remanufactured vehicles

(1) General rule

Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following July 26, 1990; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) Exception for historic vehicles

(A) General rule

If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) Vehicles of historic character defined by regulations

For purposes of this paragraph and section 12148(b) of this title, a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

(Pub. L. 101–336, title II, §222, July 26, 1990, 104 Stat. 339.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 231(b) of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12143. Paratransit as a complement to fixed route service

(a) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public

transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) Issuance of regulations

Not later than 1 year after July 26, 1990, the Secretary shall issue final regulations to carry out this section.

(c) Required contents of regulations

(1) Eligible recipients of service

The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to one other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) Service area

The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) Service criteria

Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) Undue financial burden limitation

The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) Additional services

The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) Public participation

The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) Plans

The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after July 26, 1990, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) Provision of services by others

The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) Other provisions

The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) Review of plan

(1) General rule

The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) Disapproval

If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) Modification of disapproved plan

Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) "Discrimination" defined

As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet

the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) Statutory construction

Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

(Pub. L. 101–336, title II, §223, July 26, 1990, 104 Stat. 340.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subsec. (a) of this section effective 18 months after July 26, 1990, and subsecs. (b) to (f) of this section effective July 26, 1990, see section 231 of Pub. L. 101–336, set out as a note under section 12141 of this title.

PARATRANSIT SYSTEM UNDER FTA APPROVED COORDINATED PLAN

Pub. L. 114–94, div. A, title III, §3023, Dec. 4, 2015, 129 Stat. 1494, provided that: "Notwithstanding the provisions of section 37.131(c) of title 49, Code of Federal Regulations, any paratransit system currently coordinating complementary paratransit service for more than 40 fixed route agencies shall be permitted to continue using an existing tiered, distance-based coordinated paratransit fare system, if the fare for the existing tiered, distance-based coordinated paratransit fare system is not increased by a greater percentage than any increase to the fixed route fare for the largest transit agency in the complementary paratransit service area."

§12144. Public entity operating a demand responsive system

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following July 26, 1990, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

(Pub. L. 101–336, title II, §224, July 26, 1990, 104 Stat. 342.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 231(b) of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12145. Temporary relief where lifts are unavailable

(a) Granting

With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 12142(a) or 12144 of this title to purchase new buses that are readily accessible to and usable by individuals with disabilities if

such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) Duration and notice to Congress

Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) Fraudulent application

If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

(Pub. L. 101–336, title II, §225, July 26, 1990, 104 Stat. 343.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 231(b) of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12146. New facilities

For purposes of section 12132 of this title and section 794 of title 29, it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(Pub. L. 101–336, title II, §226, July 26, 1990, 104 Stat. 343.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 231(a) of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12147. Alterations of existing facilities

(a) General rule

With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs,

upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) Special rule for stations

(1) General rule

For purposes of section 12132 of this title and section 794 of title 29, it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) Rapid rail and light rail key stations

(A) Accessibility

Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on July 26, 1990.

(B) Extension for extraordinarily expensive structural changes

The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following July 26, 1990, at least 2/3 of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) Plans and milestones

The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

(Pub. L. 101–336, title II, §227, July 26, 1990, 104 Stat. 343.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subsec. (a) of this section effective 18 months after July 26, 1990, and subsec. (b) of this section effective July 26, 1990, see section 231 of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12148. Public transportation programs and activities in existing facilities and one car per train rule

(a) Public transportation programs and activities in existing facilities

(1) In general

With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) Exception

Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 12147(a) of this title (relating to alterations) or section 12147(b) of this title (relating to key stations).

(3) Utilization

Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) One car per train rule

(1) General rule

Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 12132 of this title and section 794 of title 29, it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) Historic trains

In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 12142(c)(1) of this title and which do not significantly alter the historic character of such vehicle.

(Pub. L. 101–336, title II, §228, July 26, 1990, 104 Stat. 344.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (b)(1), probably means the effective date of subsec. (b), which is effective on date of enactment of Pub. L. 101–336, which was approved July 26, 1990. The effective date of subsec. (a) is 18 months after July 26, 1990. See section 231 of Pub. L. 101–336, set out as an Effective Date note under section 12141 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subsec. (a) of this section effective 18 months after July 26, 1990, and subsec. (b) of this section effective July 26, 1990, see section 231 of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12149. Regulations

(a) In general

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this subpart (other than section 12143 of this title).

(b) Standards

The regulations issued under this section and section 12143 of this title shall include standards applicable to facilities and vehicles covered by this part. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204 of this title.

(Pub. L. 101–336, title II, §229, July 26, 1990, 104 Stat. 345.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 231(b) of Pub. L. 101–336, set out as a note under section 12141 of this title.

§12150. Interim accessibility requirements

If final regulations have not been issued pursuant to section 12149 of this title, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 12146 and 12147 of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(Pub. L. 101–336, title II, §230, July 26, 1990, 104 Stat. 345.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 231(a) of Pub. L. 101–336, set out as a note under section 12141 of this title.

SUBPART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

§12161. Definitions

As used in this subpart:

(1) Commuter authority

The term "commuter authority" has the meaning given such term in section 24102(4) [1] of title 49.

(2) Commuter rail transportation

The term "commuter rail transportation" has the meaning given the term "commuter rail passenger transportation" in section 24102(5) [1] of title 49.

(3) Intercity rail transportation

The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation.

(4) Rail passenger car

The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) Responsible person

The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) Station

The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

(Pub. L. 101–336, title II, §241, July 26, 1990, 104 Stat. 346; Pub. L. 104–287, §6(k), Oct. 11, 1996, 110 Stat. 3400.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 24102 of title 49, referred to in pars. (1) and (2), was subsequently amended, and pars. (4) and (5) of section 24102 no longer define "commuter authority" and "commuter rail passenger transportation", respectively. However, such terms are defined elsewhere in that section.

CODIFICATION

In pars. (1) and (2), "section 24102(4) of title 49" substituted for "section 103(8) of the Rail Passenger Service Act (45 U.S.C. 502(8))" and "section 24102(5) of title 49" substituted for "section 103(9) of the Rail Passenger Service Act (45 U.S.C. 502(9))" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

1996—Par. (2). Pub. L. 104–287 substituted "commuter rail passenger transportation" for "commuter service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 101–336, title II, §246, July 26, 1990, 104 Stat. 353, provided that:

"(a) GENERAL RULE.—Except as provided in subsection (b), this part [part II (§§241–246) of subtitle B of title II of Pub. L. 101–336, enacting this subpart] shall become effective 18 months after the date of enactment of this Act [July 26, 1990].

"(b) EXCEPTION.—Sections 242 and 244 [sections 12162 and 12164 of this title] shall become effective on the date of enactment of this Act."

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

§12162. Intercity and commuter rail actions considered discriminatory

(a) Intercity rail transportation

(1) One car per train rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 12164 of this title, as soon as practicable, but in no event later than 5 years after July 26, 1990.

(2) New intercity cars

(A) General rule

Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after July 26, 1990, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(B) Special rule for single-level passenger coaches for individuals who use wheelchairs

Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) Special rule for single-level dining cars for individuals who use wheelchairs

Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) Special rule for bi-level dining cars for individuals who use wheelchairs

Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) Accessibility of single-level coaches

(A) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after July 26, 1990; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after July 26, 1990.

(B) Location

Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) Limitation

Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) Other accessibility features

Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) Food service

(A) Single-level dining cars

On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after July 26, 1990, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes

to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) Bi-level dining cars

On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after July 26, 1990, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) Commuter rail transportation

(1) One car per train rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 12164 of this title, as soon as practicable, but in no event later than 5 years after July 26, 1990.

(2) New commuter rail cars

(A) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after July 26, 1990, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(B) Accessibility

For purposes of section 12132 of this title and section 794 of title 29, a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) Used rail cars

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a

used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(d) Remanufactured rail cars

(1) Remanufacturing

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(2) Purchase or lease

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) Stations

(1) New stations

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(2) Existing stations

(A) Failure to make readily accessible

(i) General rule

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 12164 of this title.

(ii) Period for compliance

(I) Intercity rail

All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after July 26, 1990.

(II) Commuter rail

Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after July 26, 1990, except that the time limit may be extended by the Secretary of Transportation up to 20 years after July 26, 1990, in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) Designation of key stations

Each commuter authority shall designate the key stations in its commuter rail

transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) Plans and milestones

The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) Requirement when making alterations

(i) General rule

It shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) Alterations to a primary function area

It shall be considered discrimination, for purposes of section 12132 of this title and section 794 of title 29, with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) Required cooperation

It shall be considered discrimination for purposes of section 12132 of this title and section 794 of title 29 for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this chapter.

(Pub. L. 101–336, title II, §242, July 26, 1990, 104 Stat. 347.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(2)(C), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 246(b) of Pub. L. 101–336, set out as a note under section 12161 of this title.

§12163. Conformance of accessibility standards

Accessibility standards included in regulations issued under this subpart shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 12204(a) of this title.

(Pub. L. 101–336, title II, §243, July 26, 1990, 104 Stat. 352.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 246(a) of Pub. L. 101–336, set out as a note under section 12161 of this title.

§12164. Regulations

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this subpart.

(Pub. L. 101–336, title II, §244, July 26, 1990, 104 Stat. 352.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 246(b) of Pub. L. 101–336, set out as a note under section 12161 of this title.

§12165. Interim accessibility requirements

(a) Stations

If final regulations have not been issued pursuant to section 12164 of this title, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 12162(e) of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) Rail passenger cars

If final regulations have not been issued pursuant to section 12164 of this title, a person shall be considered to have complied with the requirements of section 12162(a) through (d) of this title that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 12204(a) of this title) governing accessibility of such cars, to the extent that such laws and

regulations are not inconsistent with this subpart and are in effect at the time such design is substantially completed.

(Pub. L. 101–336, title II, §245, July 26, 1990, 104 Stat. 352.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 246(a) of Pub. L. 101–336, set out as a note under section 12161 of this title.

SUBCHAPTER III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

§12181. Definitions

As used in this subchapter:

(1) Commerce

The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) Commercial facilities

The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 12162 of this title or covered under this subchapter, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 [1] (42 U.S.C. 3601 et seq.).

(3) Demand responsive system

The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) Fixed route system

The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) Over-the-road bus

The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) Private entity

The term "private entity" means any entity other than a public entity (as defined in section 12131(1) of this title).

(7) Public accommodation

The following private entities are considered public accommodations for purposes of this

subchapter, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) Rail and railroad

The terms "rail" and "railroad" have the meaning given the term "railroad" in section 20102(1) [1] of title 49.

(9) Readily achievable

The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) Specified public transportation

The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) Vehicle

The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 12162 of this title or covered under this subchapter.

(Pub. L. 101–336, title III, §301, July 26, 1990, 104 Stat. 353.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Housing Act of 1968, referred to in par. (2), probably means the Fair Housing Act, title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I of chapter 45 (§3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Section 20102(1) of title 49, referred to in par. (8), was redesignated section 20102(2) and a new section 20102(1) was added by Pub. L. 110–432, div. A, §2(b)(1), (2), Oct. 16, 2008, 122 Stat. 4850.

This chapter, referred to in par. (9)(A), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

CODIFICATION

In par. (8), "section 20102(1) of title 49" substituted for "section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e))" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 101–336, title III, §310, July 26, 1990, 104 Stat. 365, provided that:

"(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title [enacting this subchapter] shall become effective 18 months after the date of the enactment of this Act [July 26, 1990].

"(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303 [section 12183 of this title], no civil action shall be brought for any act or omission described in section 302 [section 12182 of this title] which occurs—

"(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

"(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

"(c) EXCEPTION.—Sections 302(a) [section 12182(a) of this title] for purposes of section 302(b)(2)(B) and (C) only, 304(a) [section 12184(a) of this title] for purposes of section 304(b)(3) only, 304(b)(3), 305 [section 12185 of this title], and 306 [section 12186 of this title] shall take effect on the date of the enactment of this Act [July 26, 1990]."

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

§12182. Prohibition of discrimination by public accommodations

(a) General rule

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) Construction

(1) General prohibition

(A) Activities

(i) Denial of participation

It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) Participation in unequal benefit

It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) Separate benefit

It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) Individual or class of individuals

For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) Integrated settings

Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) Opportunity to participate

Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) Administrative methods

An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) Association

It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) Specific prohibitions

(A) Discrimination

For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can

demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) Fixed route system

(i) Accessibility

It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 12184 of this title to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) Equivalent service

If a private entity which operates a fixed route system and which is not subject to section 12184 of this title purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) Demand responsive system

For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 12184 of this title to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) Over-the-road buses

(i) Limitation on applicability

Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) Accessibility requirements

For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 12186(a)(2) of this title by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) Specific construction

Nothing in this subchapter shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

(Pub. L. 101–336, title III, §302, July 26, 1990, 104 Stat. 355.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of this subparagraph, referred to in subsec. (b)(2)(B), (C)(ii), see section 310 of Pub. L. 101–336, set out as an Effective Date note under section 12181 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, but with subsec. (a) of this section (for purposes of subsec. (b)(2)(B), (C) only) effective July 26, 1990, and with certain qualifications with respect to bringing of civil actions, see section 310 of Pub. L. 101–336, set out as a note under section 12181 of this title.

§12183. New construction and alterations in public accommodations and commercial facilities

(a) Application of term

Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 12182(a) of this title includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after July 26, 1990, that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this subchapter; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) Elevator

Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

(Pub. L. 101–336, title III, §303, July 26, 1990, 104 Stat. 358.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 310(a), (b) of Pub. L. 101–336, set out as a note under section 12181 of this title.

§12184. Prohibition of discrimination in specified public transportation services provided by private entities

(a) General rule

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) Construction

For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a [1] entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 12182(b)(2)(A)(ii) of this title;

(B) provide auxiliary aids and services consistent with the requirements of section 12182(b)(2)(A)(iii) of this title; and

(C) remove barriers consistent with the requirements of section 12182(b)(2)(A) of this title and with the requirements of section 12183(a)(2) of this title;

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 12186(a)(2) of this title; and

(B) any other failure of such entity to comply with such regulations; and [2]

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that

is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Historical or antiquated cars

(1) Exception

To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) Definition

As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

(Pub. L. 101–336, title III, §304, July 26, 1990, 104 Stat. 359.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (b)(3), (5), see section 310 of Pub. L. 101–336, set out as an Effective Date note under section 12181 of this title.

The effective date of this paragraph, referred to in subsec. (b)(6), is 18 months after July 26, 1990, see section 310(a) of Pub. L. 101–336, set out as an Effective Date note under section 12181 of this title.

The Federal Railroad Safety Act of 1970, referred to in subsec. (c)(1), is title II of Pub. L. 91–458, Oct. 16, 1970, 84 Stat. 971, as amended, which was classified generally to subchapter II (§431 et seq.) of chapter 13 of Title 45, Railroads, and was repealed and reenacted in section 5109(c) of Title 5, Government Organization and Employees, section 54a of Title 45, Railroads, chapter 201 and sections 21301, 21302, 21304, 21311, 24902, and 24905 of Title 49, Transportation, and provisions set out as a note under section 20103 of Title 49 by Pub. L. 103–272, §§1(e), 4(b)(1), (i), (t), 7(b), July 5, 1994, 108 Stat. 862, 891, 893, 930, 935, 1361, 1365, 1372, 1379, the first section of which enacted subtitles II, III, and V to X of Title 49.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, but with subsec. (a) of this section (for purposes of subsec.

(b)(3) only) and subsec. (b)(3) of this section effective July 26, 1990, see section 310(a), (c) of Pub. L. 101–336, set out as a note under section 12181 of this title.

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

[2] *So in original. The word "and" probably should not appear.*

§12185. Study

(a) Purposes

The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) Contents

The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 12184(b)(4) and 12186(a)(2) of this title, are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) Advisory committee

In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) Deadline

The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after July 26, 1990. If the President determines that compliance with the regulations issued pursuant to section 12186(a)(2)(B) of this title on or before the applicable

deadlines specified in section 12186(a)(2)(B) of this title will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) Review

In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 792 of title 29. The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

(Pub. L. 101–336, title III, §305, July 26, 1990, 104 Stat. 360.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 310(c) of Pub. L. 101–336, set out as a note under section 12181 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§12186. Regulations

(a) Transportation provisions

(1) General rule

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections [1] 12182(b)(2)(B) and (C) of this title and to carry out section 12184 of this title (other than subsection (b)(4)).

(2) Special rules for providing access to over-the-road buses

(A) Interim requirements

(i) Issuance

Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 12184(b)(4) and 12182(b)(2)(D)(ii) of this title that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) Effective period

The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) Final requirement

(i) Review of study and interim requirements

The Secretary shall review the study submitted under section 12185 of this title and the regulations issued pursuant to subparagraph (A).

(ii) Issuance

Not later than 1 year after the date of the submission of the study under section 12185 of this title, the Secretary shall issue in an accessible format new regulations to carry out sections 12184(b)(4) and 12182(b)(2)(D)(ii) of this title that require, taking into account the purposes of the study under section 12185 of this title and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) Effective period

Subject to section 12185(d) of this title, the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 3 years after the date of issuance of final regulations under clause (ii); and

(II) with respect to other providers of transportation, 2 years after the date of issuance of such final regulations.

(C) Limitation on requiring installation of accessible restrooms

The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) Standards

The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 12182(b)(2) and 12184 of this title.

(b) Other provisions

Not later than 1 year after July 26, 1990, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this subchapter not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 12182 of this title.

(c) Consistency with ATBCB guidelines

Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204 of this title.

(d) Interim accessibility standards

(1) Facilities

If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 12183 of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) Vehicles and rail passenger cars

If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this subchapter, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for

such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 12204(a) of this title) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this subchapter and are in effect at the time such design is substantially completed.

(Pub. L. 101–336, title III, §306, July 26, 1990, 104 Stat. 361; Pub. L. 104–59, title III, §341, Nov. 28, 1995, 109 Stat. 608.)

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (a)(2)(B)(iii). Pub. L. 104–59 substituted "3 years after the date of issuance of final regulations under clause (ii)" for "7 years after July 26, 1990" in subcl. (I) and "2 years after the date of issuance of such final regulations" for "6 years after July 26, 1990" in subcl. (II).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective July 26, 1990, see section 310(c) of Pub. L. 101–336, set out as a note under section 12181 of this title.

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

§12187. Exemptions for private clubs and religious organizations

The provisions of this subchapter shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000–a(e)) [42 U.S.C. 2000a et seq.] or to religious organizations or entities controlled by religious organizations, including places of worship.

(Pub. L. 101–336, title III, §307, July 26, 1990, 104 Stat. 363.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title II of the Act is classified generally to subchapter II (§2000a et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 310(a) of Pub. L. 101–336, set out as a note under section 12181 of this title.

§12188. Enforcement

(a) In general

(1) Availability of remedies and procedures

The remedies and procedures set forth in section 2000a–3(a) of this title are the remedies and procedures this subchapter provides to any person who is being subjected to discrimination on the

basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 12183 of this title. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this subchapter does not intend to comply with its provisions.

(2) Injunctive relief

In the case of violations of sections 12182(b)(2)(A)(iv) and section [1] 12183(a) of this title, injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this subchapter. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this subchapter.

(b) Enforcement by Attorney General

(1) Denial of rights

(A) Duty to investigate

(i) In general

The Attorney General shall investigate alleged violations of this subchapter, and shall undertake periodic reviews of compliance of covered entities under this subchapter.

(ii) Attorney General certification

On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this chapter for the accessibility and usability of covered facilities under this subchapter. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this chapter.

(B) Potential violation

If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this subchapter; or

(ii) any person or group of persons has been discriminated against under this subchapter and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) Authority of court

In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this subchapter—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an

amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) Single violation

For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) Punitive damages

For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) Judicial consideration

In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this chapter by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

(Pub. L. 101–336, title III, §308, July 26, 1990, 104 Stat. 363.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(A)(ii), (5), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 310(a) of Pub. L. 101–336, set out as a note under section 12181 of this title.

CIVIL ACTIONS FOR VIOLATIONS BY PUBLIC ACCOMMODATIONS

For provisions directing that, except for any civil action brought for a violation of section 12183 of this title, no civil action shall be brought for any act or omission described in section 12182 of this title which occurs (1) during the first six months after the effective date of this subchapter, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less, and (2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less, see section 310(b) of Pub. L. 101–336, set out as an Effective Date note under section 12181 of this title.

[1] So in original. The word "section" probably should not appear.

§12189. Examinations and courses

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

(Pub. L. 101–336, title III, §309, July 26, 1990, 104 Stat. 365.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 18 months after July 26, 1990, see section 310(a) of Pub. L. 101–336, set out as a note under section 12181 of this title.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§12201. Construction

(a) In general

Except as otherwise provided in this chapter, nothing in this chapter shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) Relationship to other laws

Nothing in this chapter shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this chapter. Nothing in this chapter shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter I, in transportation covered by subchapter II or III, or in places of public accommodation covered by subchapter III.

(c) Insurance

Subchapters I through III of this chapter and title IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this chapter from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this chapter from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of subchapter [1] I and III.

(d) Accommodations and services

Nothing in this chapter shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

(e) Benefits under State worker's compensation laws

Nothing in this chapter alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

(f) Fundamental alteration

Nothing in this chapter alters the provision of section 12182(b)(2)(A)(ii) of this title, specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity

can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

(g) Claims of no disability

Nothing in this chapter shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability.

(h) Reasonable accommodations and modifications

A covered entity under subchapter I, a public entity under subchapter II, and any person who owns, leases (or leases to), or operates a place of public accommodation under subchapter III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 12102(1) of this title solely under subparagraph (C) of such section.

(Pub. L. 101–336, title V, §501, July 26, 1990, 104 Stat. 369; Pub. L. 110–325, §6(a)(1), Sept. 25, 2008, 122 Stat. 3557.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Rehabilitation Act of 1973 is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Title IV of this Act, referred to in subsec. (c), means title IV of Pub. L. 101–336, July 26, 1990, 104 Stat. 366, which enacted section 225 of Title 47, Telecommunications, and amended sections 152, 221, and 611 of Title 47.

AMENDMENTS

2008—Subsecs. (e) to (h). Pub. L. 110–325 added subsecs. (e) to (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

[1] So in original. Probably should be "subchapters".

§12202. State immunity

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in [1] Federal or State court of competent jurisdiction for a violation of this chapter. In any action against a State for a violation of the requirements of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

(Pub. L. 101–336, title V, §502, July 26, 1990, 104 Stat. 370.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

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

§12203. Prohibition against retaliation and coercion

(a) Retaliation

No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this chapter or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this chapter.

(b) Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this chapter.

(c) Remedies and procedures

The remedies and procedures available under sections 12117, 12133, and 12188 of this title shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to subchapter I, subchapter II and subchapter III, respectively.

(Pub. L. 101–336, title V, §503, July 26, 1990, 104 Stat. 370.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

§12204. Regulations by Architectural and Transportation Barriers Compliance Board

(a) Issuance of guidelines

Not later than 9 months after July 26, 1990, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of subchapters II and III of this chapter.

(b) Contents of guidelines

The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this chapter, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) Qualified historic properties

(1) In general

The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified

historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) Sites eligible for listing in National Register

With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under division A of subtitle III of title 54, the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7(1) and (2) of the Uniform Federal Accessibility Standards.

(3) Other sites

With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1)(b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

(Pub. L. 101–336, title V, §504, July 26, 1990, 104 Stat. 370; Pub. L. 113–287, §5(k)(5), Dec. 19, 2014, 128 Stat. 3270.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113–287 substituted "division A of subtitle III of title 54" for "the National Historic Preservation Act (16 U.S.C. 470 et seq.)".

§12205. Attorney's fees

In any action or administrative proceeding commenced pursuant to this chapter, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

(Pub. L. 101–336, title V, §505, July 26, 1990, 104 Stat. 371.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

§12205a. Rule of construction regarding regulatory authority

The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this chapter includes the authority to issue regulations implementing the definitions of disability in section 12102 of this title (including rules of construction) and the definitions in section 12103 of this title, consistent with the ADA Amendments Act of 2008.

(Pub. L. 101–336, title V, §506, as added Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The ADA Amendments Act of 2008, referred to in text, is Pub. L. 110–325, Sept. 25, 2008, 122 Stat. 3553, which enacted this section and section 12103 of this title, amended sections 12101, 12102, 12111 to 12114, 12201, and 12206 to 12213 of this title and section 705 and former section 706 of Title 29, Labor, and enacted provisions set out as notes under section 12101 of this title and section 705 of Title 29. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note under section 12101 of this title and Tables.

PRIOR PROVISIONS

A prior section 506 of Pub. L. 101–336 was renumbered section 507 and is classified to section 12206 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as an Effective Date of 2008 Amendment note under section 705 of Title 29, Labor.

§12206. Technical assistance

(a) Plan for assistance

(1) In general

Not later than 180 days after July 26, 1990, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this chapter, and other Federal agencies, in understanding the responsibility of such entities and agencies under this chapter.

(2) Publication of plan

The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5 (commonly known as the Administrative Procedure Act).

(b) Agency and public assistance

The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) Implementation

(1) Rendering assistance

Each Federal agency that has responsibility under paragraph (2) for implementing this chapter may render technical assistance to individuals and institutions that have rights or duties under the respective subchapter or subchapters of this chapter for which such agency has responsibility.

(2) Implementation of subchapters

(A) Subchapter I

The Equal Employment Opportunity Commission and the Attorney General shall implement

the plan for assistance developed under subsection (a), for subchapter I.

(B) Subchapter II

(i) Part A

The Attorney General shall implement such plan for assistance for part A of subchapter II.

(ii) Part B

The Secretary of Transportation shall implement such plan for assistance for part B of subchapter II.

(C) Subchapter III

The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for subchapter III, except for section 12184 of this title, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) Title IV

The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) Technical assistance manuals

Each Federal agency that has responsibility under paragraph (2) for implementing this chapter shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this chapter no later than six months after applicable final regulations are published under subchapters I, II, and III and title IV.

(d) Grants and contracts

(1) In general

Each Federal agency that has responsibility under subsection (c)(2) for implementing this chapter may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this chapter. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or [1] grants described in this paragraph.

(2) Dissemination of information

Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this chapter and to provide information and technical assistance about techniques for effective compliance with this chapter.

(e) Failure to receive assistance

An employer, public accommodation, or other entity covered under this chapter shall not be excused from compliance with the requirements of this chapter because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

(Pub. L. 101–336, title V, §507, formerly §506, July 26, 1990, 104 Stat. 371; renumbered §507, Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (c)(1), (3), (d), and (e), was in the original "this Act", meaning

Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Title IV, referred to in subsec. (c)(2)(D), (3), means title IV of Pub. L. 101–336, July 26, 1990, 104 Stat. 366, which enacted section 225 of Title 47, Telecommunications, and amended sections 152, 221, and 611 of Title 47.

PRIOR PROVISIONS

A prior section 507 of Pub. L. 101–336 was renumbered section 508 and is classified to section 12207 of this title.

[1] So in original. Probably should be "of".

§12207. Federal wilderness areas

(a) Study

The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) Submission of report

Not later than 1 year after July 26, 1990, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) Specific wilderness access

(1) In general

Congress reaffirms that nothing in the Wilderness Act [16 U.S.C. 1131 et seq.] is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) "Wheelchair" defined

For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

(Pub. L. 101–336, title V, §508, formerly §507, July 26, 1990, 104 Stat. 372; renumbered §508, Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Wilderness Act, referred to in subsecs. (a) and (c)(1), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 508 of Pub. L. 101–336 was renumbered section 509 and is classified to section 12208 of this title.

§12208. Transvestites

For the purposes of this chapter, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

(Pub. L. 101–336, title V, §509, formerly §508, July 26, 1990, 104 Stat. 373; renumbered §509, Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

PRIOR PROVISIONS

A prior section 509 of Pub. L. 101–336 was renumbered section 510 and is classified to section 12209 of this title.

§12209. Instrumentalities of Congress

The Government Accountability Office, the Government Publishing Office, and the Library of Congress shall be covered as follows:

(1) In general

The rights and protections under this chapter shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) Establishment of remedies and procedures by instrumentalities

The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1).

(3) Report to Congress

The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) Definition of instrumentalities

For purposes of this section, the term "instrumentality of the Congress" means the following:,[1] the Government Accountability Office, the Government Publishing Office, and the Library of Congress,.[1]

(5) Enforcement of employment rights

The remedies and procedures set forth in section 2000e–16 of this title shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 12112 through 12114 of this title that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(6) Enforcement of rights to public services and accommodations

The remedies and procedures set forth in section 2000e–16 of this title shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 12131 through 12150 of this title or section 12182 or 12183 of this title that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(7) Construction

Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated

pursuant to that Act.

(Pub. L. 101–336, title V, §510, formerly §509, July 26, 1990, 104 Stat. 373; Pub. L. 102–166, title III, §315, Nov. 21, 1991, 105 Stat. 1095; Pub. L. 104–1, title II, §§201(c)(3), 210(g), Jan. 23, 1995, 109 Stat. 8, 16; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; renumbered §510, Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The General Accounting Office Personnel Act of 1980, referred to in par. (7), is Pub. L. 96–191, Feb. 15, 1980, 94 Stat. 27, which was classified principally to section 52–1 et seq. of former Title 31, and which was substantially repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof principally in subchapters III (§731 et seq.) and IV (§751 et seq.) of chapter 7 of Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 510 of Pub. L. 101–336 was renumbered section 511 and is classified to section 12210 of this title.

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in introductory provisions and in par. (4).

1995—Pub. L. 104–1, §201(c)(3)(F), amended section catchline generally.

Pub. L. 104–1, §201(c)(3)(A), struck out subsecs. (a) and (b) which related to coverage of Senate and House of Representatives with respect to bans on employment discrimination and other discriminatory practices against individuals with disabilities.

Pub. L. 104–1, §201(c)(3)(B), substituted "The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:" for subsec. (c) heading and designated subsec. (c) as entire section.

Par. (2). Pub. L. 104–1, §201(c)(3)(C), struck out at end "Such remedies and procedures shall apply exclusively, except for the employees who are defined as Senate employees, in section 1201(c)(1) of title 2."

Par. (4). Pub. L. 104–1, §201(c)(3)(D), struck out "the Architect of the Capitol, the Congressional Budget Office" after "the following:", inserted "and" before "the Library of Congress", and struck out "the Office of Technology Assessment, and the United States Botanic Garden" before period at end.

Pub. L. 104–1, §201(c)(3)(D), which in part directed the substitution of "the term 'instrumentality of the Congress' means" for "the instrumentalities of the Congress include", was executed by making the substitution for "instrumentalities of the Congress include" to reflect the probable intent of Congress.

Par. (5). Pub. L. 104–1, §201(c)(3)(E), added par. (5). Former par. (5) redesignated (7).

Par. (6). Pub. L. 104–1, §210(g), which directed amendment of this section by adding par. (6), was executed by adding par. (6) after par. (5) to reflect the probable intent of Congress.

Par. (7). Pub. L. 104–1, §201(c)(3)(E), redesignated par. (5) as (7).

1991—Subsec. (a)(2). Pub. L. 102–166, §315(1), redesignated par. (6) as (2) and struck out former par. (2) which read as follows: "APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this chapter, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.], the Age Discrimination in Employment Act of 1967 [29 U.S.C. 621 et seq.], and the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.] shall apply with respect to employment by the United States Senate."

Subsec. (a)(3). Pub. L. 102–166, §315(1), redesignated par. (7) as (3), substituted "(2)(A)" for "(2) and (6)(A)" and "(2)" for "(3), (4), (5), (6)(B), and (6)(C)", and struck out former par. (3) which read as follows: " INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate."

Subsec. (a)(4), (5). Pub. L. 102–166, §315(1), struck out pars. (4) and (5) which read as follows:

"(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

"(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively."

Subsec. (a)(6), (7). Pub. L. 102–166, §315(1), redesignated pars. (6) and (7) as (2) and (3), respectively.

Subsec. (c)(2). Pub. L. 102–166, §315(2), inserted ", except for the employees who are defined as Senate employees, in section 1201(c)(1) of title 2" after "shall apply exclusively".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in introductory provisions and par. (4) on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 201(c)(3) of Pub. L. 104–1 effective 1 year after Jan. 23, 1995, see section 1311(e) of Title 2, The Congress.

Amendment by section 210(g) of Pub. L. 104–1 effective 1 year after transmission to Congress of study under section 1371 of Title 2, see section 1331(i)(2) of Title 2.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102–166, set out as a note under section 1981 of this title.

[1] *So in original. The comma probably should not appear.*

§12210. Illegal use of drugs

(a) In general

For purposes of this chapter, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) Rules of construction

Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this chapter for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) Health and other services

Notwithstanding subsection (a) and section 12211(b)(3) of this title, an individual shall not be

denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) "Illegal use of drugs" defined

(1) In general

The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. 801 et seq.]. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) Drugs

The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act [21 U.S.C. 812].

(Pub. L. 101–336, title V, §511, formerly §510, July 26, 1990, 104 Stat. 375; renumbered §511 and amended Pub. L. 110–325, §6(a)(2), (3), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Controlled Substances Act, referred to in subsec. (d)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

PRIOR PROVISIONS

A prior section 511 of Pub. L. 101–336 was renumbered section 512 and is classified to section 12211 of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–325, §6(a)(3), made technical amendment to reference in original act which appears in text as reference to section 12211(b)(3) of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–325 effective Jan. 1, 2009, see section 8 of Pub. L. 110–325, set out as a note under section 705 of Title 29, Labor.

§12211. Definitions

(a) Homosexuality and bisexuality

For purposes of the definition of "disability" in section 12102(2) [1] of this title, homosexuality and bisexuality are not impairments and as such are not disabilities under this chapter.

(b) Certain conditions

Under this chapter, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

(Pub. L. 101–336, title V, §512, formerly §511, July 26, 1990, 104 Stat. 376; renumbered §512, Pub.

L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

Section 12102 of this title, referred to in subsec. (a), was amended generally by Pub. L. 110–325, §4(a), Sept. 25, 2008, 122 Stat. 3555, and, as so amended, provisions formerly appearing in par. (2) are now contained in par. (1).

PRIOR PROVISIONS

A prior section 512 of Pub. L. 101–336, which amended former section 706 of Title 29, Labor, was renumbered section 513.

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

§12212. Alternative means of dispute resolution

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this chapter.

(Pub. L. 101–336, title V, §514, formerly §513, July 26, 1990, 104 Stat. 377; renumbered §514, Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

PRIOR PROVISIONS

A prior section 514 of Pub. L. 101–336 was renumbered section 515 and is classified to section 12213 of this title.

§12213. Severability

Should any provision in this chapter be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the chapter, and such action shall not affect the enforceability of the remaining provisions of the chapter.

(Pub. L. 101–336, title V, §515, formerly §514, July 26, 1990, 104 Stat. 378; renumbered §515, Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

CHAPTER 127—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

§12301. Findings

Congress finds that—

(1) children and youth are inherently the most valuable resource of the United States;

(2) the welfare, protection, healthy development, and positive role of children and youth in society are essential to the United States;

(3) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive employment opportunities, and preparation for responsible participation in community life;

(4) children and youth have increasing opportunities to participate in the decisions that affect their lives;

(5) the family is the primary caregiver and source of social learning and must be supported and strengthened;

(6) when a family is unable to ensure the satisfaction of basic needs of children and youth it is the responsibility of society to assist such family; and

(7) it is the joint and several responsibility of the Federal Government, each State, and the political subdivisions of each State to assist children and youth to secure, to the maximum extent practicable, equal opportunity to full and free access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) a high level of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment and participation in decisions affecting their lives;

(E) a wide range of civic, cultural, and recreational activities that recognize young Americans as resources and promote self-esteem and a stake in the communities of such Americans; and

(F) comprehensive community services that are efficient, coordinated, readily available, and involve families of young individuals.

(Pub. L. 101–501, title IX, §902, Nov. 3, 1990, 104 Stat. 1262.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

SHORT TITLE

Pub. L. 101–501, title IX, §901, Nov. 3, 1990, 104 Stat. 1262, provided that: "This title [enacting this chapter] may be cited as the 'Claude Pepper Young Americans Act of 1990'."

Pub. L. 101–501, title IX, §955, Nov. 3, 1990, 104 Stat. 1278, provided that: "This chapter [chapter 3 (§§955–960) of subtitle A of title IX of Pub. L. 101–501, enacting part C of subchapter I of this chapter] may be cited as the 'Family Resource Act'."

Pub. L. 101–501, title IX, §981, Nov. 3, 1990, 104 Stat. 1280, provided that: "This subtitle [subtitle B (§§981–988) of title IX of Pub. L. 101–501, enacting subchapter II of this chapter] may be cited as the '1993 White House Conference on Children, Youth, and Families'."

PERFORMANCE PARTNERSHIP PILOTS

Pub. L. 113–76, div. H, title V, §526, Jan. 17, 2014, 128 Stat. 413, provided that:

"(a) DEFINITIONS.—In this section,

"(1) 'Performance Partnership Pilot' (or 'Pilot') is a project that seeks to identify, through a demonstration, cost-effective strategies for providing services at the State, regional, or local level that—

"(A) involve two or more Federal programs (administered by one or more Federal agencies)—

"(i) which have related policy goals, and

"(ii) at least one of which is administered (in whole or in part) by a State, local, or tribal government; and

"(B) achieve better results for regions, communities, or specific at-risk populations through making better use of the budgetary resources that are available for supporting such programs.

"(2) 'To improve outcomes for disconnected youth' means to increase the rate at which individuals between the ages of 14 and 24 (who are low-income and either homeless, in foster care, involved in the juvenile justice system, unemployed, or not enrolled in or at risk of dropping out of an educational institution) achieve success in meeting educational, employment, or other key goals.

"(3) The 'lead Federal administering agency' is the Federal agency, to be designated by the Director of the Office of Management and Budget (from among the participating Federal agencies that have statutory responsibility for the Federal discretionary funds that will be used in a Performance Partnership Pilot), that will enter into and administer the particular Performance Partnership Agreement on behalf of that agency and the other participating Federal agencies.

"(b) USE OF DISCRETIONARY FUNDS IN FISCAL YEAR 2014.—Federal agencies may use Federal discretionary funds that are made available in this Act [div. H of Pub. L. 113–76, see Tables for classification]

to carry out up to 10 Performance Partnership Pilots. Such Pilots shall:

"(1) be designed to improve outcomes for disconnected youth, and

"(2) involve Federal programs targeted on disconnected youth, or designed to prevent youth from disconnecting from school or work, that provide education, training, employment, and other related social services.

"(c) PERFORMANCE PARTNERSHIP AGREEMENTS.—Federal agencies may use Federal discretionary funds, as authorized in subsection (b), to participate in a Performance Partnership Pilot only in accordance with the terms of a Performance Partnership Agreement that—

"(1) is entered into between—

"(A) the head of the lead Federal administering agency, on behalf of all of the participating Federal agencies (subject to the head of the lead Federal administering agency having received from the heads of each of the other participating agencies their written concurrence for entering into the Agreement), and

"(B) the respective representatives of all of the State, local, or tribal governments that are participating in the Agreement; and

"(2) specifies, at a minimum, the following information:

"(A) the length of the Agreement (which shall not extend beyond September 30, 2018);

"(B) the Federal programs and federally funded services that are involved in the Pilot;

"(C) the Federal discretionary funds that are being used in the Pilot (by the respective Federal account identifier, and the total amount from such account that is being used in the Pilot), and the period (or periods) of availability for obligation (by the Federal Government) of such funds;

"(D) the non-Federal funds that are involved in the Pilot, by source (which may include private funds as well as governmental funds) and by amount;

"(E) the State, local, or tribal programs that are involved in the Pilot;

"(F) the populations to be served by the Pilot;

"(G) the cost-effective Federal oversight procedures that will be used for the purpose of maintaining the necessary level of accountability for the use of the Federal discretionary funds;

"(H) the cost-effective State, local, or tribal oversight procedures that will be used for the purpose of maintaining the necessary level of accountability for the use of the Federal discretionary funds;

"(I) the outcome (or outcomes) that the Pilot is designed to achieve;

"(J) the appropriate, reliable, and objective outcome-measurement methodology that the Federal Government and the participating State, local, or tribal governments will use, in carrying out the Pilot, to determine whether the Pilot is achieving, and has achieved, the specified outcomes that the Pilot is designed to achieve;

"(K) the statutory, regulatory, or administrative requirements related to Federal mandatory programs that are barriers to achieving improved outcomes of the Pilot; and

"(L) in cases where, during the course of the Pilot, it is determined that the Pilot is not achieving the specified outcomes that it is designed to achieve,

"(i) the consequences that will result from such deficiencies with respect to the Federal discretionary funds that are being used in the Pilot, and

"(ii) the corrective actions that will be taken in order to increase the likelihood that the Pilot, upon completion, will have achieved such specified outcomes.

"(d) AGENCY HEAD DETERMINATIONS.—A Federal agency may participate in a Performance Partnership Pilot (including by providing Federal discretionary funds that have been appropriated to such agency) only upon the written determination by the head of such agency that the agency's participation in such Pilot—

"(1) will not result in denying or restricting the eligibility of any individual for any of the services that (in whole or in part) are funded by the agency's programs and Federal discretionary funds that are involved in the Pilot, and

"(2) based on the best available information, will not otherwise adversely affect vulnerable populations that are the recipients of such services.

In making this determination, the head of the agency may take into consideration the other Federal discretionary funds that will be used in the Pilot as well as any non-Federal funds (including from private sources as well as governmental sources) that will be used in the Pilot.

"(e) TRANSFER AUTHORITY.—For the purpose of carrying out the Pilot in accordance with the Performance Partnership Agreement, and subject to the written approval of the Director of the Office of Management and Budget, the head of each participating Federal agency may transfer Federal discretionary funds that are being used in the Pilot to an account of the lead Federal administering agency that includes

Federal discretionary funds that are being used in the Pilot. Subject to the waiver authority under subsection (f), such transferred funds shall remain available for the same purposes for which such funds were originally appropriated: *Provided*, That such transferred funds shall remain available for obligation by the Federal Government until the expiration of the period of availability for those Federal discretionary funds (which are being used in the Pilot) that have the longest period of availability, except that any such transferred funds shall not remain available beyond September 30, 2018.

"(f) WAIVER AUTHORITY.—In connection with a Federal agency's participation in a Performance Partnership Pilot, and subject to the other provisions of this section (including subsection (e)), the head of the Federal agency to which the Federal discretionary funds were appropriated may waive (in whole or in part) the application, solely to such discretionary funds that are being used in the Pilot, of any statutory, regulatory, or administrative requirement that such agency head—

"(1) is otherwise authorized to waive (in accordance with the terms and conditions of such other authority), and

"(2) is not otherwise authorized to waive, provided that in such case the agency head shall—

"(A) not waive any requirement related to nondiscrimination, wage and labor standards, or allocation of funds to State and substate levels;

"(B) issue a written determination, prior to granting the waiver, with respect to such discretionary funds that the granting of such waiver for purposes of the Pilot—

"(i) is consistent with both—

"(I) the statutory purposes of the Federal program for which such discretionary funds were appropriated, and

"(II) the other provisions of this section, including the written determination by the agency head issued under subsection (d);

"(ii) is necessary to achieve the outcomes of the Pilot as specified in the Performance Partnership Agreement, and is no broader in scope than is necessary to achieve such outcomes; and

"(iii) will result in either—

"(I) realizing efficiencies by simplifying reporting burdens or reducing administrative barriers with respect to such discretionary funds, or

"(II) increasing the ability of individuals to obtain access to services that are provided by such discretionary funds; and

"(C) provide at least 60 days advance written notice to the Committees on Appropriations and other committees of jurisdiction in the House of Representatives and the Senate."

COMMISSION ON CHILD AND FAMILY WELFARE

Pub. L. 102–521, §5, Oct. 25, 1992, 106 Stat. 3406, provided for establishment, membership, etc., of a Commission on Child and Family Welfare, specified that among other duties the Commission compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts, and juvenile courts, directed Commission to submit to President and Congress an interim report no later than Jan. 1, 1994, and a final report no later than Jan. 1, 1995, containing a detailed statement of the findings and conclusions of the Commission, together with recommendations for such legislation and administrative actions as considered appropriate, and directed that the Commission terminate 90 days after the date it submitted its final report.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13459. IMPROVING THE COORDINATION AND EFFECTIVENESS OF YOUTH PROGRAMS

Ex. Ord. No. 13459, Feb. 7, 2008, 73 F.R. 8003, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in recognition of the successful interagency collaboration resulting from the *Helping America's Youth* initiative, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the Federal Government to promote achievement of positive results for at-risk youth through:

(a) enhanced collaboration among government organizations at the Federal, State, and local level, including with faith-based and other community organizations, as well as among families, schools, and communities, in order to leverage existing resources and improve outcomes;

(b) identification and dissemination of promising strategies and practices that have been proven effective through rigorous evaluation; and

(c) online publication of essential information to assist interested citizens and decision-makers, particularly at the community level, to plan, implement, and participate in effective programs for at-risk youth.

SEC. 2. *Establishment of the Interagency Working Group on Youth Programs*. The Secretary of Health and Human Services (Secretary) shall establish within the Department of Health and Human Services for administrative purposes only, an Interagency Working Group on Youth Programs (Working Group), consistent with this order and reflecting the ongoing interagency collaboration under the *Helping America's Youth* initiative.

SEC. 3. *Membership and Operation of the Working Group.*

(a) The Working Group shall consist exclusively of the following members or their designees, who shall be full-time Federal officers or employees:

(i) the Secretary;

(ii) the Attorney General;

(iii) the Secretaries of Defense, the Interior, Agriculture, Commerce, Labor, Housing and Urban Development, and Education;

(iv) the Director of the Office of National Drug Control Policy;

(v) the Chief Executive Officer of the Corporation for National and Community Service; and

(vi) other officers or full-time or permanent part-time employees of the United States, as determined by the Secretary, with the concurrence of the head of the department or agency concerned.

(b) The Secretary (or the Secretary's designee) shall serve as Chair, and the Attorney General (or the Attorney General's designee) shall serve as Vice Chair, for a period of 2 years from the date of this order. Subsequent Chairs and Vice Chairs shall be designated by the Secretary on a biennial basis.

(c) In implementing this section, the Chair, and in the Chair's absence the Vice Chair, shall convene and preside at meetings of the Working Group, determine its agenda, direct its work, and establish and direct subgroups of the Working Group, as appropriate, to deal with particular subject matters, that shall consist exclusively of members of the Working Group or their designees. The Chair, after consultation with the Vice Chair, shall designate an officer or employee of one of the member departments or agencies to serve as the Executive Secretary of the Working Group. The Executive Secretary shall head any staff assigned to the Working Group and any subgroups thereof, and such staff shall consist exclusively of full-time or permanent part-time Federal employees.

SEC. 4. *Functions of the Working Group*. Consistent with the policy set forth in section 1 of this order, the Working Group shall:

(a) identify and engage key government and private or nonprofit organizations that can play a role in improving the coordination and effectiveness of programs serving and engaging youth, such as faith-based and other community organizations, businesses, volunteers, and other key constituencies;

(b) develop a new Federal website on youth, built upon the *Community Guide to Helping America's Youth*, with the first phase of this website to be launched within 10 months of the date of this order, by:

(i) identifying and assessing the strengths and weaknesses of existing Federal websites focusing on youth-serving entities in order to improve access to the most useful content;

(ii) providing for training to youth-serving entities to enable effective use of the Federal website;

(iii) developing additional strategies and tools and resources accessible through the Federal website that will help promote effective community-based efforts to reduce the factors that put youth at risk and the provision of high-quality services to at-risk youth across the country; and

(iv) developing strategies to ensure that the Federal website is routinely updated, improved, and publicized;

(c) encourage all youth-serving Federal and State agencies, communities, grantees, and organizations to adopt high standards for assessing program results, including through the use of rigorous impact evaluations, as appropriate, so that the most effective practices can be identified and replicated, and ineffective or duplicative programs can be eliminated or reformed;

(d)(i) identify and promote initiatives and activities that merit strong interagency collaboration because of their potential to offer cost-effective solutions to achieve better results for at-risk youth, including volunteer service in concert with the USA Freedom Corps and mentoring in concert with the Federal Mentoring Council; and,

(ii) encourage rigorous evaluations, as appropriate, of such initiatives and activities to ascertain their effectiveness in improving academic, employment, social, and other individual outcomes, and make these findings publicly available, and

(e) annually report to the President, through the Assistant to the President for Domestic Policy, on its work and on the implementation of any recommendations arising from its work, with the first such report to be submitted no later than 6 months after the date of this order.

SEC. 5. *Administration of the Working Group*. (a) The Secretary shall, to the extent permitted by law,

provide administrative support and funding for the Working Group.

With the consent of the Secretary, other member departments or agencies may provide administrative support to the Working Group, to the extent permitted by law and consistent with their statutory authority.

(b) The heads of executive departments and agencies shall provide, as appropriate, such assistance and information as the Secretary may request to implement this order.

(c) The website referred to in section 4(b) of this order shall be funded by contributions from executive departments and agencies to the extent permitted by law and consistent with their statutory authority.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§12302. Definitions

As used in this chapter:

(1) Commissioner

The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families, as established under section 12311 of this title.

(2) Council

The term "Council" means the Federal Council on Children, Youth, and Families, as established under section 12314(a) of this title.

(3) Nonprofit

The term "'nonprofit", as applied to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.

(4) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(5) State

The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) Young individual

The term "young individual" means any child or youth from birth to 21 years of age.

(Pub. L. 101–501, title IX, §903, Nov. 3, 1990, 104 Stat. 1262.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER I—ESTABLISHMENT OF ADMINISTRATION AND AWARDING OF GRANTS FOR PROGRAMS

PART A—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

§12311. Establishment of Administration on Children, Youth, and Families

(a) In general

There is established within the Department of Health and Human Services an Administration on Children, Youth, and Families.

(b) Commissioner

(1) Establishment

(A) In general

The Administration on Children, Youth, and Families, as established under subsection (a), shall be headed by a Commissioner on Children, Youth, and Families.

(B) Omitted

(2) Appointment

The President, by and with the advice and consent of the Senate, shall appoint the Commissioner.

(Pub. L. 101–501, title IX, §915, Nov. 3, 1990, 104 Stat. 1263.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 915 of Pub. L. 101–501. Subsec. (b)(1)(B) of section 915 of Pub. L. 101–501 amended section 5316 of Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12312. Functions of Commissioner

(a) In general

The Commissioner shall—

(1) serve as the effective and visible advocate for children, youth, and families within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting

responsibilities, as appropriate, concerning Federal policies affecting young individuals, and the families of young individuals;

(2) collect and disseminate information related to the problems of young individuals and the families of such individuals;

(3) assist the Secretary in appropriate matters pertaining to young individuals, and the families of such individuals;

(4) administer the grants authorized under this subchapter;

(5) develop plans and conduct research in the field of young individuals, and the families of such individuals;

(6) assist, to the maximum extent practicable, in the establishment and implementation of programs designed to meet the needs of young individuals for supportive services including—

(A) health and mental health services;

(B) housing and shelter assistance;

(C) education and training services;

(D) protective services;

(E) foster care;

(F) teen parenting support;

(G) child care;

(H) family support and preservation;

(I) teen pregnancy prevention and counseling;

(J) counseling on the effects of violence in the communities of such individuals and their families;

(K) recreational and volunteer opportunities; and

(L) comprehensive early childhood development;

(7) provide technical assistance and consultation to States and the political subdivisions of such States with respect to programs for young individuals;

(8) prepare, publish, and disseminate educational materials concerning the welfare of young individuals;

(9) gather statistics concerning young individuals, and the families of such individuals, that other Federal agencies are not collecting;

(10) to the maximum extent practicable coordinate activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to young individuals and the families of such individuals;

(11) stimulate more effective uses of existing resources and available services for young individuals and the families of such individuals;

(12) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under this chapter;

(13) convene conferences of authorities and officials of organizations, including Federal, State, and local agencies, and nonprofit private organizations, of programs for children, youth and their families for the development and implementation of policies related to the priorities and purposes of this chapter, including topics such as the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(14) conduct periodic evaluations of the programs and activities related to the purposes of this chapter; and

(15) develop, in coordination with other agencies, methods to ensure adequate training for personnel concerning children, youth and families and to ensure the adequate dissemination of such information to appropriate State and community agencies.

(b) Encouragement of volunteerism

In executing the duties and functions of the Administration under this subchapter and in carrying out the programs and activities authorized under this chapter, the Commissioner, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall take

necessary steps to coordinate with and seek the advice of voluntary agencies and organizations that provide services related to the purposes of this chapter.

(Pub. L. 101–501, title IX, §916, Nov. 3, 1990, 104 Stat. 1263; Pub. L. 103–82, title IV, §405(o), Sept. 21, 1993, 107 Stat. 922.)

EDITORIAL NOTES

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–82 substituted "the Chief Executive Officer of the Corporation for National and Community Service" for "the Director of the ACTION Agency".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12313. Federal agency consultations

(a) In general

The Commissioner shall consult and cooperate with the heads of all appropriate Federal agencies or departments administering programs or services that are substantially related to the purposes of this chapter.

(b) Interagency agreements

To the extent practicable, the Commissioner shall facilitate cooperation through the entering into of interagency agreements.

(Pub. L. 101–501, title IX, §917, Nov. 3, 1990, 104 Stat. 1265.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12314. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 101–501, title IX, §918, Nov. 3, 1990, 104 Stat. 1265; Pub. L. 103–252, title IV, §402(a), May 18, 1994, 108 Stat. 672, established the Federal Council on Children, Youth, and Families, and terminated the Council on Sept. 30, 1998.

§12315. Administration

(a) Duties of Commissioner

In carrying out this subchapter, the Commissioner is authorized to—

(1) provide consultative services, technical assistance, and short-term training to the independent State bodies;

(2) conduct research and demonstrations;

(3) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subchapter;

(4) provide staff and other technical assistance to the Council;

(5) evaluate the effectiveness of programs authorized under this subchapter and periodically publish analyses of the results of such evaluations; and

(6) not later than 180 days after the end of each fiscal year, prepare and submit, to the President and the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out under this subchapter and concerning such other activities as the Secretary determines appropriate.

(b) Utilization of services and facilities

(1) In general

Subject to agreements made between the Commissioner and the head of such agency or organization, in carrying out the duties referred to in subsection (a) the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organizations.[1]

(2) Payment

The Commissioner may pay for such services and facilities, in advance or by way of reimbursement, as may be provided in such agreement.

(c) Reservation of funds

Of the aggregate amount appropriated to carry out this chapter in any fiscal year, the Secretary may reserve not more than 10 percent for salaries and expenses of the Administration on Children, Youth, and Families related to the administration of this chapter.

(Pub. L. 101–501, title IX, §919, Nov. 3, 1990, 104 Stat. 1267.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

[1] So in original. Probably should be "organization."

PART B—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES

§12331. Purpose

It is the purpose of this part to encourage and assist State and local agencies to coordinate

resources, reduce barriers to services, and develop new capacities to ensure that State and community services designed to serve children, youth, and families are more effective and comprehensive.

(Pub. L. 101–501, title IX, §925, Nov. 3, 1990, 104 Stat. 1268.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12332. Definitions

As used in this part:

(1) Community referral services

The term "community referral services" means services to assist families in obtaining community resources, including health care, mental health care, employability development and job training, and other social services.

(2) Core services

The term "core services" means—

(A) educational and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children; and

(B) the early developmental screening of children to assess any needs of such children and to identify specific types of support that may be provided;

(C) outreach services;

(D) community referral services; and

(E) follow up services.

(3) Follow up services

The term "follow up services" means services provided to ensure that necessary services are received by families and are effective in meeting their needs.

(4) Independent State body

The term "independent State body" means the entity established under section 12336 of this title.

(5) Lead agency

The term "lead agency" means an existing State agency, or other public or nonprofit private entity designated by the chief executive officer of the State as the agency responsible for the development and implementation of local family resource and support programs. Such agency shall have demonstrated ability to work with other State and community based agencies, to provide training and technical assistance, and shall also have a commitment to parental participation in the design and administration of family resource and support programs.

(6) Other services

The term "other services" and "other support services" includes—

(A) child care, early childhood development and intervention programs;

(B) employability development services (including skill training);

(C) educational services, such as scholastic tutoring, literacy training, and General Educational Degree (GED) services;

(D) nutritional education;

(E) life management skills training;

(F) peer counseling and crisis intervention, family violence counseling and referrals for such

services;

(G) referral for substance abuse counseling and treatment referral; and

(H) referral for primary health and mental health services.

(7) Outreach services

The term "outreach services" means services provided to ensure (through home visits or other methods) that parents are aware of and able to participate in family resource and support program activities.

(Pub. L. 101–501, title IX, §926, Nov. 3, 1990, 104 Stat. 1268.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12333. Establishment of programs

The Commissioner shall make grants—

(1) in each State under section 12337 of this title to improve State planning and coordination of services, and under section 12338 of this title to expand supportive services, in order to promote the availability of developmental, preventive, and remedial services to children, youth and their families that are designed to ensure—

(A) adequate and safe physical shelter whether in their own homes or, if necessary, in out-of-home programs;

(B) high quality physical and mental health care;

(C) the enhancement of the development of children to ensure that children enter school prepared and ready to learn;

(D) highest quality educational opportunity;

(E) effective training and apprenticeships to increase the likelihood of employment;

(F) opportunities for community service and productive employment, and for participation by children and youth in decisions affecting the lives of such children and youth; and

(G) a wide range of civic, cultural, and recreational activities that recognize young individuals as resources and promote self-esteem and a sense of community; and

(2) to States on a competitive basis under section 12339 [1] of this title to establish family resource programs (including family support centers) in order to enhance the ability of families to remain together and to thrive through the provision of community based services that—

(A) promote and build family and parenting skills;

(B) promote and assist families in the use of formal and informal family support services;

(C) create a support network to strengthen and reinforce good parenting; and

(D) are closely linked with, but not duplicative of, other community resources.

(Pub. L. 101–501, title IX, §927, Nov. 3, 1990, 104 Stat. 1269.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12339 of this title, referred to in par. (2), was repealed by Pub. L. 103–252, title IV, §401(b)(1), May 18, 1994, 108 Stat. 672.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

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

§12334. Administration

(a) In general

The Commissioner shall administer programs under this part through the Administration on Children, Youth, and Families.

(b) Technical assistance

In carrying out this part, the Commissioner may request the technical assistance and cooperation of the Secretary of Education, the Secretary of Labor, the Attorney General, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Community Services, and such other agencies and departments of the Federal Government as may be appropriate.

(Pub. L. 101–501, title IX, §928, Nov. 3, 1990, 104 Stat. 1269.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12335. State plan

(a) Submission of plan

The chief executive officer of a State, in order to be eligible for grants from an allotment under section 12337, 12338, or 12339 [1] of this title for any fiscal year, shall prepare and submit to the Commissioner a State plan for a 3-year period.

(b) Revisions of plan

Each chief executive officer of a State may make annual revisions of the State plan referred to in subsection (a).

(c) Content of plan

The chief executive officer of a State shall include within the State plan of that State assurances as required under sections [2] 12337, 12338, or 12339 [1] of this title, and a description of the proposed multi-year plans of the State for program development and implementation.

(d) Type of application

A State may apply for funds under one or more of the following categories:

(1) section 12337 of this title;

(2) sections 12337 and 12338 of this title jointly; or

(3) section 12339 [1] of this title.

In the case of each category, the State application and plan shall comply only with the requirements of the appropriate section.

(e) Approval of plan

(1) In general

The Commissioner shall approve any State plan under sections 12337 and 12338 of this title that the Commissioner determines meets the requirements of such sections.

(2) Notice and opportunity to correct deficiencies

The Commissioner shall not make a final determination disapproving any State plan, modifying such plan, or declaring a State to be ineligible to receive funds under sections 12337 and 12338 of this title without previously affording such State reasonable notice and opportunity to correct deficiencies in its application.

(Pub. L. 101–501, title IX, §929, Nov. 3, 1990, 104 Stat. 1270.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12339 of this title, referred to in subsecs. (a), (c), and (d)(3), was repealed by Pub. L. 103–252, title IV, §401(b)(1), May 18, 1994, 108 Stat. 672.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

[1] See References in Text note below.

[2] So in original. Probably should be "section".

§12336. Independent State body

(a) Designation

A State shall not be eligible to receive a grant from an allotment under section 12337 or 12338 of this title unless—

(1) the chief executive officer of such State designates an independent State body that is composed of—

(A) cabinet level representatives from each agency of such State that has responsibilities for programs affecting young individuals who shall comprise a majority of the independent State body; and

(B) individuals appointed from among—

(i) private nonprofit providers of services to young individuals;

(ii) advocacy and citizens groups concerned with young individuals;

(iii) committees of the legislature of such State that have responsibility for young individuals;

(iv) leaders who are young individuals, including such leaders who are recipients of services provided under this subchapter;

(v) representatives of the business community;

(vi) representatives of employees of providers of services to young individuals;

(vii) representatives of general purpose local government; and

(viii) such staff as shall be necessary to—

(I) develop a State plan to be submitted to the Commissioner for approval under section 12337 of this title;

(II) administer and monitor the State plan within such State;

(III) assist in the coordination of all State activities related to the purpose of the chapter;

(IV) serve as an effective and visible advocate for young individuals by reviewing and commenting on all State plans, budgets, and policies that affect such individuals and the families of such individuals by providing technical assistance to any agency, organization, association, or individual representing the needs of young individuals; and

(2) the independent State body designated under paragraph (1)—

(A) develops a system for the distribution within the State of funds received under sections 12337 and 12338 of this title by the chief executive officer;

(B) submits a description of such system to the Commissioner for review and comment; and

(C) ensures that preference will be given in such distribution of funds to developing or supporting local service delivery systems that—

(i) provide a range of services organized to tailor responses to needs rather than a predetermined array of services;

(ii) are rooted in and part of the communities that such systems are designed to serve as measured by the degree to which public and private community leaders and young individuals participate in the planning of such systems; and

(iii) demonstrate an ability to develop systematic collaboration among service providers on behalf of children, youth and families, including joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that promote more effective service systems for such individuals.

(b) Existing entity

The Commissioner may approve a State plan in which the chief executive officer of the State designates as the independent State body an existing State entity that is comprised of the parties described in subsection (a) and that is authorized to conduct the same range of interagency planning and coordination activities.

(Pub. L. 101–501, title IX, §930, Nov. 3, 1990, 104 Stat. 1270.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12337. State coordination of services

(a) Authority

The Commissioner shall make grants under this section to States on a formula basis for the purpose of improving the coordination of services provided to children, youth, and families.

(b) Application

To be eligible to receive a grant under this section, the chief executive officer of a State shall prepare and submit to the Commissioner an application containing a plan providing assurances that—

(1) the independent State body is committed to interagency planning that results in statewide policies promoting systematic collaboration among agencies on behalf of young individuals as demonstrated by joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that reduce barriers to services and promote more effective local service delivery systems for young individuals;

(2) such plan will be based on needs as identified through an analysis of updated reports (such as "State of the Child" reports) prepared by the State, including detailed information gathered by the State, to the extent practicable, on young individuals and the families of such individuals concerning—

(A) age, sex, race, and ethnicity;
(B) the residences of such individuals;
(C) the incidence of homelessness among such individuals;
(D) the composition of families of such individuals;
(E) the economic situations of such individuals;
(F) the incidence of poverty among such individuals;
(G) experiences in the care of such individuals away from home;
(H) the health of such individuals;
(I) violence in the homes or communities of such individuals;
(J) the nature of the attachment of such individuals to school and work;
(K) dropout rates of such individuals from school; and
(L) the character of the communities in which such individuals reside;

(3) the system to be used for the distribution of funds within the State will require that—
(A) each area have an equal opportunity to apply for or receive funds under this part; and
(B) the public be given an opportunity to express views concerning the development and administration of such plan;

(4) the independent State body will provide an inventory of existing public and private services for children, youth and their families and will evaluate the need for supportive services within the State to address the purposes of this chapter and determine the extent to which existing public and private programs meet such need;
(5) the independent State body will make such reports, in such form, and containing such information, as the Commissioner may require;
(6) such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this part to the chief executive officer of the State, including any such funds paid to the recipients of a grant or contract;
(7) the independent State body will conduct periodic evaluations of activities and projects carried out pursuant to this section and section 12338 of this title and will report the results and recommendations to the chief executive officer of the State and the State legislature;
(8) the chief executive officer of the State will provide technical assistance or in-service training opportunities for personnel responsible for carrying out the purposes of this section and section 12338 of this title; and
(9) the chief executive officer of each State will provide for the implementation of the requirements of section 12338 of this title, relating to supportive services.

(c) Use of grants to States

Notwithstanding section 12340(g) of this title, the amounts made available to each State under section 12340(a) of this title may be used to make grants to a State to enable such State to pay such percentages as the independent State body of such State determines to be appropriate, of the cost of administering the State plan of such State including—
(1) the costs of the preparation of such plan and the provision of technical assistance to local areas;
(2) the costs of the evaluation of activities carried out under such plan;
(3) the costs of the collection of data and the carrying out of analyses related to the need for supportive services within the State;
(4) the costs of the dissemination of information obtained under paragraph (3); and
(5) the costs of the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this part.

(e) [1] Supplement not supplant

Amounts received by a State under this section and section 12338 of this title shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the purposes

for which grants are made under this section and section 12338 of this title. In no event shall such expenditures be used to satisfy the matching requirements of any other Federal program.

(f) Relationship to family resource and support program grants

If a State intends to apply for a grant under section 12339 [2] of this title to be used for the same calendar year as the grant under this section, such State shall include in the application for a grant under this section a description of plans for family resource and support programs and for the coordination of the use of all funds received under this part.

(Pub. L. 101–501, title IX, §931, Nov. 3, 1990, 104 Stat. 1271.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12339 of this title, referred to in subsec. (f), was repealed by Pub. L. 103–252, title IV, §401(b)(1), May 18, 1994, 108 Stat. 672.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

[1] So in original. No subsec. (d) has been enacted.

[2] See References in Text note below.

§12338. Supportive services

(a) Authority

The Commissioner shall carry out a program for making grants to a State, that has designated an independent State body under section 12336 of this title and provided for coordinated services under section 12337 of this title, for distribution by the chief executive officer under a State plan approved under section 12337 of this title to demonstrate successful program approaches to fill service gaps identified through State planning and advocacy efforts for any of the areas specified in paragraph (2).

(b) Eligible services

The services eligible to be provided under subsection (a) are services—

(1) that are designed to facilitate the provision of comprehensive community based services that are efficient, coordinated, and readily available through such activities as case planning, case management, intake and assessment, and information and referral; and

(2) that serve any of the following purposes—

(A) provide adequate and safe physical shelter to young individuals and the families of such individuals, especially in emergency circumstances;

(B) provide transitional living services to young individuals who are homeless;

(C) enable young individuals to attain and maintain physical and mental well-being;

(D) provide health screening to detect or prevent illnesses, or both, that occur most frequently in young individuals as well as better treatment and counseling;

(E) enhance the development of children to ensure that such children enter school prepared and ready to learn;

(F) promote the highest quality of educational opportunity, especially through drop-out prevention programs, remediation for young individuals who have dropped out of school, and vocational education;

(G) provide effective training apprenticeships and employment opportunities;

(H) promote participation in community service and civic, cultural, and recreational activities that value young individuals as resources and promote self-esteem and a stake in the community;

(I) promote the participation of young individuals in decisions concerning planning and managing the lives of such individuals;

(J) encourage young individuals and the families of such individuals to use any community facilities and services that are available to such individuals;

(K) ensure that young individuals who are unable to live with the biological families of such individuals have a safe place to live until such individuals can return home or move into independent adult life; and

(L) prevent the abuse, neglect, or exploitation of young individuals.

(Pub. L. 101–501, title IX, §932, Nov. 3, 1990, 104 Stat. 1273.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12339. Repealed. Pub. L. 103–252, title IV, §401(b)(1), May 18, 1994, 108 Stat. 672

Section, Pub. L. 101–501, title IX, §933, Nov. 3, 1990, 104 Stat. 1274, related to grants to States for purpose of implementing family resource and support programs.

§12340. Authorization of appropriation and allotment

(a) Administration on Children, Youth, and Families; State coordination; supportive services

(1) Authorization of appropriations

There are authorized to be appropriated to carry out sections 12337 and 12338 of this title such sums as may be necessary for each of the fiscal years 1995 through 1998.

(2) Availability of appropriation

Of the amount appropriated under paragraph (1) for any fiscal year—

(A) not more than 10 percent shall be available to carry out section 12315 of this title; and

(B) not less than 90 percent shall be available to carry out sections 12337 and 12338 of this title.

(3) Allotment formula

Except as provided in paragraph (4), from the amount available under paragraph (2)(B) for each fiscal year, a State shall be allotted an amount that bears the same ratio to the amount appropriated for such fiscal year as the population of the State that is under the age of 21 bears to the population of all States that is under the age of 21.

(4) Exceptions

(A) In general

Except as provided in subparagraph (B) and subject to the availability of appropriations under paragraph (1), no State shall be allotted less than $300,000 under the formula established under paragraph (3).

(B) Limitation on allotment

Notwithstanding subparagraph (A), Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $75,000 under the formula established under paragraph (2).

(b) Determination of age

The number of individuals under the age of 21 in each State shall be determined by the Commissioner on the basis of the most recent data available to the Commissioner.

(c) Transfer of allotted funds

Whenever the Commissioner determines that—

(1) any amount allotted to a State for a fiscal year under section 12337 or 12338 of this title will not be used by such State for carrying out the purpose for which such allotment was made; or

(2) a State has failed to qualify under the State plan required under section 12335 of this title;

the Commissioner shall make such allotment available for carrying out such purposes to other participating States in a proportional manner based on the relative population of the State of individuals under the age of 21.

(d) Repealed. Pub. L. 103–252, title IV, §402(b)(2), May 18, 1994, 108 Stat. 673

(e) Limitation

A State shall not use in excess of 10 percent of a grant awarded under section 12338 or 12339 [1] of this title for administrative activities at the State level.

(f) Grants for Indians

The Commissioner shall use 1 percent of the amount appropriated under this section for each fiscal year to make allotments to Indian tribes and tribal organizations (such terms having the same meaning given to such terms in section 5304(b) and (c) [1] of title 25) that submit to the Commissioner a plan that meets criteria consistent with the provisions of this part and that comply with other requirements established by the Commissioner.

(g) Limitation

Grants made under this subchapter may be used to pay not more than 80 percent of the cost of—

(1) the preparation, administration, and evaluation of State plans under section 12337 of this title;

(2) the development of comprehensive, efficient, coordinated supportive services under section 12338 of this title; and

(3) the development, expansion, and operation of local family support and resource programs under section 12339 [1] of this title.

The remaining 20 percent of such cost shall be paid by the State with funds from non-Federal sources.

(Pub. L. 101–501, title IX, §934, Nov. 3, 1990, 104 Stat. 1277; Pub. L. 103–252, title IV, §402(b), May 18, 1994, 108 Stat. 673.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12339 of this title, referred to in subsecs. (e) and (g)(3), was repealed by Pub. L. 103–252, title IV, §401(b)(1), May 18, 1994, 108 Stat. 672.

Section 5304 of title 25, referred to in subsec. (f), has been amended, and subsecs. (b) and (c) of section 5304 no longer define the terms "Indian tribe" and "tribal organization". However, such terms are defined elsewhere in that section.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–252, §402(b)(1), amended par. (1) generally. Prior to amendment, text

read as follows: "There are authorized to be appropriated to carry out sections 12315, 12337, and 12338 of this title, $30,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994. Funds appropriated under this paragraph shall remain available for expenditure in the fiscal year succeeding the fiscal year for which such funds are appropriated."

Subsec. (d). Pub. L. 103–252, §402(b)(2), struck out heading and text of subsec. (d). Text read as follows: "There are authorized to be appropriated to carry out section 12339 of this title, $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

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

PART C—NATIONAL CLEARINGHOUSE

§12351. Findings and purpose

(a) Findings

Congress finds that—

(1) fundamental changes in the demographics and economics of family life in the United States over the past 20 years have had a profound effect on children and their parents;

(2) since 1966, the number of women working outside the home has increased by 92 percent and the number of two earner families has increased by over 50 percent;

(3) 61 percent of the children born today will live in a single-parent family before reaching the age of 20, with one out of every three single female heads of households living on income below the Federal poverty level;

(4) one out of every four children under the age of 6 in the United States currently lives below the Federal poverty level;

(5) over the past 10 years, parents have increasingly come together with other parents to organize family resource and support programs that promote healthy child development and increase parental competency, particularly families at risk; and

(6) Federal investment in promoting the development of family resource and support programs will reap long-term benefits for individual families and the nation as a whole.

(b) Purpose

It is the purpose of this part [1] to—

(1) stimulate the development and expansion of family resource and support programs that are prevention oriented;

(2) encourage early intervention of such programs with families to ameliorate problem situations before such situations become crises; and

(3) assist parents in enhancing their children's development to ensure that their children enter school prepared and ready to learn.

(Pub. L. 101–501, title IX, §956, Nov. 3, 1990, 104 Stat. 1278.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original "this Act", and was translated as reading "this chapter", meaning chapter 3 (§§955–960) of subtitle A of title IX of Pub. L. 101–501, known as the Family Resources Act, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

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

§12352. "Family resource and support programs" defined

As used in this part, the term "family resource and support programs" means community-based services that offer sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(1) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(2) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(3) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

(Pub. L. 101–501, title IX, §957, Nov. 3, 1990, 104 Stat. 1278.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12353. Establishment of National Center on Family Resource and Support Programs

(a) Establishment

The Commissioner shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to all types of family resource and support programs, to be known as the "National Center on Family Resource and Support Programs".

(b) Functions

The national center established under subsection (a) shall serve as a national information and data clearinghouse, training, technical assistance, and material development source for family resource and support programs. Such center shall—

(1) develop and maintain a system for disseminating information on all types of family resource and support programs and on the state of family resource and support program development, including information concerning the most effective model programs;

(2) develop and sponsor a variety of training institutes and curricula for family resource and support program staff;

(3) identify several programs representing the various types of family resource and support programs to develop technical assistance materials and activities to assist other agencies in establishing family resource and support programs; and

(4) develop State-wide networks of family resource and support programs for the purpose of sharing and disseminating information.

(Pub. L. 101–501, title IX, §958, Nov. 3, 1990, 104 Stat. 1279; Pub. L. 103–252, title IV, §403(a), May 18, 1994, 108 Stat. 673.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (b)(3). Pub. L. 103–252 substituted "several programs" for "several model programs".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12354. Evaluation

The Commissioner shall, through grants or contracts awarded or entered into with independent auditors, conduct evaluations and related activities, of family resource and support programs, including—

(1) evaluations of on-going programs;

(2) process evaluations focusing on implementation strategies; and

(3) the development of simple evaluation models for use by local family resource and support programs.

(Pub. L. 101–501, title IX, §959, Nov. 3, 1990, 104 Stat. 1279.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12355. Authorization of appropriations

(a) Establishment of Center

To carry out section 12353 of this title, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1995 through 1998.

(b) Evaluation

To carry out section 12354 of this title, there are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.

(Pub. L. 101–501, title IX, §960, Nov. 3, 1990, 104 Stat. 1279; Pub. L. 103–252, title IV, §403(b),

May 18, 1994, 108 Stat. 673.)

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–252, §403(b)(1), substituted "$2,000,000 for each of the fiscal years 1995 through 1998" for "$2,300,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994".

Subsec. (b). Pub. L. 103–252, §403(b)(2), substituted "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998" for "$700,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

SUBCHAPTER II—WHITE HOUSE CONFERENCE ON CHILDREN, YOUTH, AND FAMILIES

§12371. Findings

(a) Findings

The Congress finds that—

(1) children and youth are inherently our most valuable resource and their welfare, protection, healthy development, and positive role in society are essential to the Nation;

(2) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive work, and preparation for responsible participation in community life;

(3) an increasing opportunity for children and youth to participate in the decisions that affect their lives is essential;

(4) the family is the primary caregiver and the source of social learning which must be supported and strengthened, but when families are unable to ensure the satisfaction of the needs of children and youth, it is society's responsibility to assist them;

(5) at a minimum, all children and youth need and deserve access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) the highest quality of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment;

(E) the widest range of civic, cultural, and recreational activities which recognize young Americans as resources and promote self-esteem and a stake in their communities;

(F) comprehensive community services which are efficient, coordinated, and readily available; and

(G) genuine participation in decisions concerning the planning and managing of their lives; and

(6) there is a great need for a comprehensive national policy with respect to young individuals, designed to engage Federal, State, and local government agencies, youth organizations, and other voluntary organizations.

(b) Statement of policy

It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenge and needs of young individuals.

(Pub. L. 101–501, title IX, §982, Nov. 3, 1990, 104 Stat. 1280.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12372. Authority of President and Secretary; final report

(a) Calling of Conference

The President shall call a White House Conference on Children, Youth, and Families in 1993 in order to develop recommendations for further action in the field of children, youth, and families which will further the policy set forth in section 12371(b) of this title. The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner and with the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) Purposes of Conference

The purposes of the Conference shall be—

(1) to increase the public awareness of the value and needs of young individuals;

(2) to examine the well-being of young individuals as well as the problems which they face;

(3) to describe the extent to which young individuals with identified needs do not receive services to meet such needs;

(4) to determine the reasons why young individuals are not receiving needed services; and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to improve the well-being of youth and their families.

(c) Conference participants and delegates

(1) Participants

In order to carry out the purposes of the Conference, the Conference shall bring together—

(A) representatives of Federal, State, and local governments, including representatives of the Government Accountability Office;

(B) professionals who are working in the field of children, youth, and families; and

(C) representatives of the general public, particularly young individuals.

(2) Selection of delegates

The delegates to attend the Conference shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of children, youth, and families.

(Pub. L. 101–501, title IX, §983, Nov. 3, 1990, 104 Stat. 1280; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (c)(1)(A). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12373. Conference administration

(a) Administration

For purposes of carrying out this subchapter, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate;

(2) furnish all reasonable assistance to State agencies administering programs related to children, youth and families, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which reflects, to the greatest extent possible, the major issues facing children, youth, and families consistent with subsection (a);

(4) prepare and make available background materials which the Secretary deems necessary for the use of delegates to the Conference; and

(5) engage such additional personnel as may be necessary to carry out this section without regard to provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Duties

The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, ensure that—

(1) the conferences under subsection (a)(2) will be conducted so as to ensure broad participation of young individuals;

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

(3) the final agenda for the Conference, taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) to the extent practicable, current and adequate statistical data (including decennial census data) and other information on the well-being of young individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to children and youth. In carrying out this subparagraph, the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations.

(Pub. L. 101–501, title IX, §984, Nov. 3, 1990, 104 Stat. 1281.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12374. Conference committees

(a) Advisory committee

The Secretary shall establish an advisory committee to the Conference which shall include representatives from the Federal Council on Children, Youth, and Families, public agencies and nonprofit private organizations as appropriate.

(b) Other committees

The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) Composition of committees

Each committee established under this section shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups.

(d) Compensation

Members of any committee established under this section (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily rate payable for GS–18 of the General Schedule under section 5332 of title 5 (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

(Pub. L. 101–501, title IX, §985, Nov. 3, 1990, 104 Stat. 1282.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§12375. Report of Conference

(a) Proposed report

A proposed report of the Conference which shall include a statement of comprehensive coherent national policy on children, youth, and families together with recommendations for the implementation of such policy, shall be published and submitted to the chief executive officers of the States not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be available immediately to the public.

(b) Response to proposed report

The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the proposed report of the Conference, shall submit to the Secretary, not later than 180 days after receiving such report, their views and findings on the recommendations of the Conference.

(c) Final report

Not later than 180 days after submission of the views and comments of the chief executive officers of the States, the Secretary shall—

(1) prepare a final report on the conference, which shall include—

(A) a statement of the policy and recommendations of the Conference;

(B) the views and comments of the chief executive officers of the States; and

(C) the recommendations of the Secretary, after taking into consideration the views and comments of such officers, for administrative and legislative action necessary to implement the recommendations of the Conference; and

(2) publish and transmit such report to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate.

(Pub. L. 101–501, title IX, §986, Nov. 3, 1990, 104 Stat. 1282.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

§12376. Definitions

For purposes of this subchapter—

(1) the term "Conference" means the 1993 White House Conference on Children, Youth, and Families; and

(2) the terms "child", "youth", and "young individual" means [1] an individual who is less than 21 years of age.

(Pub. L. 101–501, title IX, §987, Nov. 3, 1990, 104 Stat. 1283.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

[1] So in original. Probably should be "mean".

§12377. Authorization of appropriations

(a) Authorization

There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1993 and 1994, to carry out this subchapter. Sums appropriated under this subsection shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this subchapter shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) Return of unexpended funds

Any funds remaining upon the expiration of the 1-year period referred to in subsection (a) shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

(Pub. L. 101–501, title IX, §988, Nov. 3, 1990, 104 Stat. 1283.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101–501, set out as an Effective Date of 1990 Amendment note under section 8621 of this title.

CHAPTER 128—HYDROGEN RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM

Sec.

§12401. Finding, purposes, and definitions

(a) Finding

Congress finds that it is in the national interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities that will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) Purposes

The purposes of this chapter are—

(1) to direct the Secretary of Energy to conduct a research, development, and demonstration program leading to the production, storage, transport, and use of hydrogen for industrial, residential, transportation, and utility applications;

(2) to direct the Secretary to develop a technology assessment and information transfer program among the Federal agencies and aerospace, transportation, energy, and other entities; and

(3) to develop renewable energy resources as a primary source of energy for the production of hydrogen.

(c) Definitions

As used in this chapter, the term:

(1) "critical technology" (or "critical technical issue") means a technology (or issue) that, in the opinion of the Secretary, requires understanding and development in order to take the next needed step in the development of hydrogen as an economic fuel or storage medium;

(2) "Department" means the Department of Energy; and

(3) "Secretary" means the Secretary of Energy.

(Pub. L. 101–566, §102, Nov. 15, 1990, 104 Stat. 2797; Pub. L. 104–271, title I, §101, Oct. 9, 1996, 110 Stat. 3304.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–271, §101(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "to direct the Secretary to prepare a comprehensive 5-year comprehensive program management plan that will identify and resolve critical technical issues necessary for the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable;".

Subsec. (c). Pub. L. 104–271, §101(b), added par. (2) and redesignated former par. (2) as (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–271, §1, Oct. 9, 1996, 110 Stat. 3304, provided that: "This Act [enacting section 7238 of this title, amending this section and sections 12402 to 12405, 12407, 12408, and 13436 of this title, and enacting provisions set out as notes under sections 7238, 12403, and 13436 of this title] may be cited as the 'Hydrogen Future Act of 1996'."

SHORT TITLE

Pub. L. 101–566, title I, §101, Nov. 15, 1990, 104 Stat. 2797, provided that: "This Act [enacting this chapter] may be referred to as the 'Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990'."

§12402. Report to Congress

(a) Not later than January 1, 1999, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs authorized under this chapter.

(b) A report under subsection (a) shall include, in addition to any views and recommendations of the Secretary—

(1) an analysis of the effectiveness of the programs authorized under this chapter, to be prepared and submitted to the Secretary by the Hydrogen Technical Advisory Panel established under section 12407 of this title; and

(2) recommendations of the Hydrogen Technical Advisory Panel for any improvements in the program that are needed, including recommendations for additional legislation.

(Pub. L. 101–566, §103, Nov. 15, 1990, 104 Stat. 2797; Pub. L. 104–271, title I, §102(a), Oct. 9, 1996, 110 Stat. 3304.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–271 amended section generally, substituting provisions requiring report to Congress on chapter programs by Jan. 1, 1999, for provisions regarding preparation and contents of comprehensive 5-year program management plan for research and development activities and comprehensive large-scale hydrogen

demonstration plan with respect to section 12404 demonstrations.

§12403. Hydrogen research and development

(a) Program

The Secretary shall conduct a hydrogen research and development program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, residential, transportation, and utility applications.

(b) Research

In conducting the program authorized by this section, the Secretary shall—

(1) give particular attention to developing an understanding and resolution of critical technical issues preventing the introduction of hydrogen into the marketplace;

(2) initiate or accelerate existing research in critical technical issues that will contribute to the development of more economic hydrogen production and use, including, but not limited to, critical technical issues with respect to production (giving priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production), liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation); and

(3) survey private sector hydrogen activities and take steps to ensure that research and development activities under this section do not displace or compete with the privately funded hydrogen research and development activities of United States industry.

(c) Innovative energy technologies

The Secretary is authorized to evaluate any reasonable new or improved technology, including basic research on highly innovative energy technologies, that could lead or contribute to the development of economic hydrogen production, storage, and utilization.

(d) Renewable energy systems; hybrid systems

The Secretary is authorized to evaluate any reasonable new or improved technology that could lead or contribute to, or demonstrate the use of, advanced renewable energy systems or hybrid systems for use in isolated communities that currently import diesel fuel as the primary fuel for electric power production.

(e) Information

The Secretary is authorized to arrange for tests and demonstrations and to disseminate to researchers and developers information, data, and other materials necessary to support the research and development activities authorized under this section and other efforts authorized under this chapter, consistent with section 12405 of this title.

(f) Federal funding

The Secretary shall carry out the research and development activities authorized under this section only through the funding of research and development proposals submitted by interested persons according to such procedures as the Secretary may require and evaluate on a competitive basis using peer review. Such funding shall be in the form of a grant agreement, procurement contract, or cooperative agreement (as those terms are used in chapter 63 of title 31).

(g) Non-Federal funding

The Secretary shall not consider a proposal submitted by a person from industry unless the proposal contains a certification that reasonable efforts to obtain non-Federal funding for the entire cost of the project have been made, and that such non-Federal funding could not be reasonably obtained. As appropriate, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of the development portion of such a proposal.

(h) Prohibition on duplicative efforts

The Secretary shall not carry out any activities under this section that unnecessarily duplicate activities carried out elsewhere by the Federal Government or industry.

(i) Federal funding consistent with the Agreement on Subsidies and Countervailing Measures

The Secretary shall establish, after consultation with other Federal agencies, terms and conditions under which Federal funding will be provided under this chapter that are consistent with the Agreement on Subsidies and Countervailing Measures referred to in section 3511(d)(12) of title 19.

(Pub. L. 101–566, §104, Nov. 15, 1990, 104 Stat. 2798; Pub. L. 104–271, title I, §103(a), Oct. 9, 1996, 110 Stat. 3305.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–271 amended section generally, substituting present provisions for provisions which stated in subsec. (a) the Secretary was to conduct a research and development program for development of a domestic hydrogen fuel production capability; subsec. (b) attention was to be given to research of critical technical issues; subsec. (c) renewable energy priority; subsec. (d) new technologies; and subsec. (e) gathering and dissemination of information to support research and development efforts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

FUEL CELLS

Pub. L. 104–271, title II, Oct. 9, 1996, 110 Stat. 3307, provided that:

"SEC. 201. INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.

"(a) Not later than 180 days after the date of enactment of this section [Oct. 9, 1996], and subject to the availability of appropriations made specifically for this section, the Secretary of Energy shall solicit proposals for projects to prove the feasibility of integrating fuel cells with—

"(1) photovoltaic systems for hydrogen production; or

"(2) systems for hydrogen production from solid waste via gasification or steam reforming.

"(b) Each proposal submitted in response to the solicitation under this section shall be evaluated on a competitive gas is [basis] using peer review. The Secretary is not required to make an award under this section in the absence of a meritorious proposals. [sic]

"(c) The Secretary shall give preference, in making an award under this section, to proposals that—

"(1) are submitted jointly from consortia including academic institutions, industry, State or local governments, and Federal laboratories; and

"(2) reflect proven experience and capability with technologies relevant to the systems described in subsections (a)(1) and (a)(2).

"(d) In the case of a proposal involving development or demonstration, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of the development or demonstration portion of the proposal.

"(e) The Secretary shall establish, after consultation with other Federal agencies, terms and conditions under which Federal funding will be provided under this title that are consistent with the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreement Act (19 U.S.C. 3511(d)(12)).

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, for activities under this section [title], a total of $50,000,000 for fiscal years 1997 and 1998, to remain available until September 30, 1999."

§12404. Demonstrations

(a) Requirement

The Secretary shall conduct demonstrations of critical technologies, preferably in self-contained

locations, so that technical and non-technical parameters can be evaluated to best determine commercial applicability of the technology.

(b) Small-scale demonstrations

Concurrently with activities conducted pursuant to section 12403 of this title, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

(c) Non-Federal funding

The Secretary shall require a commitment from non-Federal sources of at least 50 percent of the cost of any demonstration conducted under this section.

(Pub. L. 101–566, §105, Nov. 15, 1990, 104 Stat. 2799; Pub. L. 104–271, title I, §104, Oct. 9, 1996, 110 Stat. 3306.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–271 added subsec. (c).

§12405. Technology transfer program

(a) Program

The Secretary shall conduct a program designed to accelerate wider application of hydrogen production, storage, utilization, and other technologies available in near term as a result of aerospace experience as well as other research progress by transferring critical technologies to the private sector. The Secretary shall direct the program with the advice and assistance of the Hydrogen Technical Advisory Panel established under section 12407 of this title. The objective in seeking this advice is to increase participation of private industry in the demonstration of near commercial applications through cooperative research and development arrangements, joint ventures or other appropriate arrangements involving the private sector.

(b) Information

The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of hydrogen technologies and their commercial capability to economically produce, store, or utilize hydrogen in aerospace, transportation, electric utilities, petrochemical, chemical, merchant hydrogen, and other industrial sectors; and

(2) develop a National Aeronautics Space Administration, Department of Energy, and industry information exchange program to improve technology transfer for—

(A) application of aerospace experience by industry;

(B) application of research progress by industry and aerospace;

(C) application of commercial capability of industry by aerospace; and

(D) expression of industrial needs to research organizations.

The information exchange program may consist of workshops, publications, conferences, and a data base for the use by the public and private sectors. The Secretary shall also foster the exchange of generic, nonproprietary information and technology, developed pursuant to this chapter, among industry, academia, and the Federal Government, to help the United States economy attain the economic benefits of this information and technology.

(Pub. L. 101–566, §106, Nov. 15, 1990, 104 Stat. 2799; Pub. L. 104–271, title I, §105, Oct. 9, 1996, 110 Stat. 3306.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–271 inserted at end "The Secretary shall also foster the exchange of generic, nonproprietary information and technology, developed pursuant to this chapter, among industry, academia, and the Federal Government, to help the United States economy attain the economic benefits of this information and technology."

§12406. Coordination and consultation

(a) Secretary's responsibility

The Secretary shall have overall management responsibility for carrying out programs under this chapter. In carrying out such programs, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this chapter,[1] to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this chapter.

(b) Assistance

The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this chapter.

(c) Consultation

The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 12407 of this title in carrying out his authorities pursuant to this chapter.

(Pub. L. 101–566, §107, Nov. 15, 1990, 104 Stat. 2800.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, the first time appearing in subsec. (a)(2), was in the original "this title", and was translated as reading "this Act" meaning Pub. L. 101–566, to reflect the probable intent of Congress, because Pub. L. 101–566 is not divided into titles.

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

§12407. Technical panel

(a) Establishment

There is hereby established the Hydrogen Technical Advisory Panel (the "technical panel"), to advise the Secretary on the programs under this chapter.

(b) Membership

The technical panel shall be appointed by the Secretary and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary deems appropriate based on his assessment of the technical and other qualifications of such representatives. Appointments to the

technical panel shall be made within 90 days after November 15, 1990. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(c) Cooperation

The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necessary to carry out this section.

(d) Review

The technical panel shall review and make any necessary recommendations to the Secretary on the following items—

(1) the implementation and conduct of programs under this chapter; and

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems.

(e) Support

The Secretary shall provide such staff, funds and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

(Pub. L. 101–566, §108, Nov. 15, 1990, 104 Stat. 2800; Pub. L. 104–271, title I, §102(b), Oct. 9, 1996, 110 Stat. 3305.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (d)(3). Pub. L. 104–271 struck out par. (3) which read as follows: "comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 12402 of this title."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§12408. Authorization of appropriations

There is hereby authorized to be appropriated to carry out the purposes of this chapter (in addition to any amounts made available for such purposes under other Acts)—

(1) $3,000,000 for the fiscal year 1992;
(2) $7,000,000 for the fiscal year 1993;
(3) $10,000,000 for the fiscal year 1994;
(4) $14,500,000 for fiscal year 1996;
(5) $20,000,000 for fiscal year 1997;
(6) $25,000,000 for fiscal year 1998;
(7) $30,000,000 for fiscal year 1999;
(8) $35,000,000 for fiscal year 2000; and
(9) $40,000,000 for fiscal year 2001.

(Pub. L. 101–566, §109, Nov. 15, 1990, 104 Stat. 2801; Pub. L. 104–271, title I, §106, Oct. 9, 1996, 110 Stat. 3306.)

EDITORIAL NOTES

AMENDMENTS

1996—Pub. L. 104–271 substituted "under other Acts" for "to other Acts" in introductory provisions and added pars. (4) to (9).

CHAPTER 129—NATIONAL AND COMMUNITY SERVICE

§12501. Findings and purpose

(a) Findings

The Congress finds the following:

(1) Throughout the United States, there are pressing unmet human, educational, environmental, and public safety needs.

(2) Americans desire to affirm common responsibilities and shared values, and join together in positive experiences, that transcend race, religion, gender, age, disability, region, income, and education.

(3) The rising costs of postsecondary education are putting higher education out of reach for an increasing number of citizens.

(4) Americans of all ages can improve their communities and become better citizens through service to the United States.

(5) Nonprofit organizations, local governments, States, and the Federal Government are already supporting a wide variety of national service programs that deliver needed services in a cost-effective manner.

(6) Residents of low-income communities, especially youth and young adults, can be empowered through their service, and can help provide future community leadership.

(b) Purpose

It is the purpose of this chapter to—

(1) meet the unmet human, educational, environmental, and public safety needs of the United States, without displacing existing workers;

(2) renew the ethic of civic responsibility and the spirit of community and service throughout the varied and diverse communities of the United States;

(3) expand educational opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training;

(4) encourage citizens of the United States, regardless of age, income, geographic location, or disability, to engage in full-time or part-time national service;

(5) reinvent government to eliminate duplication, support locally established initiatives, require

measurable goals for performance, and offer flexibility in meeting those goals;

(6) expand and strengthen existing national service programs with demonstrated experience in providing structured service opportunities with visible benefits to the participants and community;

(7) build on the existing organizational service infrastructure of Federal, State, and local programs, agencies, and communities to expand full-time and part-time service opportunities for all citizens;

(8) provide tangible benefits to the communities in which national service is performed;

(9) expand and strengthen service-learning programs through year-round opportunities, including opportunities during the summer months, to improve the education of children and youth and to maximize the benefits of national and community service, in order to renew the ethic of civic responsibility and the spirit of community for children and youth throughout the United States;

(10) assist in coordinating and strengthening Federal and other service opportunities, including opportunities for participation in emergency and disaster preparedness, relief, and recovery;

(11) increase service opportunities for the Nation's retiring professionals, including such opportunities for those retiring from the science, technical, engineering, and mathematics professions, to improve the education of the Nation's youth and keep America competitive in the global knowledge economy, and to further utilize the experience, knowledge, and skills of older individuals;

(12) encourage the continued service of the alumni of the national service programs, including service in times of national need;

(13) encourage individuals age 55 or older to partake of service opportunities;

(14) focus national service on the areas of national need such service has the capacity to address, such as improving education, increasing energy conservation, improving the health status of economically disadvantaged individuals, and improving economic opportunity for economically disadvantaged individuals;

(15) recognize and increase the impact of social entrepreneurs and other nonprofit community organizations in addressing national and local challenges;

(16) increase public and private investment in nonprofit community organizations that are effectively addressing national and local challenges and encourage such organizations to replicate and expand successful initiatives;

(17) leverage Federal investments to increase State, local, business, and philanthropic resources to address national and local challenges;

(18) support institutions of higher education that engage students in community service activities and provide high-quality service-learning opportunities; and

(19) recognize the expertise veterans can offer to national service programs, expand the participation of the veterans in the national service programs, and assist the families of veterans and members of the Armed Forces on active duty.

(Pub. L. 101–610, §2, Nov. 16, 1990, 104 Stat. 3129; Pub. L. 103–82, §2(a), Sept. 21, 1993, 107 Stat. 787; Pub. L. 111–13, title I, §1101, Apr. 21, 2009, 123 Stat. 1463.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111–13, §1101(1), substituted "community and service throughout the varied and diverse communities of" for "community throughout".

Subsec. (b)(4). Pub. L. 111–13, §1101(2), inserted "geographic location," after "income,".

Subsec. (b)(6). Pub. L. 111–13, §1101(3), inserted "national" after "existing".

Subsec. (b)(7). Pub. L. 111–13, §1101(4)(A), substituted "programs, agencies, and communities" for

"programs and agencies".

Subsec. (b)(9) to (19). Pub. L. 111–13, §1101(4)(B)–(6), added pars. (9) to (19).

1993—Pub. L. 103–82 amended section generally, substituting provisions relating to findings and purposes for former provisions setting forth the purposes of this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–13, §1(a), Apr. 21, 2009, 123 Stat. 1460, provided that: "This Act [see Tables for classification] may be cited as the 'Serve America Act'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–117, div. B, §1301(a), Jan. 10, 2002, 115 Stat. 2339, provided that: "This section [enacting subchapter III of this chapter] may be cited as the 'Unity in the Spirit of America Act' or the 'USA Act'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–304, §1, Aug. 23, 1994, 108 Stat. 1565, provided that: "This Act [amending sections 4953, 5024, 12591, 12602, 12615, 12619, 12622, 12651d, 12653, and 12655n of this title and enacting provisions set out as a note under section 4953 of this title] may be cited as the 'King Holiday and Service Act of 1994'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–82, §1(a), Sept. 21, 1993, 107 Stat. 785, provided that: "This Act [see Tables for classification] may be cited as the 'National and Community Service Trust Act of 1993'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–384, §1, Oct. 5, 1992, 106 Stat. 1455, provided that: "This Act [amending sections 12511, 12522, 12523, 12525, 12526, 12541, 12550, 12612, 12614, 12615, 12622, 12639, 12651, and 12681 of this title] may be cited as the 'National and Community Service Technical Amendment Act of 1992'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–10, §1, Mar. 12, 1991, 105 Stat. 29, provided that: "This Act [enacting section 12645 of this title, amending sections 5091m, 12511, 12521, 12522, 12524, 12527, 12531, 12542 to 12544, 12548, 12553, 12575, 12576, 12602, 12638, and 12651 of this title, and repealing section 12556 of this title] may be cited as the 'National and Community Service Technical Amendments Act of 1991'."

SHORT TITLE

Pub. L. 101–610, §1(a), Nov. 16, 1990, 104 Stat. 3127, provided that: "This Act [enacting this chapter, sections 5091 to 5091n of this title, and section 2452a of Title 22, Foreign Relations and Intercourse, amending sections 1018c, 1018e, 1070a–6, 1087vv, 1092, and 1092b of Title 20, Education, and former section 546 of Title 45, Railroads, and enacting provisions set out as notes under this section and section 24301 of Title 49, Transportation] may be cited as the 'National and Community Service Act of 1990'."

Pub. L. 101–610, title I, subtitle B (§§110–118), §110, Nov. 16, 1990, 104 Stat. 3132, which provided that such subtitle (enacting former part B (§§12521–12531) of subchapter I of this chapter) be cited as the "Serve-America: The Community Service, Schools and Service-Learning Act of 1990", was repealed by Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 825.

Pub. L. 108–45, §1, July 3, 2003, 117 Stat. 844, which provided that Pub. L. 108–45, enacting section 12605 of this title, could be cited as the "Strengthen AmeriCorps Program Act", was repealed by Pub. L. 111–13, title I, §1406(b), Apr. 21, 2009, 123 Stat. 1521.

Pub. L. 101–610, title I, §199, formerly §120, Nov. 16, 1990, 104 Stat. 3140, as renumbered by Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788, provided that: "This subtitle [subtitle I (§§199–199O) (formerly subtitle C (§§120–136)) of title I of Pub. L. 101–610, enacting division I (formerly part C) of subchapter I of this chapter] may be cited as the 'American Conservation and Youth Service Corps Act of 1990'."

Pub. L. 101–610, title I, subtitle D (§§140–150), §140, Nov. 16, 1990, 104 Stat. 3150, which provided that such subtitle (enacting former part D (§§12571–12580) of subchapter I of this chapter) be cited as the

"National and Community Service Act", was omitted in the general amendment of part D (now division D) by Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 816.

Pub. L. 101–610, title III, §301, Nov. 16, 1990, 104 Stat. 3180, which provided that title III of Pub. L. 101–610, enacting subchapter II of this chapter, could be cited as "The Points of Light Foundation Act", was repealed by Pub. L. 111–13, title I, §1831(a), Apr. 21, 2009, 123 Stat. 1578.

PROVISIONS RELATED TO THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Pub. L. 116–136, div. A, title III, §3514, Mar. 27, 2020, 134 Stat. 405, as amended by Pub. L. 116–159, div. A, §156(d)(1), Oct. 1, 2020, 134 Stat. 721, provided that:

"(a) ACCRUAL OF SERVICE HOURS.—

"(1) ACCRUAL THROUGH OTHER SERVICE HOURS.—

"(A) IN GENERAL.—Notwithstanding any other provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) or the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.), the Corporation for National and Community Service shall allow an individual described in subparagraph (B) to accrue other service hours that will count toward the number of hours needed for the individual's education award.

"(B) AFFECTED INDIVIDUALS.—Subparagraph (A) shall apply to any individual serving in a position eligible for an educational award under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.)—

"(i) who is performing limited service due to COVID–19; or

"(ii) whose position has been suspended or placed on hold due to COVID–19.

"(2) PROVISIONS IN CASE OF EARLY EXIT.—In any case where an individual serving in a position eligible for an educational award under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.) was required to exit the position early at the direction of the Corporation for National and Community Service, the Chief Executive Officer of the Corporation for National and Community Service may—

"(A) deem such individual as having met the requirements of the position; and

"(B) award the individual the full value of the educational award under such subtitle for which the individual would otherwise have been eligible.

"[(b) Repealed. Pub. L. 116–159, div. A, §156(d)(1), Oct. 1, 2020, 134 Stat. 721.]

"(c) NO REQUIRED RETURN OF GRANT FUNDS.—Notwithstanding section 129(l)(3)(A)(i) of the National and Community Service Act of 1990 (42 U.S.C. 12581(l)(3)(A)(i)), the Chief Executive Officer of the Corporation for National and Community Service may permit fixed-amount grant recipients under such section 129(l) to maintain a pro rata amount of grant funds, at the discretion of the Corporation for National and Community Service, for participants who exited, were suspended, or are serving in a limited capacity due to COVID–19, to enable the grant recipients to maintain operations and to accept participants.

"(d) EXTENSION OF TERMS AND AGE LIMITS.—Notwithstanding any other provision of law, the Corporation for National and Community Service may extend the term of service (for a period not to exceed the 1-year period immediately following the end of the national emergency) or waive any upper age limit (except in no case shall the maximum age exceed 26 years of age) for national service programs carried out by the National Civilian Community Corps under subtitle E of title I of the National and Community Service Act of 1990 (42 U.S.C. 12611 et seq.), and the participants in such programs, for the purposes of—

"(1) addressing disruptions due to COVID–19; and

"(2) minimizing the difficulty in returning to full operation due to COVID–19 on such programs and participants."

[Pub. L. 116–159, div. A, §156(d)(1), Oct. 1, 2020, 134 Stat. 721, provided that: "Section 3514(b) of title III of division A of Public Law 116–136 [formerly set out above] is hereby repealed, and such section shall be applied hereafter as if such subsection had never been enacted."]

[Pub. L. 116–159, div. A, §156(e), Oct. 1, 2020, 134 Stat. 721, provided that:

["(1) This section [amending section 3514 of Pub. L. 116–136, set out above] shall become effective immediately upon enactment of this Act [div. A of Pub. L. 116–159, approved Oct. 1, 2020].

["(2) If this Act is enacted after September 30, 2020, this section shall be applied as if it were in effect on September 30, 2020."]

COMPLIANCE WITH BUY AMERICAN ACT

Pub. L. 103–82, title V, §501, Sept. 21, 1993, 107 Stat. 922, provided that: "No funds appropriated pursuant to this Act [see Tables for classification] (including the amendments made by this Act) may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2

through 4 of the Act of March 3, 1933 ([former] 41 U.S.C. 10a–10c, popularly known as the 'Buy American Act' [see 41 U.S.C. 8301 et seq.])."

SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

Pub. L. 103–82, title V, §502, Sept. 21, 1993, 107 Stat. 923, provided that:

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act [see Tables for classification] (including the amendments made by this Act), it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act (including the amendments made by this Act), the Secretary of Education shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress."

PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA

Pub. L. 103–82, title V, §503, Sept. 21, 1993, 107 Stat. 923, provided that: "If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds appropriated to carry out this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13254. ESTABLISHING THE USA FREEDOM CORPS

Ex. Ord. No. 13254, Jan. 29, 2002, 67 F.R. 4869, as amended by Ex. Ord. No. 13286, §6, Feb. 28, 2003, 68 F.R. 10620, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. Building on our Nation's rich tradition of citizen service, this Administration's policy is to foster a culture of responsibility, service, and citizenship by promoting, expanding, and enhancing public service opportunities for all Americans and by making these opportunities readily available to citizens from all geographic areas, professions, and walks of life. More specifically, this Administration encourages all Americans to serve their country for the equivalent of at least 2 years (4,000 hours) over their lifetimes. Toward those ends, the executive departments, agencies, and offices constituting the USA Freedom Corps shall coordinate and strengthen Federal and other service opportunities, including opportunities for participation in homeland security preparedness and response, other areas of public and social service, and international service. The executive branch departments, agencies, and offices also will work with State and local governments and private entities to foster and encourage participation in public and social service programs, as appropriate.

SEC. 2. *USA Freedom Corps*. The USA Freedom Corps shall be an interagency initiative, bringing together executive branch departments, agencies, and offices with public service programs and components, including but not limited to programs and components with the following functions:

(i) recruiting, mobilizing, and encouraging all Americans to engage in public service;

(ii) providing concrete opportunities to engage in public service;

(iii) providing the public with access to information about public service opportunities through Federal programs and elsewhere; and

(iv) providing recognition and awards to volunteers and other participants in public service programs.

SEC. 3. *USA Freedom Corps Council*. (a) *Establishment and Mission*. There shall be a USA Freedom Corps Council (Council) chaired by the President and composed of heads of executive branch departments, agencies, and offices, which shall have the following functions:

(i) serving as a forum for Federal officials responsible for public service programs to coordinate and improve public service programs and activities administered by the executive branch;

(ii) working to encourage all Americans to engage in public service, whether through Federal programs or otherwise;

(iii) advising the President and heads of executive branch departments, agencies, and offices concerning the optimization of current Federal programs to enhance public service opportunities;

(iv) coordinating public outreach and publicity of citizen service opportunities provided by Federal programs;

(v) encouraging schools, universities, private public service organizations, and other non-Federal entities to foster and reward public service;

(vi) studying the availability of public service opportunities provided by the Federal Government and elsewhere; and

(vii) tracking progress in participation in public service programs.

(b) *Membership*. In addition to the Chair, the members of the Council shall be the heads of the executive branch departments, agencies, and offices listed below, or their designees, and such other officers of the executive branch as the President may from time to time designate. Every member of the Council or designee shall be a full-time or permanent part-time officer or employee of the Federal Government. Members shall not be compensated for their service on the Council in addition to the salaries they receive as employees or officers of the Federal Government.

(i) Vice President;

(ii) Attorney General;

(iii) Secretary of State;

(iv) Secretary of Health and Human Services;

(v) Secretary of Commerce;

(vi) Secretary of Education;

(vii) Secretary of Veterans Affairs;

(viii) Secretary of Homeland Security;

(ix) Chief Executive Officer of the Corporation for National and Community Service;

(x) Director of the Peace Corps;

(xi) Administrator of the United States Agency for International Development;

(xii) Director of the USA Freedom Corps Office; and

(xiii) Director of the Office of Faith-Based and Community Initiatives.

(c) *Chair*. The President shall be the Chair of the USA Freedom Corps Council, and in his absence, the Vice President shall serve as Chair. The Director of the USA Freedom Corps Office may, at the President's direction, preside over meetings of the Council in the President's and Vice President's absence.

(d) *Honorary Co-Chair*. The President may, from time to time, designate an Honorary Co-Chair or Co-Chairs, who shall serve in an advisory role to the Council and to the President on matters considered by the Council. Any Honorary Co-Chair shall be a full-time or permanent part-time employee or officer of the Federal Government.

(e) *Meetings*. The Council shall meet at the President's direction. The Director of the USA Freedom Corps Office shall be responsible, at the President's direction, for determining the agenda, ensuring that necessary papers are prepared, and recording Council actions and Presidential decisions.

(f) *Responsibilities of Executive Branch Departments, Agencies, and Offices.*

(i) Members of the Council shall remain responsible for overseeing the programs administered by their respective departments, agencies, and offices. Each such department, agency, and office will retain its authority and responsibility to administer those programs according to law;

(ii) Each executive branch department, agency, or office with responsibility for programs relating to the functions and missions of the USA Freedom Corps as described in section 2 of this order shall be responsible for identifying those public service opportunities and coordinating with the USA Freedom Corps Council to ensure that such programs are, if appropriate, publicized and encouraged by the Council; and

(iii) Upon the request of the Chair, and to the extent permitted by law, the heads of executive branch departments and agencies shall provide the Council with relevant information.

SEC. 4. *USA Freedom Corps Office*. (a) *General*. The USA Freedom Corps also shall be supported by a USA Freedom Corps Office (Office), which shall be a component of the White House Office. The USA Freedom Corps Office shall have a Director who shall be appointed by the President. The Director shall be assisted by an appropriate staff within the White House Office.

(b) *Presidential Recognition to Participants in USA Freedom Corps Programs*. In addition to supporting and facilitating the functions of the Council listed in section 3 of this order, the Office shall support the President in providing recognition to volunteers and other participants in programs and activities relating to the functions and missions of the USA Freedom Corps as described in section 2 of this order.

SEC. 5. *General Provisions*. (a) The White House Office shall provide the Council and Office with such funding and administrative support, to the extent permitted by law and subject to the availability of appropriations, as directed by the Chief of Staff to the President to carry out the provisions of this order.

(b) This order does not alter the existing authorities or roles of executive branch departments, agencies, or offices. Nothing in this order shall supersede any requirement made by or under law.

(c) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13331. NATIONAL AND COMMUNITY SERVICE PROGRAMS

Ex. Ord. No. 13331, Feb. 27, 2004, 69 F.R. 9911, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen the ability of programs authorized under the national service laws to build and reinforce a culture of service, citizenship, and responsibility throughout our Nation, and to institute reforms to improve accountability and efficiency in the administration of those programs, it is hereby ordered as follows:

SECTION 1. *Definitions*. For purposes of this order:

(a) "National service laws" means the National and Community Service Act of 1990 (42 U.S.C. 12501 *et seq*.) and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 *et seq*.);

(b) "National and community service programs" means those programs authorized under the national service laws;

(c) "Policies governing programs authorized under the national service laws" refers to all policies, programs, guidelines, and regulations, including official guidance and internal agency procedures and practices, that are issued by the Corporation for National and Community Service (Corporation) and have significant effects on national and community service programs; and

(d) "Professional corps programs" means those programs described in section 122(a)(8) of the National and Community Service Act of 1990 (42 U.S.C. 12572(a)(8)) [see 42 U.S.C. 12572(c)(1)(D)].

SEC. 2. *Fundamental Principles and Policymaking Criteria*. In formulating and implementing policies governing programs authorized under the national service laws, the Corporation shall, to the extent permitted by law, adhere to the following fundamental principles:

(a) National and community service programs should support and encourage greater engagement of Americans in volunteering;

(b) National and community service programs should be more responsive to State and local needs;

(c) National and community service programs should make Federal support more accountable and more effective; and

(d) National and community service programs should expand opportunities for involvement of faith-based and other community organizations.

SEC. 3. *Agency Implementation*. (a) The Chief Executive Officer of the Corporation for National and Community Service (Chief Executive Officer) shall, in coordination with the USA Freedom Corps Council, review and evaluate existing policies governing national and community service programs in order to assess the consistency of such policies with the fundamental principles and policymaking criteria described in section 2 of this order.

(b) The Chief Executive Officer shall ensure that all policies governing national and community service programs issued by the Corporation are consistent with the fundamental principles and policymaking criteria described in section 2 of this order. To that end, the Chief Executive Officer shall, to the extent permitted by law,

(i) amend all such existing policies to ensure that they are consistent with the fundamental principles and policymaking criteria articulated in section 2 of this order; and

(ii) where appropriate, implement new policies that are consistent with and necessary to further the fundamental principles and policymaking criteria set forth in section 2 of this order.

(c) In developing implementation steps, the Chief Executive Officer should address, at a minimum, the following objectives:

(i) National and community service programs should leverage Federal resources to maximize support from the private sector and from State and local governments, with an emphasis on reforms that enhance programmatic flexibility, reduce administrative burdens, and calibrate Federal assistance to the respective needs of recipient organizations;

(ii) National and community service programs should leverage Federal resources to enable the recruitment and effective management of a larger number of volunteers than is currently possible;

(iii) National and community service programs should increase efforts to expand opportunities for, and strengthen the capacity of, faith-based and other community organizations in building and strengthening an infrastructure to support volunteers that meet community needs;

(iv) National and community service programs should adopt performance measures to identify those practices that merit replication and further investment, as well as to ensure accountability;

(v) National and community service programs should, consistent with the principles of Federalism and the constitutional role of the States and Indian tribes, promote innovation, flexibility, and results at all levels of government;

(vi) National and community service programs based in schools should employ tutors who meet required paraprofessional qualifications, and use such practices and methodologies as are required for supplemental educational services;

(vii) National and community service programs should foster a lifetime of citizenship and civic engagement among those who serve;

(viii) National and community service programs should avoid or eliminate practices that displace volunteers who are not supported under the national service laws; and

(ix) Guidelines for the selection of national and community service programs should recognize the importance of professional corps programs in light of the fundamental principles and policymaking criteria set forth in this order.

SEC. 4. *Management Reforms*. (a) The Corporation should implement internal management reforms to strengthen its oversight of national and community service programs through enforcement of performance and compliance standards and other management tools.

(b) Management reforms should include, but should not be limited to, the following:

(i) Institutionalized changes to the budgetary and grant-making processes to ensure that financial commitments remain within available resources;

(ii) Enhanced accounting and management systems that would ensure compliance with fiscal restrictions and provide timely, accurate, and readily available information about enrollment in AmeriCorps and about funding and obligations incurred for all national and community service programs;

(iii) Assurance by the Chief Executive Officer and the Chief Financial Officer in the Corporation's Management Representation Letter that its financial statements, including the Statement of Budgetary Resources, are accurate and reliable; and

(iv) Management reforms that tie employee performance to fiscal responsibility, attainment of management goals, and professional conduct.

SEC. 5. *Report*. Within 180 days after the date of this order, the Chief Executive Officer shall report to the President, through the Assistant to the President and Director of the USA Freedom Corps Office, the actions the Corporation proposes to undertake to accomplish the objectives set forth in this order.

SEC. 6. *Judicial Review*. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

EXPANDING NATIONAL SERVICE THROUGH PARTNERSHIPS TO ADVANCE GOVERNMENT PRIORITIES

Memorandum of President of the United States, July 15, 2013, 78 F.R. 43747, provided:

Memorandum for the Heads of Executive Departments and Agencies

Service has always been integral to the American identity. Our country was built on the belief that all of us, working together, can make this country a better place for all. That spirit remains as strong and integral to our identity today as at our country's founding.

Since its creation 20 years ago, the Corporation for National and Community Service (CNCS) has been the Federal agency charged with leading and expanding national service. The Edward M. Kennedy Serve America Act of 2009 (SAA) expanded CNCS's authority to create opportunities for more Americans to serve. This landmark, bipartisan legislation focuses national service on six areas: emergency and disaster services; economic opportunity; education; environmental stewardship; healthy futures; and veterans and military families. The SAA provides greater opportunities for CNCS to partner with other executive departments and agencies (agencies) and with the private sector to utilize national service to address these critical areas.

National service and volunteering can be effective solutions to national challenges and can have positive and lasting impacts that reach beyond the immediate service experience. Americans engaged in national service make an intensive commitment to tackle unmet national and local needs by working through non-profit, faith-based, and community organizations. Service can help Americans gain valuable skills, pursue higher education, and jumpstart their careers, which can provide immediate and long-term benefits to those individuals, as well as the communities in which they serve.

Americans are ready and willing to serve. Applications from Americans seeking to engage in national

service programs far exceed the number of available positions. By creating new partnerships between agencies and CNCS that expand national service opportunities in areas aligned with agency missions, we can utilize the American spirit of service to improve lives and communities, expand economic and educational opportunities, enhance agencies' capacity to achieve their missions, efficiently use tax dollars, help individuals develop skills that will enable them to prepare for long-term careers, and build a pipeline to employment inside and outside the Federal Government.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to expand the positive impact of national service, I hereby direct the following:

SECTION 1. *Establishing a Task Force on Expanding National Service*. There is established a Task Force on Expanding National Service, to be co-chaired by the Chief Executive Officer of CNCS and the Director of the Domestic Policy Council, which shall include representatives from agencies and offices that administer programs and develop policies in areas that include the six focus areas set forth in the SAA. The Task Force shall include representatives from:

(a) the Department of Defense;
(b) the Department of Justice;
(c) the Department of the Interior;
(d) the Department of Agriculture;
(e) the Department of Commerce;
(f) the Department of Labor;
(g) the Department of Health and Human Services;
(h) the Department of Housing and Urban Development;
(i) the Department of Transportation;
(j) the Department of Energy;
(k) the Department of Education;
(l) the Department of Veterans Affairs;
(m) the Department of Homeland Security;
(n) the Peace Corps;
(o) the National Science Foundation;
(p) the Office of Personnel Management;
(q) the Environmental Protection Agency;
(r) the White House Office of Cabinet Affairs; and
(s) such other agencies and offices as the co-chairs may designate.

SEC. 2. *Mission and Function of the Task Force*. (a) The Task Force shall:

(i) identify existing, and, if appropriate, recommend new, policies or practices that support the expansion of national service and volunteer opportunities that align with the SAA and agency priorities;

(ii) make recommendations on the most effective way to coordinate national service and volunteering programs across the Federal Government;

(iii) identify and develop opportunities for interagency agreements between CNCS and other agencies to support the expansion of national service and volunteering;

(iv) identify and develop public-private partnerships to support the expansion of national service and volunteering;

(v) identify and develop strategies to use innovation and technology to facilitate the ability of the public to participate in national service and volunteering activities; and

(vi) develop a mechanism to evaluate the effectiveness and cost-effectiveness of national service and volunteering interventions in achieving agency priorities, and aggregate and disseminate the results of that evaluation.

(b) Within 18 months of the date of this memorandum, the Task Force shall provide the President with a report on the progress made with respect to the functions set forth in subsection (a) of this section.

SEC. 3. *Facilitating National Service and Volunteering Partnerships*. (a) Each agency on the Task Force shall:

(i) within 180 days of the date of this memorandum, consult with CNCS about how existing authorities and CNCS programs can be used to enter into interagency and public-private partnerships that allow for meaningful national service and volunteering opportunities, including participating in AmeriCorps, and help the agency achieve its mission;

(ii) work with CNCS to evaluate the effectiveness and cost-effectiveness of such partnerships; and

(iii) work with CNCS to identify ways in which the agency's national service participants and volunteers can develop transferable skills, and also how national service can serve as a pipeline to employment inside and outside the Federal Government.

(b) Where practicable, agencies may consider entering into interagency agreements with CNCS to share program development and funding responsibilities, as authorized under 42 U.S.C. 12571(b)(1).

SEC. 4. *Recruitment of National Service Participants in the Civilian Career Services*. In order to provide national service participants a means to pursue additional opportunities to continue their public service through career civilian service, the Office of Personnel Management shall, within 120 days of the date of this memorandum, issue guidance to agencies on developing and improving Federal recruitment strategies for participants in national service.

SEC. 5. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Chief Executive Officer of CNCS is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

SUBCHAPTER I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Division A—General Provisions

§12511. Definitions

For purposes of this subchapter:

(1) Adult volunteer

The term "adult volunteer" means an individual, such as an older adult, an individual with a disability, a parent, or an employee of a business or public or private nonprofit organization, who—

(A) works without financial remuneration in an educational institution to assist students or out-of-school youth; and

(B) is beyond the age of compulsory school attendance in the State in which the educational institution is located.

(2) Alaska Native-serving institution

The term "Alaska Native-serving institution" has the meaning given the term in section 1059d(b) of title 20.

(3) Approved national service position

The term "approved national service position" means a national service position for which the Corporation has approved the provision of a national service educational award described in section 12603 of this title as one of the benefits to be provided for successful service in the position.

(4) Approved silver scholar position

The term "approved silver scholar position" means a position, in a program described in section 12653c(a) of this title, for which the Corporation has approved the provision of a silver

scholarship educational award as one of the benefits to be provided for successful service in the position.

(5) Approved summer of service position

The term "approved summer of service position" means a position, in a program described in section 12563(c)(8) of this title, for which the Corporation has approved the provision of a summer of service educational award as one of the benefits to be provided for successful service in the position.

(6) Asian American and Native American Pacific Islander-serving institution

The term "Asian American and Native American Pacific Islander-serving institution" has the meaning given the term in section 1059g(b) of title 20.

(7) Authorizing committees

The term "authorizing committees" means the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(8) Carry out

The term "carry out", when used in connection with a national service program, means the planning, establishment, operation, expansion, or replication of the program.

(9) Chief Executive Officer

The term "Chief Executive Officer", except when used to refer to the chief executive officer of a State, means the Chief Executive Officer of the Corporation appointed under section 12651c of this title.

(10) Community-based agency

The term "community-based agency" means a private nonprofit organization (including a church or other religious entity) that—

(A) is representative of a community or a significant segment of a community; and

(B) is engaged in meeting human, educational, environmental, or public safety community needs.

(11) Community-based entity

The term "community-based entity" means a public or private nonprofit organization that—

(A) has experience with meeting unmet human, educational, environmental, or public safety needs; and

(B) meets other such criteria as the Chief Executive Officer may establish.

(12) Corporation

The term "Corporation" means the Corporation for National and Community Service established under section 12651 of this title.

(13) Disadvantaged youth

The term "disadvantaged youth" includes those youth who are economically disadvantaged and 1 or more of the following:

(A) Who are out-of-school youth, including out-of-school youth who are unemployed.

(B) Who are in or aging out of foster care.

(C) Who have limited English proficiency.

(D) Who are homeless or who have run away from home.

(E) Who are at-risk to leave secondary school without a diploma.

(F) Who are former juvenile offenders or at risk of delinquency.

(G) Who are individuals with disabilities.

(14) Economically disadvantaged

The term "economically disadvantaged" means, with respect to an individual, an individual who is determined by the Chief Executive Officer to be low-income according to the latest available

data from the Department of Commerce.

(15) Elementary school

The term "elementary school" has the same meaning given such term in section 7801 of title 20.

(16) Encore service program

The term "encore service program" means a program, carried out by an eligible entity as described in subsection (a), (b), or (c) of section 12572 of this title, that—

(A) involves a significant number of participants age 55 or older in the program; and

(B) takes advantage of the skills and experience that such participants offer in the design and implementation of the program.

(17) Hispanic-serving institution

The term "Hispanic-serving institution" has the meaning given such term in section 1101a(a) of title 20.

(18) Historically black college or university

The term "historically black college or university" means a part B institution, as defined in section 1061 of title 20.

(19) Indian

The term "Indian" means a person who is a member of an Indian tribe, or is a "Native", as defined in section 1602(b) of title 43.

(20) Indian lands

The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for an Indian or Indian tribe, and any real property held by an Indian or Indian tribe that is subject to restrictions on alienation imposed by the United States.

(21) Indian tribe

The term "Indian tribe" means—

(A) an Indian tribe, band, nation, or other organized group or community, including—

(i) any Native village, as defined in section 1602(c) of title 43, whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act"; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); [1] and

(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 1602 of title 43,

that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

(22) Individual with a disability

Except as provided in section 12635(a) of this title, the term "individual with a disability" has the meaning given the term in section 705(20)(B) of title 29.

(23) Institution of higher education

The term "institution of higher education" has the same meaning given such term in sections 1001(a) and 1002(a)(1) of title 20.

(24) Local educational agency

The term "local educational agency" has the same meaning given such term in section 7801 of title 20.

(25) Medically underserved population

The term "medically underserved population" has the meaning given that term in section 254b(b)(3) of this title.

(26) National service laws

The term "national service laws" means this chapter and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(27) Native American-serving, nontribal institution

The term "Native American-serving, nontribal institution" has the meaning given the term in section 1059f(b) of title 20.

(28) Native Hawaiian-serving institution

The term "Native Hawaiian-serving institution" has the meaning given the term in section 1059d(b) of title 20.

(29) Out-of-school youth

The term "out-of-school youth" means an individual who—

(A) has not attained the age of 27;

(B) has not completed college or the equivalent thereof; and

(C) is not enrolled in an elementary or secondary school or institution of higher education.

(30) Participant

(A) In general

The term "participant" means—

(i) for purposes of division C, an individual in an approved national service position; and

(ii) for purposes of any other provision of this chapter, an individual enrolled in a program that receives assistance under this subchapter.

(B) Rule

A participant shall not be considered to be an employee of the organization receiving assistance under the national service laws through which the participant is engaging in service.

(31) Partnership program

The term "partnership program" means a program through which an adult volunteer, a public or private nonprofit organization, an institution of higher education, or a business assists a local educational agency.

(32) Predominantly Black Institution

The term "Predominantly Black Institution" has the meaning given the term in section 1059e of title 20.

(33) Principles of scientific research

The term "principles of scientific research" means principles of research that—

(A) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to the subject matter involved;

(B) present findings and make claims that are appropriate to, and supported by, the methods that have been employed; and

(C) include, appropriate to the research being conducted—

(i) use of systematic, empirical methods that draw on observation or experiment;

(ii) use of data analyses that are adequate to support the general findings;

(iii) reliance on measurements or observational methods that provide reliable and generalizable findings;

(iv) strong claims of causal relationships, only with research designs that eliminate plausible competing explanations for observed results, such as, but not limited to, random-assignment experiments;

(v) presentation of studies and methods in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) acceptance by a peer-reviewed journal or critique by a panel of independent experts

through a comparably rigorous, objective, and scientific review; and

(vii) consistency of findings across multiple studies or sites to support the generality of results and conclusions.

(34) Program

The term "program", unless the context otherwise requires, and except when used as part of the term "academic program", means a program described in section 12523(a) of this title (other than a program referred to in paragraph (3)(B) of such section), 12561a, or 12561(b)(1), or subsection (a), (b), or (c) of section 12572 of this title, or in paragraph (1) or (2) of section 12612(b) of this title, section 12653b of this title, 12653c of this title, 198G,[1] 12653h of this title, or 12653k of this title, or an activity that could be funded under section 12639a, 12653, 12653o, 12653p, or 12657 of this title.

(35) Project

The term "project" means an activity, carried out through a program that receives assistance under this subchapter, that results in a specific identifiable service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

(36) Qualified organization

The term "qualified organization" means a public or private nonprofit organization with experience working with school-age youth that meets such criteria as the Chief Executive Officer may establish.

(37) School-age youth

The term "school-age youth" means—

(A) individuals between the ages of 5 and 17, inclusive; and

(B) children with disabilities, as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3)), who receive services under part B of such Act [20 U.S.C. 1411 et seq.].

(38) Scientifically valid research

The term "scientifically valid research" includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

(39) Secondary school

The term "secondary school" has the same meaning given such term in section 7801 of title 20.

(40) Service-learning

The term "service-learning" means a method—

(A) under which students or participants learn and develop through active participation in thoughtfully organized service that—

(i) is conducted in and meets the needs of a community;

(ii) is coordinated with an elementary school, secondary school, institution of higher education, or community service program, and with the community; and

(iii) helps foster civic responsibility; and

(B) that—

(i) is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and

(ii) provides structured time for the students or participants to reflect on the service experience.

(41) Service-learning coordinator

The term "service-learning coordinator" means an individual who provides services as described in subsection (a)(3) or (b) of section 12523 of this title.

(42) Service sponsor

The term "service sponsor" means an organization, or other entity, that has been selected to provide a placement for a participant.

(43) State

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

(44) State Commission

The term "State Commission" means a State Commission on National and Community Service maintained by a State pursuant to section 12638 of this title. Except when used in section 12638 of this title, the term includes an alternative administrative entity for a State approved by the Corporation under such section to act in lieu of a State Commission.

(45) State educational agency

The term "State educational agency" has the same meaning given such term in section 7801 of title 20.

(46) Student

The term "student" means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.

(47) Territory

The term "territory" means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(48) Tribally controlled college or university

The term "tribally controlled college or university" has the meaning given such term in section 1801 of title 25.

(49) Veteran

The term "veteran" has the meaning given the term in section 101 of title 38.

(Pub. L. 101–610, title I, §101, Nov. 16, 1990, 104 Stat. 3129; Pub. L. 102–10, §3, Mar. 12, 1991, 105 Stat. 29; Pub. L. 102–384, §3, Oct. 5, 1992, 106 Stat. 1455; Pub. L. 103–82, title I, §111(a), Sept. 21, 1993, 107 Stat. 857; Pub. L. 103–382, title III, §394(h)(1), Oct. 20, 1994, 108 Stat. 4028; Pub. L. 105–220, title IV, §414(g), Aug. 7, 1998, 112 Stat. 1242; Pub. L. 105–244, title I, §102(a)(13)(K), Oct. 7, 1998, 112 Stat. 1621; Pub. L. 107–110, title X, §1076(ff), Jan. 8, 2002, 115 Stat. 2093; Pub. L. 108–446, title III, §305(m), Dec. 3, 2004, 118 Stat. 2806; Pub. L. 111–13, title I, §1102, Apr. 21, 2009, 123 Stat. 1464; Pub. L. 114–95, title IX, §9215(bbb)(1), Dec. 10, 2015, 129 Stat. 2184.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of June 18, 1934 (commonly known as the "Indian Reorganization Act"; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.), referred to in par. (21)(A)(i), is act June 18, 1934, ch. 576, 48 Stat. 984, which was classified generally to subchapter V (§461 et seq.) of chapter 14 of Title 25, Indians, prior to editorial reclassification as chapter 45 (§5101 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of Title 25 and Tables.

This chapter, referred to in pars. (26) and (30)(A)(ii), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in par. (26), is Pub. L. 93–113, Oct. 1, 1973, 87

Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 198G, referred to in par. (34), is unidentifiable in the original, since Pub. L. 101–610 does not contain a section 198G.

The Individuals with Disabilities Education Act, referred to in par. (37)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

2015—Pars. (15), (24), (39), (45). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

2009—Pub. L. 111–13, §1102(b), redesignated pars. (1) to (49) as (1), (3), (8), (9), (10), (12), (14), (15), (19), (20), (21), (22), (23), (24), (26), (29), (30), (31), (34), (35), (37), (39), (40), (41), (42), (43), (44), (45), (46), (2), (4), (5), (6), (7), (11), (13), (16), (17), (18), (25), (27), (28), (32), (33), (36), (38), (47), (48), and (49), respectively, and rearranged pars. in numerical order.

Par. (3). Pub. L. 111–13, §1102(a)(1), struck out "described in section 12572 of this title" after "service program".

Par. (13). Pub. L. 111–13, §1102(a)(2), which directed substitution of "sections 1001(a) and 1002(a)(1) of title 20" for "section 1001(a) of title 20", was executed by making the substitution for "section 1001 of title 20" to reflect the probable intent of Congress.

Par. (17)(B). Pub. L. 111–13, §1102(a)(3), substituted "organization receiving assistance under the national service laws through which the participant is engaging in service" for "program in which the participant is enrolled".

Par. (19). Pub. L. 111–13, §1102(a)(4), substituted "section 12523(a) of this title" for "section 12521(a) of this title", struck out "12542(a)," after "(3)(B) of such section),", substituted "12561a, or 12561(b)(1), or subsection (a), (b), or (c) of section 12572 of this title," for "12561(b)(1), or 12572(a) of this title,", inserted "section 12653b of this title, 12653c of this title, 198G, 12653h of this title, or 12653k of this title," after "section 12612(b) of this title,", and substituted "12639a, 12653, 12653o, 12653p, or 12657" for "12653, 12653c, or 12653d".

Par. (21)(B). Pub. L. 111–13, §1102(a)(5), substituted "602(3)" for "602" and "1401(3)" for "1401".

Par. (24). Pub. L. 111–13, §1102(a)(6), substituted "section 12523 of this title" for "section 12521 of this title".

Par. (26). Pub. L. 111–13, §1102(a)(7), struck out "The term also includes Palau, until such time as the Compact of Free Association is ratified." at end.

Pars. (30) to (49). Pub. L. 111–13, §1102(a)(8), added pars. (30) to (49).

2004—Par. (21)(B). Pub. L. 108–446 substituted "section 602" for "section 602(a)(1)" and "1401" for "1401(a)(1)".

2002—Pars. (8), (14), (22), (28). Pub. L. 107–110 substituted "section 7801 of title 20" for "section 8801 of title 20".

1998—Par. (12). Pub. L. 105–220 substituted "section 705(20)(B) of title 29" for "section 706(8)(B) of title 29".

Par. (13). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

1994—Par. (8). Pub. L. 103–382, §394(h)(1)(A), substituted "section 8801 of title 20" for "section 2891(8) of title 20".

Par. (14). Pub. L. 103–382, §394(h)(1)(B), substituted "section 8801 of title 20" for "section 2891(12) of title 20".

Par. (22). Pub. L. 103–382, §394(h)(1)(C), substituted "section 8801 of title 20" for "section 2891(21) of title 20".

Par. (28). Pub. L. 103–382, §394(h)(1)(D), substituted "section 8801 of title 20" for "section 2891(23) of title 20".

1993—Pub. L. 103–82 amended section generally, substituting provisions consisting of 29 definitions of terms used in this subchapter for former provisions consisting of 30 definitions.

1992—Par. (29). Pub. L. 102–384, §3(1), added par. (29) and struck out former par. (29) which read as follows: "The term 'summer program' means a youth corps program authorized under this subchapter that is limited to the months of June, July, and August."

Par. (30). Pub. L. 102–384, §3(2), substituted "living allowances" for "stipends".

1991—Par. (7). Pub. L. 102–10, §3(1), added par. (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 102–10, §3(2), (3), redesignated par. (7) as (8) and inserted "an Indian or" before "Indian tribes" in two places. Former par. (8) redesignated (9).

Pars. (9) to (13). Pub. L. 102–10, §3(2), redesignated pars. (8) to (12) as (9) to (13), respectively. Former par. (13) redesignated (14).

Par. (14). Pub. L. 102–10, §3(2), (4), redesignated par. (13) as (14) and inserted at end "Participants shall not be considered employees of the program." Former par. (14) redesignated (15).

Pars. (15) to (22). Pub. L. 102–10, §3(2), redesignated pars. (14) to (21) as (15) to (22), respectively. Former par. (22) redesignated (23).

Par. (23). Pub. L. 102–10, §3(5), which directed the substitution of "participants" for "students or out of school youth", was executed by making the substitution for "students or out-of-school youth" to reflect the probable intent of Congress.

Pub. L. 102–10, §3(2), redesignated par. (22) as (23). Former par. (23) redesignated (24).

Par. (24). Pub. L. 102–10, §3(2), (6), redesignated par. (23) as (24) and in heading and text substituted "participant" for "member". Former par. (24) redesignated (25).

Pars. (25) to (29). Pub. L. 102–10, §3(2), redesignated pars. (24) to (28) as (25) to (29), respectively. Former par. (29) redesignated (30).

Par. (30). Pub. L. 102–10, §3(2), (7), redesignated par. (29) as (30) and inserted "corps" after "youth service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

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

§12512. Repealed. Pub. L. 103–82, title I, §112, Sept. 21, 1993, 107 Stat. 861

Section, Pub. L. 101–610, title I, §102, Nov. 16, 1990, 104 Stat. 3132, authorized Commission to make grants to carry out programs under parts B, C, D, and E of this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12513. Study of program effectiveness

(a) In general

Not later than 12 months after April 21, 2009, the Comptroller General of the United States shall develop performance measures for each program receiving Federal assistance under the national service laws.

(b) Contents

The performance measures developed under subsection (a) shall—

(1) to the maximum extent practicable draw on research-based, quantitative data;

(2) take into account program purpose and program design;

(3) include criteria to evaluate the cost effectiveness of programs receiving assistance under the national service laws;

(4) include criteria to evaluate the administration and management of programs receiving Federal assistance under the national service laws; and

(5) include criteria to evaluate oversight and accountability of recipients of assistance through such programs under the national service laws.

(c) Report

Not later than 2 years after the development of the performance measures under subsection (a), and every 5 years thereafter, the Comptroller General of the United States shall prepare and submit to the authorizing committees and the Corporation's Board of Directors a report containing an assessment of each such program with respect to the performance measures developed under subsection (a).

(d) Definitions

In this section:

(1) In general

The terms "authorizing committees", "Corporation", and "national service laws" have the meanings given the terms in section 12511 of this title.

(2) Program

The term "program" means an entire program carried out by the Corporation under the national service laws, such as the entire AmeriCorps program carried out under subtitle C.[1]

(Pub. L. 111–13, title I, §1712, Apr. 21, 2009, 123 Stat. 1551.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subtitle C, referred to in subsec. (d)(2), probably means subtitle C (§121 et seq.) of title I of Pub. L. 101–610, which is classified generally to division C (§12571 et seq.) of this subchapter. For complete classification of subtitle C to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Serve America Act, and not as part of the National and Community Service Act of 1990 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

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

Division B—School-Based and Community-Based Service-Learning Programs

EDITORIAL NOTES

PRIOR PROVISIONS

This division is comprised of subtitle B, §§111–120, of title I of Pub. L. 101–610. A prior part B (§12521 et seq.), comprised of subtitle B, §§111–118, of title I of Pub. L. 101–610, related to programs for students and out-of-school youth, prior to repeal by Pub. L. 103–82, title I, §103(a)(2), (b), Sept. 21, 1993, 107 Stat. 825, 837.

PART I—PROGRAMS FOR ELEMENTARY AND SECONDARY SCHOOL STUDENTS

EDITORIAL NOTES

CODIFICATION

Part I of subtitle B of title I of the National and Community Service Act of 1990, comprising this part, was originally added to Pub. L. 101–610, title I, subtitle B, by Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 825, and amended by Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Such part is shown herein, however, as having been added by Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1467, without reference to such intervening amendments because of the extensive revision of the part's provisions by Pub. L. 111–13.

§12521. Purpose

The purpose of this part is to promote service-learning as a strategy to—

(1) support high-quality service-learning projects that engage students in meeting community needs with demonstrable results, while enhancing students' academic and civic learning; and

(2) support efforts to build institutional capacity, including the training of educators, and to strengthen the service infrastructure to expand service opportunities.

(Pub. L. 101–610, title I, §111, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1467.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12521, Pub. L. 101–610, title I, §111, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 825, prescribed general authority of the Corporation for National and Community Service to make grants for service-learning programs, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12521, Pub. L. 101–610, title I, §111, Nov. 16, 1990, 104 Stat. 3132; Pub. L. 102–10, §4(2), Mar. 12, 1991, 105 Stat. 30, prescribed general authority of Commission on National and Community Service to make grants for service-learning programs, prior to repeal by Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 825.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009

Amendment note under section 4950 of this title.

§12522. Definitions

In this part:

(1) State

The term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) State educational agency

The term "State educational agency" means—

(A) a State educational agency (as defined in section 12511 of this title) of a State; or

(B) for a State in which a State educational agency described in subparagraph (A) has designated a statewide entity under section 12523(e) [1] of this title, that designated statewide entity.

(Pub. L. 101–610, title I, §111A, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1467.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12523(e) of this title, referred to in par. (2)(B), probably should be a reference to section 12523(d) of this title, which relates to designation of a statewide entity to carry out the functions of the State educational agency. Section 12523(e) relates to consultation of the Corporation with the Secretary of Education.

PRIOR PROVISIONS

A prior section 12522, Pub. L. 101–610, title I, §111A, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 827, granted the Corporation authority to assist local applicants in nonparticipating States, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12522, Pub. L. 101–610, title I, §112, Nov. 16, 1990, 104 Stat. 3133; Pub. L. 102–10, §4(3), Mar. 12, 1991, 105 Stat. 30; Pub. L. 102–384, §4, Oct. 5, 1992, 106 Stat. 1455, related to allotments, prior to repeal by Pub. L. 103–82, §103(a)(2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

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

§12523. Assistance to States, territories, and Indian tribes

(a) Allotments to States, territories, and Indian tribes

The Corporation, in consultation with the Secretary of Education, may make allotments to State educational agencies, territories, and Indian tribes to pay for the Federal share of—

(1) planning and building the capacity within the State, territory, or Indian tribe involved to implement service-learning programs that are based principally in elementary schools and secondary schools, including—

(A) providing training and professional development for teachers, supervisors, personnel from community-based entities (particularly with regard to the recruitment, utilization, and management of participants), and trainers, to be conducted by qualified individuals or

organizations that have experience with service-learning;

(B) developing service-learning curricula, consistent with State or local academic content standards, to be integrated into academic programs, including curricula for an age-appropriate learning component that provides participants an opportunity to analyze and apply their service experiences;

(C) forming local partnerships described in paragraph (2) or (4)(D) to develop school-based service-learning programs in accordance with this part;

(D) devising appropriate methods for research on and evaluation of the educational value of service-learning and the effect of service-learning activities on communities;

(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based entities with demonstrated effectiveness in working with school-age youth in their communities; and

(F) establishing effective outreach and dissemination of information to ensure the broadest possible participation of schools throughout the State, throughout the territory, or serving the Indian tribe involved with particular attention to schools implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of title 20;

(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, training, supervision, placement, salaries, and benefits of service-learning coordinators, through distribution by State educational agencies, territories, and Indian tribes of Federal funds made available under this part to projects operated by local partnerships among—

(A) local educational agencies; and

(B) 1 or more community partners that—

(i) shall include a public or private nonprofit organization that—

(I) has a demonstrated expertise in the provision of services to meet unmet human, education, environmental, or public safety needs;

(II) will make projects available for participants, who shall be students; and

(III) was in existence at least 1 year before the date on which the organization submitted an application under section 12525 of this title; and

(ii) may include a private for-profit business, private elementary school or secondary school, or Indian tribe (except that an Indian tribe distributing funds to a project under this paragraph is not eligible to be part of the partnership operating that project);

(3) planning of school-based service-learning programs, through distribution by State educational agencies, territories, and Indian tribes of Federal funds made available under this part to local educational agencies and Indian tribes, which planning may include paying for the cost of—

(A) the salaries and benefits of service-learning coordinators; or

(B) the recruitment, training and professional development, supervision, and placement of service-learning coordinators who may be participants in a program under division C or receive a national service educational award under division D, who may be participants in a project under section 5001 of this title, or who may participate in a Youthbuild program under section 3226 of title 29,

who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2);

(4) implementing, operating, or expanding school-based service-learning programs to utilize adult volunteers in service-learning to improve the education of students, through distribution by State educational agencies, territories, and Indian tribes of Federal funds made available under this part to—

(A) local educational agencies;

(B) Indian tribes (except that an Indian tribe distributing funds under this paragraph is not eligible to be a recipient of those funds);

(C) public or private nonprofit organizations; or

(D) partnerships or combinations of local educational agencies, and entities described in subparagraph (B) or (C); and

(5) developing, as service-learning programs, civic engagement programs that promote a better understanding of—

(A) the principles of the Constitution, the heroes of United States history (including military heroes), and the meaning of the Pledge of Allegiance;

(B) how the Nation's government functions; and

(C) the importance of service in the Nation's character.

(b) Duties of service-learning coordinator

A service-learning coordinator referred to in paragraph (2) or (3) of subsection (a) shall provide services to a local partnership described in subsection (a)(2) or entity described in subsection (a)(3), respectively, that may include—

(1) providing technical assistance and information to, and facilitating the training of, teachers and assisting in the planning, development, execution, and evaluation of service-learning in their classrooms;

(2) assisting local partnerships described in subsection (a)(2) in the planning, development, and execution of service-learning projects, including summer of service programs;

(3) assisting schools and local educational agencies in developing school policies and practices that support the integration of service-learning into the curriculum; and

(4) carrying out such other duties as the local partnership or entity, respectively, may determine to be appropriate.

(c) Related expenses

An entity that receives financial assistance under this part from a State, territory, or Indian tribe may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, and evaluations and for other reasonable expenses related to the activities.

(d) Special rule

A State educational agency described in section 12522(2)(A) of this title may designate a statewide entity (which may be a community-based entity) with demonstrated experience in supporting or implementing service-learning programs, to receive the State educational agency's allotment under this part, and carry out the functions of the agency under this part.

(e) Consultation with Secretary of Education

The Corporation is authorized to enter into agreements with the Secretary of Education for initiatives (and may use funds authorized under section 12681(a)(6) of this title to enter into the agreements if the additional costs of the initiatives are warranted) that may include—

(1) identification and dissemination of research findings on service-learning and scientifically valid research based practices for service-learning; and

(2) provision of professional development opportunities that—

(A) improve the quality of service-learning instruction and delivery for teachers both preservice and in-service, personnel from community-based entities and youth workers; and

(B) create and sustain effective partnerships for service-learning programs between local educational agencies, community-based entities, businesses, and other stakeholders.

(Pub. L. 101–610, title I, §112, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1468; amended Pub. L. 113–128, title V, §512(u)(1), July 22, 2014, 128 Stat. 1712; Pub. L. 114–95, title IX, §9215(bbb)(2), Dec. 10, 2015, 129 Stat. 2185.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12523, Pub. L. 101–610, title I, §111B, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 827, granted the Corporation authority to assist public or private nonprofit organizations, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12523, Pub. L. 101–610, title I, §113, Nov. 16, 1990, 104 Stat. 3134; Pub. L. 102–384, §4, Oct. 5, 1992, 106 Stat. 1455, related to State grant applications, prior to repeal by Pub. L. 103–82, §103(a)(2).

A prior section 112 of Pub. L. 101–610 was classified to section 12524 prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 112 of Pub. L. 101–610 was classified to section 12522 of this title prior to repeal by Pub. L. 103–82.

AMENDMENTS

2015—Subsec. (a)(1)(F). Pub. L. 114–95 substituted "implementing comprehensive support and improvement activities or targeted support and improvement activities under section 6311(d) of title 20" for "not making adequate yearly progress for two or more consecutive years under section 6311 of title 20".

2014—Subsec. (a)(3)(B). Pub. L. 113–128 substituted "or who may participate in a Youthbuild program under section 3226 of title 29" for "or who may participate in a Youthbuild program under section 2918a of title 29".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12524. Allotments

(a) Indian tribes and territories

Of the amounts appropriated to carry out this part for any fiscal year, the Corporation shall reserve an amount of not less than 2 percent and not more than 3 percent for payments to Indian tribes, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(b) Allotments through States

(1) In general

After reserving an amount under subsection (a), the Corporation shall use the remainder of the funds appropriated to carry out this part for the fiscal year as follows:

(A) Allotments based on school-age youth

From 50 percent of such remainder, the Corporation shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the number of school-age youth in the State bears to the total number of school-age youth in all States.

(B) Allotments based on allocations under Elementary and Secondary Education Act of 1965

From 50 percent of such remainder, the Corporation shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the allocation to the State for the previous fiscal year under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) bears to the total of such allocations to all States.

(2) Minimum amount

For any fiscal year for which amounts appropriated for this division exceed $50,000,000, the minimum allotment to each State under paragraph (1) shall be $75,000.

(c) Reallotment

If the Corporation determines that the allotment of a State, territory, or Indian tribe under this section will not be required for a fiscal year because the State, territory, or Indian tribe did not submit and receive approval of an application for the allotment under section 12525 of this title, the Corporation shall make the allotment for such State, territory, or Indian tribe available for grants to community-based entities to carry out service-learning programs as described in section 12523(b) of this title in such State, in such territory, or for such Indian tribe. After community-based entities apply for grants from the allotment, by submitting an application at such time and in such manner as the Corporation requires, and receive approval, the remainder of such allotment shall be available for reallotment to such other States, territories, or Indian tribes with approved applications submitted under section 12525 of this title as the Corporation may determine to be appropriate.

(Pub. L. 101–610, title I, §112A, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1470.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(1)(B), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 12524, Pub. L. 101–610, title I, §112, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 827; amended Pub. L. 103–382, title III, §§391(y), 394(h)(2), Oct. 20, 1994, 108 Stat. 4026, 4028, related to grants and allotments, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12524, Pub. L. 101–610, title I, §114, Nov. 16, 1990, 104 Stat. 3135; Pub. L. 102–10, §4(4), Mar. 12, 1991, 105 Stat. 30, related to local applications for assistance, prior to repeal by Pub. L. 103–82, §103(a)(2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12525. Applications

(a) Applications to Corporation for allotments

(1) In general

To be eligible to receive an allotment under section 12524 of this title, a State, acting through the State educational agency, territory, or Indian tribe shall prepare and submit to the Corporation

an application at such time and in such manner as the Chief Executive Officer may reasonably require, and obtain approval of the application.

(2) Contents

An application for an allotment under section 12523 of this title shall include—

(A) a proposal for a 3-year plan promoting service-learning, which shall contain such information as the Chief Executive Officer may reasonably require, including how the applicant will integrate service opportunities into the academic program of the participants;

(B) information about the criteria the State educational agency, territory, or Indian tribe will use to evaluate and grant approval to applications submitted under subsection (b), including an assurance that the State educational agency, territory, or Indian tribe will comply with the requirement in section 12526(a) of this title;

(C) assurances about the applicant's efforts to—

(i) ensure that students of different ages, races, sexes, ethnic groups, disabilities, and economic backgrounds have opportunities to serve together;

(ii) include any opportunities for students, enrolled in schools or programs of education providing elementary or secondary education, to participate in service-learning programs and ensure that such service-learning programs include opportunities for such students to serve together;

(iii) involve participants in the design and operation of the programs;

(iv) promote service-learning in areas of greatest need, including low-income or rural areas; and

(v) otherwise integrate service opportunities into the academic program of the participants; and

(D) assurances that the applicant will comply with the nonduplication and nondisplacement requirements of section 12637 of this title and the notice, hearing, and grievance procedures required by section 12636 of this title.

(b) Application to State, territory, or Indian tribe for assistance to carry out school-based service-learning programs

(1) In general

Any—

(A) qualified organization, Indian tribe, territory, local educational agency, for-profit business, private elementary school or secondary school, or institution of higher education that desires to receive financial assistance under this subpart [1] from a State, territory, or Indian tribe for an activity described in section 12523(a)(1) of this title;

(B) partnership described in section 12523(a)(2) of this title that desires to receive such assistance from a State, territory, or Indian tribe for an activity described in section 12523(a)(2) of this title;

(C) entity described in section 12523(a)(3) of this title that desires to receive such assistance from a State, territory, or Indian tribe for an activity described in such section;

(D) entity or partnership described in section 12523(a)(4) of this title that desires to receive such assistance from a State, territory, or Indian tribe for an activity described in such section; and

(E) entity that desires to receive such assistance from a State, territory, or Indian tribe for an activity described in section 12521(a)(5) [2] of this title,

shall prepare, submit to the State educational agency for the State, territory, or Indian tribe, and obtain approval of, an application for the program.

(2) Submission

Such application shall be submitted at such time and in such manner, and shall contain such information, as the agency, territory, or Indian tribe may reasonably require.

(Pub. L. 101–610, title I, §113, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1471.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12521(a)(5) of this title, referred to in subsec. (b)(1)(E), probably should be a reference to section 12523(a)(5) of this title. Section 12521 does not contain subsections.

PRIOR PROVISIONS

A prior section 12525, Pub. L. 101–610, title I, §113, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 829, related to submission and contents of State or tribal applications, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12525, Pub. L. 101–610, title I, §115, Nov. 16, 1990, 104 Stat. 3137; Pub. L. 102–384, §4, Oct. 5, 1992, 106 Stat. 1455, related to priority applications and private school participation, prior to repeal by Pub. L. 103–82, §103(a)(2).

A prior section 113 of Pub. L. 101–610 was classified to section 12523 of this title prior to repeal by Pub. L. 103–82.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] So in original. Probably should be "this part".

[2] See References in Text note below.

§12526. Consideration of applications

(a) Criteria for local applications

In providing assistance under this part, a State educational agency, territory, or Indian tribe (or the Corporation if section 12524(c) of this title applies) shall consider criteria with respect to sustainability, replicability, innovation, and quality of programs.

(b) Priority for local applications

In providing assistance under this part, a State educational agency, territory, or Indian tribe (or the Corporation if section 12524(c) of this title applies) shall give priority to entities that submit applications under section 12525 of this title with respect to service-learning programs described in section 12521 of this title that are in the greatest need of assistance, such as programs targeting low-income areas or serving economically disadvantaged youth.

(c) Rejection of applications to Corporation

If the Corporation rejects an application submitted by a State, territory, or Indian tribe under section 12525 of this title for an allotment, the Corporation shall promptly notify the State, territory, or Indian tribe of the reasons for the rejection of the application. The Corporation shall provide the State, territory, or Indian tribe with a reasonable opportunity to revise and resubmit the application and shall provide technical assistance, if needed, to the State, territory, or Indian tribe as part of the resubmission process. The Corporation shall promptly reconsider such resubmitted application.

(Pub. L. 101–610, title I, §114, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1472.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12526, Pub. L. 101–610, title I, §114, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 829, related to preparation, submission, and approval of local applications, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12526, Pub. L. 101–610, title I, §116, Nov. 16, 1990, 104 Stat. 3138; Pub. L. 102–384, §4, Oct. 5, 1992, 106 Stat. 1455, prescribed Federal and local project contributions, prior to repeal by Pub. L. 103–82, §103(a)(2).

A prior section 114 of Pub. L. 101–610 was classified to section 12524 of this title prior to repeal by Pub. L. 103–82.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12527. Participation of students and teachers from private schools

(a) In general

To the extent consistent with the number of students in the State, in the territory, or served by the Indian tribe or in the school district of the local educational agency involved who are enrolled in private nonprofit elementary schools and secondary schools, such State, territory, or Indian tribe, or agency shall (after consultation with appropriate private school representatives) make provision—

(1) for the inclusion of services and arrangements for the benefit of such students so as to allow for the equitable participation of such students in the programs implemented to carry out the objectives and provide the benefits described in this part; and

(2) for the training of the teachers of such students so as to allow for the equitable participation of such teachers in the programs implemented to carry out the objectives and provide the benefits described in this part.

(b) Waiver

If a State, territory, Indian tribe, or local educational agency is prohibited by law from providing for the participation of students or teachers from private nonprofit schools as required by subsection (a), or if the Corporation determines that a State, territory, Indian tribe, or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Chief Executive Officer shall waive such requirements and shall arrange for the provision of services to such students and teachers.

(Pub. L. 101–610, title I, §115, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1473.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12527, Pub. L. 101–610, title I, §115, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 830, related to consideration of applications, prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 12527, Pub. L. 101–610, title I, §117, Nov. 16, 1990, 104 Stat. 3138; Pub. L. 102–10, §4(5), Mar. 12, 1991, 105 Stat. 30, prescribed authorized uses of funds, prior to repeal by Pub. L. 103–82, §103(a)(2).

A prior section 115 of Pub. L. 101–610 was classified to section 12525 of this title prior to repeal by Pub. L. 103–82.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12528. Federal, State, and local contributions

(a) Corporation share

(1) In general

The Corporation share of the cost of carrying out a program for which a grant is made from an allotment under this part—

(A) for new grants may not exceed 80 percent of the total cost of the program for the first year of the grant period, 65 percent for the second year, and 50 percent for each remaining year; and

(B) for continuing grants, may not exceed 50 percent of the total cost of the program.

(2) Noncorporation contribution

In providing for the remaining share of the cost of carrying out such a program, each recipient of such a grant under this part—

(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services;

(B) except as provided in subparagraph (C), may provide for such share through Federal, State, or local sources, including private funds or donated services; and

(C) may not provide for such share through Federal funds made available under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) [20 U.S.C. 6301 et seq.] or the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(b) Waiver

The Chief Executive Officer may waive the requirements of subsection (a) in whole or in part with respect to any such program for any fiscal year, on a determination that such a waiver would be equitable due to a lack of resources at the local level.

(Pub. L. 101–610, title I, §116, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1473.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(2)(C), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 12528, Pub. L. 101–610, title I, §115A, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 831; amended Pub. L. 103–382, title III, §394(h)(3), Oct. 20, 1994, 108 Stat. 4028, related to participation of students and teachers from private schools, prior to the general amendment of this part by Pub. L. 111–13.

A prior section 116 of Pub. L. 101–610 was classified to section 12529 of this title prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 116 of Pub. L. 101–610 was classified to section 12526 of this title prior to repeal by

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12529. Limitations on uses of funds

Not more than 6 percent of the amount of assistance received by a State, territory, or Indian tribe that is the original recipient of an allotment under this part for a fiscal year may be used to pay, in accordance with such standards as the Corporation may issue, for administrative costs, incurred by that recipient.

(Pub. L. 101–610, title I, §117, as added Pub. L. 111–13, title I, §1201, Apr. 21, 2009, 123 Stat. 1474.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12529, Pub. L. 101–610, title I, §116, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 832, related to Federal, State, and local contributions, prior to the general amendment of this part by Pub. L. 111–13, effective Oct. 1, 2009.

A prior section 117 of Pub. L. 101–610 was classified to section 12541 of this title prior to the general amendment of this part by Pub. L. 111–13.

Another prior section 117 of Pub. L. 101–610 was classified to section 12527 of this title prior to repeal by Pub. L. 103–82.

Prior sections 12530, 12531, 12541 to 12547, and 12551, comprising former subpart B of this part relating to community-based service programs for school-age youth and former subpart C of this part relating to establishment of a service-learning clearinghouse, were omitted in the general amendment of this part by Pub. L. 111–13.

Section 12530, Pub. L. 101–610, title I, §116A, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 832, set forth limitations on uses of funds.

Section 12531, Pub. L. 101–610, title I, §116B, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 833, defined terms used in former subpart A.

Another prior section 12531, Pub. L. 101–610, title I, §118, Nov. 16, 1990, 104 Stat. 3139; Pub. L. 102–10, §4(6), Mar. 12, 1991, 105 Stat. 30, related to higher education innovative projects for community service, prior to repeal by Pub. L. 103–82, §103(b).

Section 12541, Pub. L. 101–610, title I, §117, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 833, defined terms used in former subpart B.

Another prior section 12541, Pub. L. 101–610, title I, §121, Nov. 16, 1990, 104 Stat. 3140, as amended, which prescribed general authority of Commission to make grants and transfer funds for youth corps programs, was renumbered section 199A of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655 of this title.

Section 12542, Pub. L. 101–610, title I, §117A, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 833, gave the Corporation grantmaking authority.

Another prior section 12542, Pub. L. 101–610, title I, §122, Nov. 16, 1990, 104 Stat. 3140, as amended, which related to allocation of funds by Commission for conservation and youth corps programs, was renumbered section 199B of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655a of this title.

Section 12543, Pub. L. 101–610, title I, §117B, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 834, set forth an application process for State grant eligibility.

Another prior section 12543, Pub. L. 101–610, title I, §123, Nov. 16, 1990, 104 Stat. 3141, as amended, which related to applications for assistance by States, Indian tribes and other local applicants, was renumbered section 199C of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655b of this title.

Section 12544, Pub. L. 101–610, title I, §117C, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 834, set forth an application process for local grant eligibility.

Another prior section 12544, Pub. L. 101–610, title I, §124, Nov. 16, 1990, 104 Stat. 3143, as amended, which prescribed appropriate focus for conservation and youth service corps programs, was renumbered section 199D of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655c of this title.

Section 12545, Pub. L. 101–610, title I, §117D, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 835, set forth application consideration criteria.

Another prior section 12545, Pub. L. 101–610, title I, §125, Nov. 16, 1990, 104 Stat. 3144, which related to administration of related programs, was renumbered section 199E of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655d of this title.

Section 12546, Pub. L. 101–610, title I, §117E, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 836, related to Federal, State, and local contributions.

Another prior section 12546, Pub. L. 101–610, title I, §126, Nov. 16, 1990, 104 Stat. 3144, which related to program activities on public or Indian lands, was renumbered section 199F of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655e of this title.

Section 12547, Pub. L. 101–610, title I, §117F, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 836, placed limitations on uses of funds.

Another prior section 12547, Pub. L. 101–610, title I, §127, Nov. 16, 1990, 104 Stat. 3145, which related to training and education services, was renumbered section 199G of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655f of this title.

A prior section 12548, Pub. L. 101–610, title I, §128, Nov. 16, 1990, 104 Stat. 3146, as amended, which related to amount of award and matching requirement, was renumbered section 199H of Pub. L. 101–610 by Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788, and transferred to section 12655g of this title, prior to repeal by Pub. L. 103–82, §101(e)(8)(A).

A prior section 12549, Pub. L. 101–610, title I, §129, Nov. 16, 1990, 104 Stat. 3146, which related to preference for certain projects, was successively renumbered section 199I, then 199H, of Pub. L. 101–610 by Pub. L. 103–82, §101(a), (e)(8)(B), and transferred to section 12655h of this title.

A prior section 12550, Pub. L. 101–610, title I, §130, Nov. 16, 1990, 104 Stat. 3146, as amended, which related to age and citizenship criteria for enrollment, was successively renumbered section 199J, then 199I, of Pub. L. 101–610 by Pub. L. 103–82, §101(a), (e)(8)(B), and transferred to section 12655i of this title.

Section 12551, Pub. L. 101–610, title I, §118, as added Pub. L. 103–82, title I, §103(a)(2), Sept. 21, 1993, 107 Stat. 836, required the Corporation to provide funds for a service-learning clearinghouse.

Another prior section 12551, Pub. L. 101–610, title I, §131, Nov. 16, 1990, 104 Stat. 3147, which related to use of volunteers in assisting program projects, was successively renumbered section 199K, then 199J, of Pub. L. 101–610 by Pub. L. 103–82, §101(a), (e)(8)(B), and transferred to section 12655j of this title.

A prior section 12552, Pub. L. 101–610, title I, §132, Nov. 16, 1990, 104 Stat. 3147, which related to post-service benefits, was renumbered section 199L of Pub. L. 101–610 by Pub. L. 103–82, §101(a), and transferred to section 12655k of this title, prior to repeal by Pub. L. 103–82, §101(e)(8)(A).

A prior section 12553, Pub. L. 101–610, title I, §133, Nov. 16, 1990, 104 Stat. 3147, as amended, which related to living allowance, was successively renumbered section 199M, then 199K, of Pub. L. 101–610 by Pub. L. 103–82, §101(a), (e)(8)(B), and transferred to section 12655l of this title.

A prior section 12554, Pub. L. 101–610, title I, §134, Nov. 16, 1990, 104 Stat. 3148, which related to joint programs, was successively renumbered section 199N, then 199L, of Pub. L. 101–610 by Pub. L. 103–82, §101(a), (e)(8)(B), and transferred to section 12655m of this title.

A prior section 12555, Pub. L. 101–610, title I, §135, Nov. 16, 1990, 104 Stat. 3149, which related to Federal and State employee status, was successively renumbered section 199O, then 199M, of Pub. L. 101–610 by Pub. L. 103–82, §101(a), (e)(8)(B), and transferred to section 12655n of this title.

A prior section 12556, Pub. L. 101–610, title I, §136, Nov. 16, 1990, 104 Stat. 3150, directed Commission on National and Community Service to promulgate regulations implementing American Conservation Youth Corps program and established procedures for promulgation, prior to repeal by Pub. L. 102–10, §5(7), Mar. 12, 1991, 105 Stat. 31.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

§12561. Higher education innovative programs for community service

(a) Purpose

It is the purpose of this part to expand participation in community service by supporting innovative community service programs through service-learning carried out through institutions of higher education, acting as civic institutions to meet the human, educational, environmental, or public safety needs of neighboring communities.

(b) General authority

The Corporation, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a consortium of such institutions), and partnerships comprised of such institutions and of other public or private nonprofit organizations, to pay for the Federal share of the cost of—

(1) enabling such an institution or partnership to create or expand an organized community service program that—

(A) engenders a sense of social responsibility and commitment to the community in which the institution is located;

(B) provides projects for participants, who shall be students, faculty, administration, or staff of the institution, or residents of the community; and

(C) the institution or partnership may coordinate with service-learning curricula being offered in the academic curricula at the institution of higher education or at 1 or more members of the partnership;

(2) supporting student-initiated and student-designed community service projects through the program;

(3) strengthening the leadership and instructional capacity of institutions of higher education and their faculty, with respect to service-learning, by—

(A) including service-learning as a key component of the preservice teacher curricula of the institution to strengthen the instructional capacity of teachers to provide service-learning at the elementary and secondary levels;

(B) including service-learning as a component of other curricula or academic programs (other than education curricula or programs), such as curricula or programs relating to nursing, medicine, criminal justice, or public policy; and

(C) encouraging the faculty of the institution to use service-learning methods throughout their curriculum;

(4) facilitating the integration of community service carried out under the program into academic curricula, including integration of clinical programs into the curriculum for students in professional schools, so that students can obtain credit for their community service projects;

(5) supplementing the funds available to carry out work-study programs under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) [1] to support service-learning and community service through the community service program;

(6) strengthening the service infrastructure within institutions of higher education in the United States through the program; and

(7) providing for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize service-learning.

(c) Federal, State, and local contributions

(1) Federal share

(A) In general

The Federal share of the cost of carrying out a program for which assistance is provided under this part may not exceed 50 percent of the total cost of the program.

(B) Non-Federal contribution

In providing for the remaining share of the cost of carrying out such a program, each recipient of a grant or contract under this part—

(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

(ii) may provide for such share through State sources or local sources, including private funds or donated services.

(2) Waiver

The Chief Executive Officer may waive the requirements of paragraph (1) in whole or in part with respect to any such program for any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

(d) Application for grant

(1) Submission

To receive a grant or enter into a contract under this part, an institution or partnership shall prepare and submit to the Corporation, an application at such time, in such manner, and containing such information and assurances as the Corporation may reasonably require, and obtain approval of the application. In requesting applications for assistance under this part, the Corporation shall specify such required information and assurances.

(2) Contents

An application submitted under paragraph (1) shall contain, at a minimum—

(A) assurances that—

(i) prior to the placement of a participant, the applicant will consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees; and

(ii) the applicant will comply with the nonduplication and nondisplacement provisions of section 12637 of this title and the notice, hearing, and grievance procedures required by section 12636 of this title; and

(B) such other assurances as the Chief Executive Officer may reasonably require.

(e) Special consideration

To the extent practicable, in making grants and entering into contracts under subsection (b), the Corporation shall give special consideration to applications submitted by, or applications from partnerships including, institutions serving primarily low-income populations, including—

(1) Alaska Native-serving institutions;
(2) Asian American and Native American Pacific Islander-serving institutions;
(3) Hispanic-serving institutions;
(4) historically black colleges and universities;
(5) Native American-serving, nontribal institutions;
(6) Native Hawaiian-serving institutions;
(7) Predominantly black institutions;
(8) tribally controlled colleges and universities; and
(9) community colleges serving predominantly minority populations.

(f) Considerations

In making grants and entering into contracts under subsection (b), the Corporation shall take into

consideration whether the applicants submit applications containing proposals that—

(1) demonstrate the commitment of the institution of higher education involved, other than by demonstrating the commitment of the students, to supporting the community service projects carried out under the program;

(2) specify the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

(3) specify the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools and colleges;

(4) describe any partnership that will participate in the community service projects, such as a partnership comprised of—

(A) the institution;

(B)(i) a community-based agency;

(ii) a local government agency; or

(iii) a nonprofit entity that serves or involves school-age youth, older adults, or low-income communities; and

(C)(i) a student organization;

(ii) a department of the institution; or

(iii) a group of faculty comprised of different departments, schools, or colleges at the institution;

(5) demonstrate community involvement in the development of the proposal and the extent to which the proposal will contribute to the goals of the involved community members;

(6) demonstrate a commitment to perform community service projects in underserved urban and rural communities;

(7) describe research on effective strategies and methods to improve service utilized in the design of the projects;

(8) specify that the institution or partnership will use the assistance provided through the grant or contract to strengthen the service infrastructure in institutions of higher education;

(9) with respect to projects involving delivery of services, specify projects that involve leadership development of school-age youth; or

(10) describe the needs that the proposed projects are designed to address, such as housing, economic development, infrastructure, health care, job training, education, crime prevention, urban planning, transportation, information technology, or child welfare.

(g) Federal work-study

To be eligible for assistance under this part, an institution of higher education shall demonstrate that it meets the minimum requirements under section 443(b)(2)(A) of the Higher Education Act of 1965 (42 U.S.C. 2753(b)(2)(A)) [1] relating to the participation of students employed under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) [1] (relating to Federal Work-Study [2] programs) in community service activities, or has received a waiver of those requirements from the Secretary of Education.

(h) Definition

Notwithstanding section 12511 of this title, as used in this part, the term "student" means an individual who is enrolled in an institution of higher education on a full- or part-time basis.

(i) National service educational award

A participant in a program funded under this part shall be eligible for the national service educational award described in division D, if the participant served in an approved national service position.

(Pub. L. 101–610, title I, §118, formerly §119, as added Pub. L. 103–82, title I, §103(b), Sept. 21, 1993, 107 Stat. 837; renumbered §118 and amended Pub. L. 111–13, title I, §1202, Apr. 21, 2009, 123 Stat. 1474.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (b)(5) and (g), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Part C of title IV of the Act was formerly classified generally to part C (§2751 et seq.) of subchapter I of chapter 34 of this title prior to transfer to part C (§1087–51 et seq.) of subchapter IV of chapter 28 of Title 20, Education. Section 443 of the Act was transferred from section 2753 of this title to section 1087–53 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 118 of Pub. L. 101–610 was classified to section 12551 of this title prior to the general amendment of part I of this division by Pub. L. 111–13.

Another prior section 118 of Pub. L. 101–610 was classified to section 12531 of this title prior to repeal by Pub. L. 103–82.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1202(b)(1), inserted "through service-learning" after "community service programs".

Subsec. (b). Pub. L. 111–13, §1202(b)(2)(A), substituted "consortium" for "combination" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 111–13, §1202(b)(2)(B), added subpar. (C).

Subsec. (b)(3). Pub. L. 111–13, §1202(b)(2)(C)(i), substituted "institutions of higher education and their faculty" for "teachers at the elementary, secondary, and postsecondary levels" in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 111–13, §1202(b)(2)(C)(ii), substituted "curricula of the institution to strengthen the instructional capacity of teachers to provide service-learning at the elementary and secondary levels;" for "education of the institution; and".

Subsec. (b)(3)(B), (C). Pub. L. 111–13, §1202(b)(2)(C)(iii), (iv), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsecs. (c) to (i). Pub. L. 111–13, §1202(b)(3)–(5), added subsecs. (c) to (h), redesignated former subsec. (f) as (i), and struck out former subsecs. (c), (d), (e), and (g) which related to Federal share of the cost, grant application, applicant priority, and definition of "student", respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

[1] See References in Text note below.

[2] So in original. Probably should not be capitalized.

§12561a. Campuses of Service

(a) In general

The Corporation, after consultation with the Secretary of Education, may annually designate not more than 25 institutions of higher education as Campuses of Service, from among institutions nominated by State Commissions.

(b) Applications for nomination

(1) In general

To be eligible for a nomination to receive designation under subsection (a), and have an opportunity to apply for funds under subsection (d) for a fiscal year, an institution of higher education in a State shall submit an application to the State Commission at such time, in such manner, and containing such information as the State Commission may require.

(2) Contents

At a minimum, the application shall include information specifying—

(A)(i) the number of undergraduate and, if applicable, graduate service-learning courses offered at such institution for the most recent full academic year preceding the fiscal year for which designation is sought; and

(ii) the number and percentage of undergraduate students and, if applicable, the number and percentage of graduate students at such institution who were enrolled in the corresponding courses described in clause (i), for such preceding academic year;

(B) the percentage of undergraduate students engaging in and, if applicable, the percentage of graduate students engaging in activities providing community services, as defined in section 441(c) of the Higher Education Act of 1965 (42 U.S.C. 2751(c)),[1] during such preceding academic year, the quality of such activities, and the average amount of time spent, per student, engaged in such activities;

(C) for such preceding academic year, the percentage of Federal work-study funds made available to the institution under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) [1] that is used to compensate students employed in providing community services, as so defined, and a description of the efforts the institution undertakes to make available to students opportunities to provide such community services and be compensated through such work-study funds;

(D) at the discretion of the institution, information demonstrating the degree to which recent graduates of the institution, and all graduates of the institution, have obtained full-time public service employment in the nonprofit sector or government, with a private nonprofit organization or a Federal, State, or local public agency; and

(E) any programs the institution has in place to encourage or assist graduates of the institution to pursue careers in public service in the nonprofit sector or government.

(c) Nominations and designation

(1) Nomination

(A) In general

A State Commission that receives applications from institutions of higher education under subsection (b) may nominate, for designation under subsection (a), not more than 3 such institutions of higher education, consisting of—

(i) not more than one 4-year public institution of higher education;

(ii) not more than one 4-year private institution of higher education; and

(iii) not more than one 2-year institution of higher education.

(B) Submission

The State Commission shall submit to the Corporation the name and application of each institution nominated by the State Commission under subparagraph (A).

(2) Designation

The Corporation shall designate, under subsection (a), not more than 25 institutions of higher education from among the institutions nominated under paragraph (1). In making the designations, the Corporation shall, if feasible, designate various types of institutions, including institutions from each of the categories of institutions described in clauses (i), (ii), and (iii) of paragraph (1)(A).

(d) Awards

(1) In general

Using sums reserved under section 12681(a)(1)(C) of this title for Campuses of Service, the Corporation shall provide an award of funds to institutions designated under subsection (c), to be used by the institutions to develop or disseminate service-learning models and information on best practices regarding service-learning to other institutions of higher education.

(2) Plan

To be eligible to receive funds under this subsection, an institution designated under subsection (c) shall submit a plan to the Corporation describing how the institution intends to use the funds to develop or disseminate service-learning models and information on best practices regarding service-learning to other institutions of higher education.

(3) Allocation

The Corporation shall determine how the funds reserved under section 12681(a)(1)(C) of this title for Campuses of Service for a fiscal year will be allocated among the institutions submitting acceptable plans under paragraph (2). In determining the amount of funds to be allocated to such an institution, the Corporation shall consider the number of students at the institution, the quality and scope of the plan submitted by the institution under paragraph (2), and the institution's current (as of the date of submission of the plan) strategies to encourage or assist students to pursue public service careers in the nonprofit sector or government.

(Pub. L. 101–610, title I, §118A, as added Pub. L. 111–13, title I, §1203, Apr. 21, 2009, 123 Stat. 1477.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Part C of title IV of the Act was formerly classified generally to part C (§2751 et seq.) of subchapter I of chapter 34 of this title prior to transfer to part C (§1087–51 et seq.) of subchapter IV of chapter 28 of Title 20, Education. Section 441 of the Act was transferred from section 2751 of this title to section 1087–51 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

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

PART III—INNOVATIVE AND COMMUNITY-BASED SERVICE-LEARNING PROGRAMS AND RESEARCH

§12563. Innovative and community-based service-learning programs and research

(a) Definitions

In this part:

(1) Eligible entity

The term "eligible entity" means a State educational agency, a State Commission, a territory, an Indian tribe, an institution of higher education, or a public or private nonprofit organization (including community-based entities), a public or private elementary school or secondary school, a local educational agency, a consortium of such entities, or a consortium of 2 or more such entities and a for-profit organization.

(2) Eligible partnership

The term "eligible partnership" means a partnership that—

(A) shall include—

(i) 1 or more community-based entities that have demonstrated records of success in carrying out service-learning programs with economically disadvantaged students, and that meet such criteria as the Chief Executive Officer may establish; and

(ii) a local educational agency for which—

(I) a high number or percentage, as determined by the Corporation, of the students served by the agency are economically disadvantaged students; and

(II) the four-year adjusted cohort graduation rate (as defined in section 7801 of title 20) for the secondary school students served by the agency is less than 70 percent; and

(B) may also include—

(i) a local government agency that is not described in subparagraph (A);

(ii) the office of the chief executive officer of a unit of general local government;

(iii) an institution of higher education;

(iv) a State Commission or State educational agency; or

(v) more than 1 local educational agency described in subclause (I).[1]

(3) Youth engagement zone

The term "youth engagement zone" means the area in which a youth engagement zone program is carried out.

(4) Youth engagement zone program

The term "youth engagement zone program" means a service-learning program in which members of an eligible partnership collaborate to provide coordinated school-based or community-based service-learning opportunities—

(A) in order to address a specific community challenge;

(B) for an increasing percentage of out-of-school youth and secondary school students served by a local educational agency; and

(C) in circumstances under which—

(i) not less than 90 percent of such students participate in service-learning activities as part of the program; or

(ii) service-learning is a part of the curriculum in all of the secondary schools served by the local educational agency.

(b) General authority

From the amounts appropriated to carry out this part for a fiscal year, the Corporation may make grants (which may include approved summer of service positions in the case of a grant for a program described in subsection (c)(8)) and fixed-amount grants (in accordance with section 12581(l) of this title) to eligible entities or eligible partnerships, as appropriate, for programs and activities described in subsection (c).

(c) Authorized activities

Funds under this part may be used to—

(1) integrate service-learning programs into the science, technology, engineering, and mathematics (referred to in this part as "STEM") curricula at the elementary, secondary, postsecondary, or postbaccalaureate levels in coordination with practicing or retired STEM

professionals;

(2) involve students in service-learning programs focusing on energy conservation in their community, including conducting educational outreach on energy conservation and working to improve energy efficiency in low-income housing and in public spaces;

(3) involve students in service-learning programs in emergency and disaster preparedness;

(4) involve students in service-learning programs aimed at improving access to and obtaining the benefits from computers and other emerging technologies, including improving such access for individuals with disabilities, in low-income or rural communities, in senior centers and communities, in schools, in libraries, and in other public spaces;

(5) involve high school age youth in the mentoring of middle school youth while involving all participants in service-learning to seek to meet unmet human, educational, environmental, public safety, or emergency and disaster preparedness needs in their community;

(6) conduct research and evaluations on service-learning, including service-learning in middle schools, and disseminate such research and evaluations widely;

(7) conduct innovative and creative activities as described in section 12523(a) of this title;

(8) establish or implement summer of service programs (giving priority to programs that enroll youth who will be enrolled in any of grades 6 through 9 at the end of the summer concerned) during the summer months (including recruiting, training, and placing service-learning coordinators)—

(A) for youth who will be enrolled in any of grades 6 through 12 at the end of the summer concerned; and

(B) for community-based service-learning projects—

(i) that shall—

(I) meet unmet human, educational, environmental (including energy conservation and stewardship), and emergency and disaster preparedness and other public safety needs; and

(II) be intensive, structured, supervised, and designed to produce identifiable improvements to the community;

(ii) that may include the extension of academic year service-learning programs into the summer months; and

(iii) under which a student who completes 100 hours of service as described in section 12602(b)(2) of this title,[2] shall be eligible for a summer of service educational award of $500 or $750 as described in sections 12602(a)(2)(C) and 12603(d) of this title;

(9) establish or implement youth engagement zone programs in youth engagement zones, for students in secondary schools served by local educational agencies for which a majority of such students do not participate in service-learning activities that are—

(A) carried out by eligible partnerships; and

(B) designed to—

(i) involve all students in secondary schools served by the local educational agency in service-learning to address a specific community challenge;

(ii) improve student engagement, including student attendance and student behavior, and student achievement, graduation rates, and college-going rates at secondary schools; and

(iii) involve an increasing percentage of students in secondary school and out-of-school youth in the community in school-based or community-based service-learning activities each year, with the goal of involving all students in secondary schools served by the local educational agency and involving an increasing percentage of the out-of-school youth in service-learning activities; and

(10) conduct semester of service programs that—

(A) provide opportunities for secondary school students to participate in a semester of coordinated school-based or community-based service-learning opportunities for a minimum of 70 hours (of which at least a third will be spent participating in field-based activities) over a

semester, to address specific community challenges;

(B) engage as participants high percentages or numbers of economically disadvantaged students;

(C) allow participants to receive academic credit, for the time spent in the classroom and in the field for the program, that is equivalent to the academic credit for any class of equivalent length and with an equivalent time commitment; and

(D) ensure that the classroom-based instruction component of the program is integrated into the academic program of the local educational agency involved; and

(11) carry out any other innovative service-learning programs or research that the Corporation considers appropriate.

(d) Applications

To be eligible to receive a grant to carry out a program or activity under this part, an entity or partnership, as appropriate, shall prepare and submit to the Corporation an application at such time and in such manner as the Chief Executive Officer may reasonably require, and obtain approval of the application.

(e) Priority

In making grants under this part, the Corporation shall give priority to applicants proposing to—

(1) involve students and community stakeholders in the design and implementation of service-learning programs carried out using funds received under this part;

(2) implement service-learning programs in low-income or rural communities; and

(3) utilize adult volunteers, including tapping the resources of retired and retiring adults, in the planning and implementation of service-learning programs.

(f) Requirements

(1) Term

Each program or activity funded under this part shall be carried out over a period of 3 years, which may include 1 planning year. In the case of a program funded under this part, the 3-year period may be extended by 1 year, if the program meets performance levels established in accordance with section 12639(k) of this title and any other criteria determined by the Corporation.

(2) Collaboration encouraged

Each entity carrying out a program or activity funded under this part shall, to the extent practicable, collaborate with entities carrying out programs under this division, division C, and titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq., 5001 et seq.).

(3) Evaluation

Not later than 4 years after the effective date of the Serve America Act, the Corporation shall conduct an independent evaluation of the programs and activities carried out using funds made available under this part, and determine best practices relating to service-learning and recommendations for improvement of those programs and activities. The Corporation shall widely disseminate the results of the evaluations, and information on the best practices and recommendations to the service community through multiple channels, including the Corporation's Resource Center or a clearinghouse of effective strategies.

(Pub. L. 101–610, title I, §119, as added Pub. L. 111–13, title I, §1204, Apr. 21, 2009, 123 Stat. 1479; amended Pub. L. 114–95, title IX, §9215(bbb)(3), Dec. 10, 2015, 129 Stat. 2185.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (f)(2), is Pub. L. 93–113, Oct. 1, 1973,

87 Stat. 394. Titles I and II of the Act are classified generally to subchapters I (§4951 et seq.) and II (§5000 et seq.), respectively, of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

For the effective date of the Serve America Act, referred to in subsec. (f)(3), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PRIOR PROVISIONS

A prior section 119 of Pub. L. 101–610 was renumbered section 118 and is classified to section 12561 of this title.

AMENDMENTS

2015—Subsec. (a)(2)(A)(ii)(II). Pub. L. 114–95 substituted "the four-year adjusted cohort graduation rate (as defined in section 7801 of title 20)" for "the graduation rate (as defined in section 6311(b)(2)(C)(vi) of title 20 and as clarified in applicable regulations promulgated by the Department of Education".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] So in original. Clause (v) does not contain subclauses.

[2] So in original. Comma probably should not appear.

PART IV—REPEALED

Part related to service-learning impact study, prior to repeal by Pub. L. 113–188, title III, §301(a), Nov. 26, 2014, 128 Stat. 2018.

§12565. Repealed. Pub. L. 113–188, title III, §301(a), Nov. 26, 2014, 128 Stat. 2018

Section, Pub. L. 101–610, title I, §120, as added Pub. L. 111–13, title I, §1205, Apr. 21, 2009, 123 Stat. 1483, provided for a 10-year longitudinal study and reports on the impact of the activities carried out under this division.

Division C—National Service Trust Program

EDITORIAL NOTES

PRIOR PROVISIONS

This division is comprised of subtitle C, §§121–141, of title I of Pub. L. 101–610. A prior part C (§12541 et seq.), comprised of subtitle C, §§120–135, of title I of Pub. L. 101–610 was renumbered subtitle I, §§199A–199O, of title I of Pub. L. 101–610 by Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788, and transferred to division I of this subchapter.

PART I—INVESTMENT IN NATIONAL SERVICE

§12571. Authority to provide assistance and approved national service positions

(a) Provision of assistance

Subject to the availability of appropriations for this purpose, the Corporation for National and Community Service may make grants to States, subdivisions of States, territories, Indian tribes, public or private nonprofit organizations, and institutions of higher education for the purpose of assisting the recipients of the grants—

(1) to carry out full- or part-time national service programs, including summer programs, described in subsection (a), (b), or (c) of section 12572 of this title; and

(2) to make grants in support of other national service programs described in subsection (a), (b), or (c) of section 12572 of this title that are carried out by other entities.

(b) Restrictions on agreements with Federal agencies

(1) Agreements authorized

The Corporation may enter into an interagency agreement (other than a grant agreement) with another Federal agency to support a national service program carried out or otherwise supported by the agency. The Corporation, in entering into the interagency agreement may approve positions as approved national service positions for a program carried out or otherwise supported by the agency.

(2) Prohibition on grants

The Corporation may not provide a grant under this section to a Federal agency.

(3) Consultation with State Commissions

A Federal agency carrying out or supporting a national service program shall consult with the State Commissions for those States in which projects will be conducted through that program in order to ensure that the projects do not duplicate projects conducted by State or local national service programs.

(4) Support for other national service programs

A Federal agency that enters into an interagency agreement under paragraph (1) shall, in an appropriate case, enter into a contract or cooperative agreement with an entity that is carrying out a national service program in a State that is in existence in the State as of the date of the contract or cooperative agreement and is of high quality, in order to support the national service program.

(5) Application of requirements

A requirement under this chapter that applies to an entity receiving assistance under this section (other than a requirement limited to an entity receiving assistance under subsection (a)) shall be considered to apply to a Federal agency that enters into an interagency agreement under this subsection, even though no Federal agency may receive financial assistance under such an agreement.

(c) Provision of approved national service positions

As part of the provision of assistance under subsection (a), and in providing approved national service positions under subsection (b), the Corporation shall—

(1) approve the provision of national service educational awards described in division D for the participants who serve in national service programs carried out using such assistance; and

(2) deposit in the National Service Trust established in section 12601(a) of this title an amount equal to the product of—

(A) the value of a national service educational award under section 12603 of this title; and

(B) the total number of approved national service positions to be provided or otherwise approved.

(d) Five percent limitation on administrative costs

(1) Limitation

Not more than 5 percent of the amount of assistance provided to the original recipient of a grant or transfer of assistance under subsection (a) for a fiscal year may be used to pay for administrative costs incurred by—

(A) the recipient of the assistance; and

(B) national service programs carried out or supported with the assistance.

(2) Rules on use

The Corporation may by rule prescribe the manner and extent to which—

(A) assistance provided under subsection (a) may be used to cover administrative costs; and

(B) that portion of the assistance available to cover administrative costs should be distributed between—

(i) the original recipient of the grant or transfer of assistance under such subsection; and

(ii) national service programs carried out or supported with the assistance.

(e) Matching funds requirements

(1) Requirements

Except as provided in section 12594 of this title, the Corporation share of the cost (including the costs of member living allowances, employment-related taxes, health care coverage, and workers' compensation and other necessary operation costs) of carrying out a national service program that receives the assistance under subsection (a), whether the assistance is provided directly or as a subgrant from the original recipient of the assistance, may not exceed 75 percent of such cost.

(2) Calculation

In providing for the remaining share of the cost of carrying out a national service program, the program—

(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

(B) may provide for such share through State sources, local sources, or other Federal sources (other than the use of funds made available under the national service laws).

(3) Cost of health care

In providing a payment in cash under paragraph (2)(A) as part of providing for the remaining share of the cost of carrying out a national service program, the program may count not more than 85 percent of the cost of providing a health care policy described in section 12594(d)(2) of this title toward such share.

(4) Waiver

The Corporation may waive in whole or in part the requirements of paragraph (1) with respect to a national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

(5) Other Federal funds

(A) Recipient report

A recipient of assistance under this section (other than a recipient of assistance through a fixed-amount grant in accordance with section 12581(l) of this title) shall report to the Corporation the amount and source of any Federal funds used to carry out the program for which the assistance is made available other than those provided by the Corporation.

(B) Corporation report

The Corporation shall report to the authorizing committees on an annual basis information

regarding each recipient of such assistance that uses Federal funds other than those provided by the Corporation to carry out such a program, including the amounts and sources of the other Federal funds.

(f) Plan for approved national service positions

The Corporation shall—

(1) develop a plan to—

(A) establish the number of the approved national service positions as 88,000 for fiscal year 2010;

(B) increase the number of the approved positions to—

(i) 115,000 for fiscal year 2011;
(ii) 140,000 for fiscal year 2012;
(iii) 170,000 for fiscal year 2013;
(iv) 200,000 for fiscal year 2014;
(v) 210,000 for fiscal year 2015;
(vi) 235,000 for fiscal year 2016; and
(vii) 250,000 for fiscal year 2017;

(C) ensure that the increases described in subparagraph (B) are achieved through an appropriate balance of full- and part-time service positions;

(2) not later than 1 year after April 21, 2009, submit a report to the authorizing committees on the status of the plan described in paragraph (1); and

(3) subject to the availability of appropriations and quality service opportunities, implement the plan described in paragraph (1).

(Pub. L. 101–610, title I, §121, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 788; amended Pub. L. 111–13, title I, §1301, Apr. 21, 2009, 123 Stat. 1484.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(5), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

PRIOR PROVISIONS

A prior section 12571, Pub. L. 101–610, title I, §141, Nov. 16, 1990, 104 Stat. 3150, related to general authority to make grants for national and community service programs, prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [formerly part D of this subchapter] by Pub. L. 103–82, §102(a).

A prior section 121 of Pub. L. 101–610 was renumbered section 199A, and is classified to section 12655 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1301(1)(A), inserted "territories," after "subdivisions of States," in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 111–13, §1301(1)(B), substituted "subsection (a), (b), or (c) of section 12572" for "section 12572(a)".

Subsec. (b). Pub. L. 111–13, §1301(2)(A), substituted "Restrictions on agreements with Federal agencies" for "Agreements with Federal agencies" in heading.

Subsec. (b)(1). Pub. L. 111–13, §1301(2)(B), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The Corporation may enter into a contract or cooperative agreement with another Federal agency to support a national service program carried out by the agency. The support provided by the Corporation pursuant to the contract or cooperative agreement may include the transfer to the Federal agency of funds available to the Corporation under this division."

Subsec. (b)(2). Pub. L. 111–13, §1301(2)(C), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: "A Federal agency receiving assistance under this subsection shall not be

required to satisfy the matching funds requirements specified in subsection (e) of this section. However, the supplementation requirements specified in section 12633 of this title shall apply with respect to the Federal national service programs supported with such assistance."

Subsec. (b)(3). Pub. L. 111–13, §1301(2)(D), substituted "carrying out or supporting a national service program" for "receiving assistance under this subsection" and "through that program" for "using such assistance".

Subsec. (b)(4). Pub. L. 111–13, §1301(2)(E), substituted "an interagency agreement" for "a contract or cooperative agreement" the first place it appeared.

Subsec. (b)(5). Pub. L. 111–13, §1301(2)(F), added par. (5).

Subsec. (c). Pub. L. 111–13, §1301(3)(A), substituted "subsection (a), and in providing approved national service positions under subsection (b)," for "subsections (a) and (b) of this section," in introductory provisions.

Subsec. (c)(2)(B). Pub. L. 111–13, §1301(3)(B), substituted "to be provided or otherwise approved" for "to be provided".

Subsec. (d)(1), (2)(A). Pub. L. 111–13, §1301(4), struck out "or (b) of this section" after "subsection (a)" in introductory provisions of par. (1) and in par. (2)(A).

Subsec. (e)(1). Pub. L. 111–13, §1301(5)(A), substituted "Corporation share of the cost (including the costs of member living allowances, employment-related taxes, health care coverage, and workers' compensation and other necessary operation costs)" for "Federal share of the cost".

Subsec. (e)(5). Pub. L. 111–13, §1301(5)(B), added par. (5).

Subsec. (f). Pub. L. 111–13, §1301(6), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

OVERALL MINIMUM SHARE REQUIREMENT

Pub. L. 117–103, div. H, title IV, §402, Mar. 15, 2022, 136 Stat. 488, provided that: "AmeriCorps programs receiving grants under the National Service Trust program shall meet an overall minimum share requirement of 24 percent for the first 3 years that they receive AmeriCorps funding, and thereafter shall meet the overall minimum share requirement as provided in section 2521.60 of title 45, Code of Federal Regulations, without regard to the operating costs match requirement in section 121(e) [42 U.S.C. 12571(e)] or the member support Federal share limitations in section 140 of the 1990 Act [National and Community Service Act of 1990, 42 U.S.C. 12594], and subject to partial waiver consistent with section 2521.70 of title 45, Code of Federal Regulations."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 116–260, div. H, title IV, §402, Dec. 27, 2020, 134 Stat. 1614.

Pub. L. 116–94, div. A, title IV, §402, Dec. 20, 2019, 133 Stat. 2599.

Pub. L. 115–245, div. B, title IV, §402, Sept. 28, 2018, 132 Stat. 3110.

Pub. L. 115–141, div. H, title IV, §402, Mar. 23, 2018, 132 Stat. 756.

Pub. L. 115–31, div. H, title IV, §402, May 5, 2017, 131 Stat. 555.

Pub. L. 114–113, div. H, title IV, §404, Dec. 18, 2015, 129 Stat. 2642.

Pub. L. 113–235, div. G, title IV, §402, Dec. 16, 2014, 128 Stat. 2508.

Pub. L. 113–76, div. H, title IV, §402, Jan. 17, 2014, 128 Stat. 402.

Pub. L. 112–74, div. F, title IV, §402, Dec. 23, 2011, 125 Stat. 1105.

Pub. L. 111–117, div. D, title IV, §402, Dec. 16, 2009, 123 Stat. 3273.

Pub. L. 111–8, div. F, title IV, §407, Mar. 11, 2009, 123 Stat. 795.

Pub. L. 110–161, div. G, title IV, §407, Dec. 26, 2007, 121 Stat. 2202.

§12572. National service programs eligible for program assistance

(a) National service corps

The recipient of a grant under section 12571(a) of this title and a Federal agency operating or supporting a national service program under section 12571(b) of this title shall use a portion of the financial assistance or positions involved, directly or through subgrants to other entities, to support or carry out the following national service corps or programs, as full- or part-time corps or programs, to address unmet needs:

(1) Education Corps

(A) In general

The recipient may carry out national service programs through an Education Corps that identifies and meets unmet educational needs within communities through activities such as those described in subparagraph (B) and improves performance on the indicators described in subparagraph (C).

(B) Activities

An Education Corps described in this paragraph may carry out activities such as—

(i) tutoring, or providing other academic support to elementary school and secondary school students;

(ii) improving school climate;

(iii) mentoring students, including adult or peer mentoring;

(iv) linking needed integrated services and comprehensive supports with students, their families, and their public schools;

(v) providing assistance to a school in expanding the school day by strengthening the quality of staff and expanding the academic programming offered in an expanded learning time initiative, a program of a 21st century community learning center (as defined in section 7171 of title 20), or a high-quality after-school program;

(vi) assisting schools and local educational agencies in improving and expanding high-quality service-learning programs that keep students engaged in schools by carrying out programs that provide specialized training to individuals in service-learning, and place the individuals (after such training) in positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I of division B;

(vii) assisting students in being prepared for college-level work;

(viii) involving family members of students in supporting teachers and students;

(ix) conducting a preprofessional training program in which students enrolled in an institution of higher education—

(I) receive training (which may include classes containing service-learning) in specified fields including early childhood education and care, elementary and secondary education, and other fields such as those relating to health services, criminal justice, environmental stewardship and conservation, or public safety;

(II) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

(III) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training;

(x) assisting economically disadvantaged students in navigating the college admissions process;

(xi) providing other activities, addressing unmet educational needs, that the Corporation may designate; or

(xii) providing skilled musicians and artists to promote greater community unity through the use of music and arts education and engagement through work in low-income communities, and education, health care, and therapeutic settings, and other work in the public domain with citizens of all ages.

(C) Education Corps indicators

The indicators for a corps program described in this paragraph are—

(i) student engagement, including student attendance and student behavior;

(ii) student academic achievement;

(iii) four-year adjusted cohort graduation rate (as defined in section 7801 of title 20);

(iv) rate of college enrollment and continued college enrollment for recipients of a high school diploma;

(v) any additional indicator relating to improving education for students that the Corporation, in consultation (as appropriate) with the Secretary of Education, establishes; or

(vi) any additional local indicator (applicable to a particular recipient and on which an improvement in performance is needed) relating to improving education for students, that is approved by the Corporation or a State Commission.

(2) Healthy Futures Corps

(A) In general

The recipient may carry out national service programs through a Healthy Futures Corps that identifies and meets unmet health needs within communities through activities such as those described in subparagraph (B) and improves performance on the indicators described in subparagraph (C).

(B) Activities

A Healthy Futures Corps described in this paragraph may carry out activities such as—

(i) assisting economically disadvantaged individuals in navigating the health services system;

(ii) assisting individuals in obtaining access to health services, including oral health services, for themselves or their children;

(iii) educating economically disadvantaged individuals and individuals who are members of medically underserved populations about, and engaging individuals described in this clause in, initiatives regarding navigating the health services system and regarding disease prevention and health promotion, with a particular focus on common health conditions, chronic diseases, and conditions, for which disease prevention and health promotion measures exist and for which socioeconomic, geographic, and racial and ethnic health disparities exist;

(iv) improving the literacy of patients regarding health, including oral health;

(v) providing translation services at clinics and in emergency rooms to improve health services;

(vi) providing services designed to meet the health needs of rural communities, including the recruitment of youth to work in health professions in such communities;

(vii) assisting in health promotion interventions that improve health status, and helping people adopt and maintain healthy lifestyles and habits to improve health status;

(viii) addressing childhood obesity through in-school and after-school physical activities, and providing nutrition education to students, in elementary schools and secondary schools; or

(ix) providing activities, addressing unmet health needs, that the Corporation may designate.

(C) Healthy Futures Corps indicators

The indicators for a corps program described in this paragraph are—

(i) access to health services among economically disadvantaged individuals and individuals who are members of medically underserved populations;

(ii) access to health services for uninsured individuals, including such individuals who are economically disadvantaged children;

(iii) participation, among economically disadvantaged individuals and individuals who are members of medically underserved populations, in disease prevention and health promotion initiatives, particularly those with a focus on addressing common health conditions, addressing chronic diseases, and decreasing health disparities;

(iv) literacy of patients regarding health;

(v) any additional indicator, relating to improving or protecting the health of economically disadvantaged individuals and individuals who are members of medically underserved populations, that the Corporation, in consultation (as appropriate) with the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention, establishes; or

(vi) any additional local indicator (applicable to a particular recipient and on which an improvement in performance is needed) relating to improving or protecting the health of economically disadvantaged individuals and individuals who are members of medically underserved populations, that is approved by the Corporation or a State Commission.

(3) Clean Energy Service Corps

(A) In general

The recipient may carry out national service projects through a Clean Energy Service Corps that identifies and meets unmet environmental needs within communities through activities such as those described in subparagraph (B) and improves performance on the indicators described in subparagraph (C).

(B) Activities

A Clean Energy Service Corps described in this paragraph may carry out activities such as—

(i) weatherizing and retrofitting housing units for low-income households to significantly improve the energy efficiency and reduce carbon emissions of such housing units;

(ii) building energy-efficient housing units in low-income communities;

(iii) conducting energy audits for low-income households and recommending ways for the households to improve energy efficiency;

(iv) providing clean energy-related services designed to meet the needs of rural communities;

(v) working with schools and youth programs to educate students and youth about ways to reduce home energy use and improve the environment, including conducting service-learning projects to provide such education;

(vi) assisting in the development of local recycling programs;

(vii) renewing and rehabilitating national and State parks and forests, city parks, county parks and other public lands, and trails owned or maintained by the Federal Government or a State, including planting trees, carrying out reforestation, carrying out forest health restoration measures, carrying out erosion control measures, fire hazard reduction measures, and rehabilitation and maintenance of historic sites and structures throughout the national park system, and providing trail enhancements, rehabilitation, and repairs;

(viii) cleaning and improving rivers maintained by the Federal Government or a State;

(ix) carrying out projects in partnership with the National Park Service, designed to renew and rehabilitate national park resources and enhance services and learning opportunities for national park visitors, and nearby communities and schools;

(x) providing service through a full-time, year-round youth corps program or full-time summer youth corps program, such as a conservation corps or youth service corps program that—

(I) undertakes meaningful service projects with visible public benefits, including projects involving urban renewal, sustaining natural resources, or improving human services;

(II) includes as participants youths and young adults who are age 16 through 25, including out-of-school youth and other disadvantaged youth (such as youth who are aging out of foster care, youth who have limited English proficiency, homeless youth, and youth who are individuals with disabilities), who are age 16 through 25; and

(III) provides those participants who are youth and young adults with—

(aa) team-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services

including mentoring; and

(bb) the opportunity to develop citizenship values and skills through service to their community and the United States; [1]

(xi) carrying out other activities, addressing unmet environmental and workforce needs, that the Corporation may designate.

(C) Clean Energy Service Corps indicators

The indicators for a corps program described in this paragraph are—

(i) the number of housing units of low-income households weatherized or retrofitted to significantly improve energy efficiency and reduce carbon emissions;

(ii) annual energy costs (to determine savings in those costs) at facilities where participants have provided service;

(iii) the number of students and youth receiving education or training in energy-efficient and environmentally conscious practices;

(iv)(I) the number of acres of national parks, State parks, city parks, county parks, or other public lands, that are cleaned or improved; and

(II) the number of acres of forest preserves, or miles of trails or rivers, owned or maintained by the Federal Government or a State, that are cleaned or improved;

(v) any additional indicator relating to clean energy, the reduction of greenhouse gas emissions, or education and skill attainment for clean energy jobs, that the Corporation, in consultation (as appropriate) with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, or the Secretary of Labor, as appropriate, establishes; or

(vi) any additional local indicator (applicable to a particular recipient and on which an improvement in performance is needed) relating to clean energy, the reduction of greenhouse gas emissions, or education or skill attainment for clean energy jobs, that is approved by the Corporation or a State Commission.

(4) Veterans Corps

(A) In general

The recipient may carry out national service programs through a Veterans Corps that identifies and meets unmet needs of veterans and members of the Armed Forces who are on active duty through activities such as those described in subparagraph (B) and improves performance on the indicators described in subparagraph (C).

(B) Activities

A Veterans Corps described in this paragraph may carry out activities such as—

(i) promoting community-based efforts to meet the unique needs of military families while a family member is deployed and upon that family member's return home;

(ii) recruiting veterans, particularly returning veterans, into service opportunities, including opportunities that utilize their military experience;

(iii) assisting veterans in developing their educational opportunities (including opportunities for professional certification, licensure, or credentials), coordinating activities with and assisting State and local agencies administering veterans education benefits, and coordinating activities with and assisting entities administering veterans programs with internships and fellowships that could lead to employment in the private and public sectors;

(iv) promoting efforts within a community to serve the needs of veterans and members of the Armed Forces who are on active duty, including helping veterans file benefits claims and assisting Federal agencies in providing services to veterans, and sending care packages to Members of the Armed Forces who are deployed;

(v) assisting veterans in developing mentoring relationships with economically disadvantaged students;

(vi) developing projects to assist veterans with disabilities, veterans who are unemployed,

older veterans, and veterans in rural communities, including assisting veterans described in this clause with transportation; or

(vii) other activities, addressing unmet needs of veterans, that the Corporation may designate.

(C) Veterans' Corps indicators

The indicators for a corps program described in this paragraph are—

(i) the number of housing units created for veterans;

(ii) the number of veterans who pursue educational opportunities;

(iii) the number of veterans receiving professional certification, licensure, or credentials;

(iv) the number of veterans engaged in service opportunities;

(v) the number of military families assisted by organizations while a family member is deployed and upon that family member's return home;

(vi) the number of economically disadvantaged students engaged in mentoring relationships with veterans;

(vii) the number of projects designed to meet identifiable public needs of veterans, especially veterans with disabilities, veterans who are unemployed, older veterans, and veterans in rural communities;

(viii) any additional indicator that relates to education or skill attainment that assists in providing veterans with the skills to address identifiable public needs, or that relates to improving the lives of veterans, of members of the Armed Forces on active duty, and of families of the veterans and the members on active duty, and that the Corporation, in consultation (as appropriate) with the Secretary of Veterans Affairs, establishes; or

(ix) any additional local indicator (applicable to a particular recipient and on which an improvement in performance is needed) relating to the education or skill attainment, or the improvement, described in clause (viii), that is approved by the Corporation or a State Commission.

(5) Opportunity Corps

(A) In general

The recipient may carry out national service programs through an Opportunity Corps that identifies and meets unmet needs relating to economic opportunity for economically disadvantaged individuals within communities, through activities such as those described in subparagraph (B) and improves performance on the indicators described in subparagraph (C).

(B) Activities

An Opportunity Corps described in this paragraph may carry out activities such as—

(i) providing financial literacy education to economically disadvantaged individuals, including financial literacy education with regard to credit management, financial institutions including banks and credit unions, and utilization of savings plans;

(ii) assisting in the construction, rehabilitation, or preservation of housing units, including energy efficient homes, for economically disadvantaged individuals;

(iii) assisting economically disadvantaged individuals, including homeless individuals, in finding placement in and maintaining housing;

(iv) assisting economically disadvantaged individuals in obtaining access to health services for themselves or their children;

(v) assisting individuals in obtaining information about Federal, State, local, or private programs or benefits focused on assisting economically disadvantaged individuals, economically disadvantaged children, or low-income families;

(vi) facilitating enrollment in and completion of job training for economically disadvantaged individuals;

(vii) assisting economically disadvantaged individuals in obtaining access to job placement assistance;

(viii) carrying out a program that seeks to eliminate hunger in low-income communities

and rural areas through service in projects—

(I) involving food banks, food pantries, and nonprofit organizations that provide food during emergencies;

(II) seeking to address the long-term causes of hunger through education and the delivery of appropriate services;

(III) providing training in basic health, nutrition, and life skills necessary to alleviate hunger in communities and rural areas; or

(IV) assisting individuals in obtaining information about federally supported nutrition programs;

(ix) addressing issues faced by homebound citizens, such as needs for food deliveries, legal and medical services, nutrition information, and transportation;

(x) implementing an E–Corps program that involves participants who provide services in a community by developing and assisting in carrying out technology programs that seek to increase access to technology and the benefits of technology in such community; and

(xi) carrying out other activities, addressing unmet needs relating to economic opportunity for economically disadvantaged individuals, that the Corporation may designate.

(C) Opportunity Corps indicators

The indicators for a corps program described in this paragraph are—

(i) the degree of financial literacy among economically disadvantaged individuals;

(ii) the number of housing units built or improved for economically disadvantaged individuals or low-income families;

(iii) the number of economically disadvantaged individuals with access to job training and other skill enhancement;

(iv) the number of economically disadvantaged individuals with access to information about job placement services;

(v) any additional indicator relating to improving economic opportunity for economically disadvantaged individuals that the Corporation, in consultation (as appropriate) with the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of the Treasury, establishes; or

(vi) any additional local indicator (applicable to a particular recipient and on which an improvement in performance is needed) that is approved by the Corporation or a State Commission.

(b) National service programs

(1) In general

The recipient of a grant under section 12571(a) of this title and a Federal agency operating or supporting a national service program under section 12571(b) of this title may use the financial assistance or positions involved, directly or through subgrants to other entities, to carry out national service programs and model programs under this subsection that are focused on meeting community needs and improve performance on the indicators described in paragraph (3).

(2) Programs

The programs may include the following types of national service programs:

(A) A community service program designed to meet the needs of rural communities, using teams or individual placements to address the development needs of rural communities, including addressing rural poverty, or the need for health services, education, or job training.

(B) A program—

(i) that engages participants in public health, emergency and disaster preparedness, and other public safety activities;

(ii) that may include the recruitment of qualified participants for, and placement of the participants in, positions to be trainees as law enforcement officers, firefighters, search and rescue personnel, and emergency medical service workers; and

(iii) that may engage Federal, State, and local stakeholders, in collaboration, to organize more effective responses to issues of public health, emergencies and disasters, and other public safety issues.

(C) A program that seeks to expand the number of mentors for disadvantaged youths and other youths (including by recruiting high school-,[2] and college-age individuals to enter into mentoring relationships), either through—

(i) provision of direct mentoring services;

(ii) provision of supportive services to direct mentoring service organizations (in the case of a partnership);

(iii) the creative utilization of current and emerging technologies to connect youth with mentors; or

(iv) supporting mentoring partnerships (including statewide and local mentoring partnerships that strengthen direct service mentoring programs) by—

(I) increasing State resources dedicated to mentoring;

(II) supporting the creation of statewide and local mentoring partnerships and programs of national scope through collaborative efforts between entities such as local or direct service mentoring partnerships, or units of State or local government; and

(III) assisting direct service mentoring programs.

(D) A program—

(i) in which not less than 75 percent of the participants are disadvantaged youth;

(ii) that may provide life skills training, employment training, educational counseling, assistance to complete a secondary school diploma or its recognized equivalent, counseling, or a mentoring relationship with an adult volunteer; and

(iii) for which, in awarding financial assistance and approved national service positions, the Corporation shall give priority to programs that engage retirees to serve as mentors.

(E) A program—

(i) that reengages court-involved youth and adults with the goal of reducing recidivism;

(ii) that may create support systems beginning in correctional facilities; and

(iii) that may have life skills training, employment training, an education program (including a program to complete a secondary school diploma or its recognized equivalent), educational and career counseling, and postprogram placement services.

(F) A demonstration program—

(i) that has as 1 of its primary purposes the recruitment and acceptance of court-involved youth and adults as participants, volunteers, or members; and

(ii) that may serve any purpose otherwise permitted under this chapter.

(G) A program that provides education or job training services that are designed to meet the needs of rural communities.

(H) A program that seeks to expand the number of mentors for youth in foster care through—

(i) the provision of direct academic mentoring services for youth in foster care;

(ii) the provision of supportive services to mentoring service organizations that directly provide mentoring to youth in foster care, including providing training of mentors in child development, domestic violence, foster care, confidentiality requirements, and other matters related to working with youth in foster care; or

(iii) supporting foster care mentoring partnerships, including statewide and local mentoring partnerships that strengthen direct service mentoring programs.

(I) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

(3) Indicators

The indicators for a program described in this subsection are the indicators described in subparagraph (C) of paragraphs [3] (1), (2), (3), (4), or (5) of subsection (a) or any additional local indicator (applicable to a participant or recipient and on which an improvement in performance is needed) relating to meeting unmet community needs, that is approved by the Corporation or a State Commission.

(c) Program models for service corps

(1) In general

In addition to any activities described in subparagraph (B) of paragraphs (1) through (5) of subsection (a), and subsection (b)(2), a recipient of a grant under section 12571(a) of this title and a Federal agency operating or supporting a national service program under section 12571(b) of this title may directly or through grants or subgrants to other entities carry out a national service corps program through the following program models:

(A) A community corps program that meets unmet health, veteran, and other human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, physical and developmental capabilities, ages, ethnic backgrounds, or genders.

(B) A service program that—

(i) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

(ii) if consistent with the purposes of the program, brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

(C) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—

(i) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.); [4]

(ii) teams composed of students described in clause (i); or

(iii) teams composed of a combination of such students and community residents.

(D) A professional corps program that recruits and places qualified participants in positions—

(i) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet human, educational, environmental, or public safety needs in communities with an inadequate number of such professionals;

(ii) for which the salary may exceed the maximum living allowance authorized in subsection (a)(2) of section 12594 of this title, as provided in subsection (c) of such section; and

(iii) that are sponsored by public or private employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under division D) of the participants.

(E) A program that provides opportunities for veterans to participate in service projects.

(F) A program carried out by an intermediary that builds the capacity of local nonprofit and faith-based organizations to expand and enhance services to meet local or national needs.

(G) Such other program models as may be approved by the Corporation or a State Commission, as appropriate.

(2) Program models within corps

A recipient of financial assistance or approved national service positions for a corps program described in subsection (a) may use the assistance or positions to carry out the corps program, in whole or in part, using a program model described in this subsection. The corps program shall meet the applicable requirements of subsection (a) and this subsection.

(d) Qualification criteria to determine eligibility

(1) Establishment by Corporation

The Corporation shall establish qualification criteria for different types of national service programs for the purpose of determining whether a particular national service program should be considered to be a national service program eligible to receive assistance or approved national service positions under this division.

(2) Consultation

In establishing qualification criteria under paragraph (1), the Corporation shall consult with organizations and individuals with extensive experience in developing and administering effective national service programs or regarding the delivery of veteran services, and other human, educational, environmental, or public safety services, to communities or persons.

(3) Application to subgrants

The qualification criteria established by the Corporation under paragraph (1) shall also be used by each recipient of assistance under section 12571(a) of this title that uses any portion of the assistance to conduct a grant program to support other national service programs.

(4) Encouragement of intergenerational components of programs

The Corporation shall encourage national service programs eligible to receive assistance or approved national service positions under this division to establish, if consistent with the purposes of the program, an intergenerational component of the program that combines students, out-of-school youths, disadvantaged youth, and older adults as participants to provide services to address unmet human, educational, environmental, or public safety needs.

(e) Priorities for certain corps

In awarding financial assistance and approved national service positions to eligible entities proposed to carry out the corps described in subsection (a)—

(1) in the case of a corps described in subsection (a)(2)—

(A) the Corporation may give priority to eligible entities that propose to provide support for participants who, after completing service under this section, will undertake careers to improve performance on health indicators described in subsection (a)(2)(C); and

(B) the Corporation shall give priority to eligible entities that propose to carry out national service programs in medically underserved areas (as designated individually, by the Secretary of Health and Human Services as an area with a shortage of personal health services); and

(2) in the case of a corps described in subsection (a)(3), the Corporation shall give priority to eligible entities that propose to recruit individuals for the Clean Energy Service Corps so that significant percentages of participants in the Corps are economically disadvantaged individuals, and provide to such individuals support services and education and training to develop skills needed for clean energy jobs for which there is current demand or projected future demand.

(f) National service priorities

(1) Establishment

(A) By Corporation

In order to concentrate national efforts on meeting human, educational, environmental, or public safety needs and to achieve the other purposes of this chapter, the Corporation, after reviewing the strategic plan approved under section 12651b(g)(1,) [2] of this title shall establish,

and may periodically alter, priorities regarding the types of national service programs and corps to be assisted under section 12581 of this title and the purposes for which such assistance may be used.

(B) By States

Consistent with paragraph (4), States shall establish, and through the national service plan process described in section 12638(e)(1) of this title, periodically alter priorities as appropriate regarding the national service programs to be assisted under section 12581(e) of this title. The State priorities shall be subject to Corporation review as part of the application process under section 12582 of this title.

(2) Notice to applicants

The Corporation shall provide advance notice to potential applicants of any national service priorities to be in effect under this subsection for a fiscal year. The notice shall specifically include—

(A) a description of any alteration made in the priorities since the previous notice; and

(B) a description of the national service programs that are designated by the Corporation under section 12585(d)(2) of this title as eligible for priority consideration in the next competitive distribution of assistance under section 12571(a) of this title.

(3) Regulations

The Corporation shall by regulation establish procedures to ensure the equitable treatment of national service programs that—

(A) receive funding under this division for multiple years; and

(B) would be adversely affected by annual revisions in such national service priorities.

(4) Application to subgrants

Any national service priorities established by the Corporation under this subsection shall also be used by each recipient of funds under section 12571(a) of this title that uses any portion of the assistance to conduct a grant program to support other national service programs.

(g) Consultation on indicators

The Corporation shall consult with the Secretary of Education, the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, the Secretary of Energy, the Secretary of Veterans Affairs, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of the Treasury, as appropriate, in developing additional indicators for the corps and programs described in subsections (a) and (b).

(h) Requirements for tutors

(1) In general

Except as provided in paragraph (2), the Corporation shall require that each recipient of assistance under the national service laws that operates a tutoring program involving elementary school or secondary school students certifies that individuals serving in approved national service positions as tutors in such program have—

(A) obtained their high school diplomas; and

(B) successfully completed pre- and in-service training for tutors.

(2) Exception

The requirements in paragraph (1) do not apply to an individual serving in an approved national service position who is enrolled in an elementary school or secondary school and is providing tutoring services through a structured, school-managed cross-grade tutoring program.

(i) Requirements for tutoring programs

Each tutoring program that receives assistance under the national service laws shall—

(1) offer a curriculum that is high quality, research-based, and consistent with the State

academic content standards required by section 6311 of title 20 and the instructional program of the local educational agency; and

(2) offer high quality, research-based pre- and in-service training for tutors.

(j) Citizenship training

The Corporation shall establish guidelines for recipients of assistance under the national service laws, that are consistent with the principles on which citizenship programs administered by U.S. Citizenship and Immigration Services are based, relating to the promotion of citizenship and civic engagement among participants in approved national service positions and approved summer of service positions, and appropriate to the age, education, and experience of the participants.

(k) Report

Not later than 60 days after the end of each fiscal year for which the Corporation makes grants under section 12571(a) of this title, the Corporation shall prepare and submit to the authorizing committees a report containing—

(1) information describing how the Corporation allocated financial assistance and approved national service positions among eligible entities proposed to carry out corps and national service programs described in this section for that fiscal year;

(2) information describing the amount of financial assistance and the number of approved national service positions the Corporation provided to each corps and national service program described in this section for that fiscal year;

(3) a measure of the extent to which the corps and national service programs improved performance on the corresponding indicators; and

(4) information describing how the Corporation is coordinating—

(A) the national service programs funded under this section; with

(B) applicable programs, as determined by the Corporation, carried out under division B of this subchapter, and part A of title I and parts A and B of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq., 5001, 5011) that improve performance on those indicators or otherwise address identified community needs.

(Pub. L. 101–610, title I, §122, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 790; amended Pub. L. 111–13, title I, §1302, Apr. 21, 2009, 123 Stat. 1485; Pub. L. 114–95, title IX, §9215(bbb)(4), Dec. 10, 2015, 129 Stat. 2185.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2)(F)(ii) and (f)(1)(A), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (c)(1)(C)(i), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Part C of title IV of the Act was formerly classified generally to part C (§2751 et seq.) of subchapter I of chapter 34 of this title prior to transfer to part C (§1087–51 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (k)(4)(B), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Part A of title I of the Act is classified generally to part A (§4951 et seq.) of subchapter I of chapter 66 of this title. Parts A and B of title II of the Act are classified generally to parts A (§5001) and B (§5011 et seq.), respectively, of subchapter II of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 12572, Pub. L. 101–610, title I, §142, Nov. 16, 1990, 104 Stat. 3150, related to criteria and requirements for awarding grants for national and community service programs, prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

A prior section 122 of Pub. L. 101–610 was renumbered section 199B, and is classified to section 12655a of this title.

AMENDMENTS

2015—Subsec. (a)(1)(C)(iii). Pub. L. 114–95 substituted "four-year adjusted cohort graduation rate (as defined in section 7801 of title 20)" for "secondary school graduation rates as defined in section 6311(b)(2)(C)(vi) of title 20 and as clarified in applicable regulations promulgated by the Department of Education".

2009—Pub. L. 111–13 substituted "National" for "Types of national" in section catchline and amended text generally. Prior to amendment, section enumerated eligible types of national service programs, set forth qualification criteria to determine eligibility, and required establishment of priorities regarding national service programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

[1] So in original. Probably should be followed by "or".

[2] So in original. The comma probably should not appear.

[3] So in original. Probably should be "paragraph".

[4] See References in Text note below.

§12573. Types of national service positions eligible for approval for national service educational awards

The Corporation may approve of any of the following service positions as an approved national service position that includes the national service educational award described in division D as one of the benefits to be provided for successful service in the position:

(1) A position for a participant in a national service program described in subsection (a), (b), or (c) of section 12572 of this title that receives assistance under subsection (a) of section 12571 of this title.

(2) A position for a participant in a program that—

(A) is carried out by a State, a subdivision of a State, a territory, an Indian tribe, a public or private nonprofit organization, an institution of higher education, or a Federal agency (under an interagency agreement described in section 12571(b) of this title); and

(B) would be eligible to receive assistance under section 12571(a) of this title, based on criteria established by the Corporation, but has not applied for such assistance.

(3) A position involving service as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.).

(4) A position facilitating service-learning in a program described in section 12572(a)(1)(B)(vi) of this title that is eligible for assistance under part I of division B.

(5) A position for a participant in the National Civilian Community Corps under division E.

(6) A position involving service as a crew leader in a youth corps program or a similar position supporting a national service program that receives an approved national service position.

(7) A position involving service in the ServeAmerica Fellowship program carried out under section 12653b of this title.

(8) Such other national service positions as the Corporation considers to be appropriate.

(Pub. L. 101–610, title I, §123, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 794; amended Pub. L. 111–13, title I, §1303, Apr. 21, 2009, 123 Stat. 1499.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in par. (3), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 12573, Pub. L. 101–610, title I, §143, Nov. 16, 1990, 104 Stat. 3152, related to types of national service, prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

A prior section 123 of Pub. L. 101–610 was renumbered section 199C, and is classified to section 12655b of this title.

AMENDMENTS

2009—Par. (1). Pub. L. 111–13, §1303(1), substituted "subsection (a), (b), or (c) of section 12572" for "section 12572(a)" and struck out "or (b)" before "of section 12571".

Par. (2)(A). Pub. L. 111–13, §1303(2), inserted "a territory," after "subdivision of a State," and substituted "Federal agency (under an interagency agreement described in section 12571(b) of this title)" for "Federal agency".

Par. (4). Pub. L. 111–13, §1303(3), substituted "section 12572(a)(1)(B)(vi)" for "section 12572(a)(3)".

Par. (5). Pub. L. 111–13, §1303(4), inserted "National" before "Civilian Community Corps".

Pars. (7), (8). Pub. L. 111–13, §1303(5), (6), added par. (7) and redesignated former par. (7) as (8).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12574. Types of program assistance

(a) Planning assistance

The Corporation may provide assistance under section 12571 of this title to a qualified applicant that submits an application under section 12582 of this title for the planning of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 1 year.

(b) Operational assistance

The Corporation may provide assistance under section 12571 of this title to a qualified applicant that submits an application under section 12582 of this title for the establishment, operation, or expansion of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 12582 of this title.

(c) Replication assistance

The Corporation may provide assistance under section 12571 of this title to a qualified applicant that submits an application under section 12582 of this title for the expansion of a proven national service program to another geographical location. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 12582 of this title.

(d) Application to subgrants

The requirements of this section shall apply to any State or other applicant receiving assistance under section 12571 of this title that proposes to conduct a grant program using the assistance to support other national service programs.

(Pub. L. 101–610, title I, §124, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 794.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12574, Pub. L. 101–610, title I, §144, Nov. 16, 1990, 104 Stat. 3152, related to terms of service for national and community service, prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

A prior section 124 of Pub. L. 101–610 was renumbered section 199D, and is classified to section 12655c of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12575. Repealed. Pub. L. 111–13, title I, §1304, Apr. 21, 2009, 123 Stat. 1500

Section, Pub. L. 101–610, title I, §125, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 795, related to training and technical assistance.

A prior section 12575, Pub. L. 101–610, title I, §145, Nov. 16, 1990, 104 Stat. 3153; Pub. L. 102–10, §6(a), Mar. 12, 1991, 105 Stat. 31, related to eligibility for part-time, full-time, and special senior service in national and community service program, prior to the general amendment of subtitle D of title I of Pub. L. 101–610 (former part D of this subchapter) by Pub. L. 103–82.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 125 of Pub. L. 101–610 was renumbered section 199E, and is classified to section 12655d of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009

Amendment note under section 4950 of this title.

§12576. Other special assistance

(a) Support for State Commissions

(1) Grants authorized

From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 12681(a)(5) of this title, the Corporation may make a grant in an amount between $250,000 and $1,000,000 to a State to assist the State to establish or operate the State Commission on National and Community Service required to be established by the State under section 12638 of this title.

(2) Matching requirement

In making a grant to a State under this subsection, the Corporation shall require the State to agree to provide matching funds from non-Federal sources of not less than $1 for every $1 provided by the Corporation through the grant.

(3) Alternative

Notwithstanding paragraph (2), the Chief Executive Officer may permit a State that demonstrates hardship or a new State Commission to meet alternative matching requirements for such a grant as follows:

(A) First $100,000

For the first $100,000 of grant funds provided by the Corporation, the State involved shall not be required to provide matching funds.

(B) Amounts greater than $100,000

For grant amounts of more than $100,000 and not more than $250,000 provided by the Corporation, the State shall agree to provide matching funds from non-Federal sources of not less than $1 for every $2 provided by the Corporation, in excess of $100,000.

(C) Amounts greater than $250,000

For grant amounts of more than $250,000 provided by the Corporation, the State shall agree to provide matching funds from non-Federal sources of not less than $1 for every $1 provided by the Corporation, in excess of $250,000.

(b) Disaster service

The Corporation may undertake activities, including activities carried out through part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), to involve programs that receive assistance under the national service laws in disaster relief efforts, and to support, including through mission assignments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), nonprofit organizations and public agencies responding to the needs of communities experiencing disasters.

(c) Challenge grants for national service programs

(1) Assistance authorized

The Corporation may make challenge grants under this subsection to programs supported under the national service laws.

(2) Selection criteria

The Corporation shall develop criteria for the selection of recipients of challenge grants under this subsection, so as to make the grants widely available to a variety of programs that—

(A) are high-quality national service programs; and

(B) are carried out by entities with demonstrated experience in establishing and implementing projects that provide benefits to participants and communities.

(3) Amount of assistance

A challenge grant under this subsection may provide, for an initial 3-year grant period, not more than $1 of assistance under this subsection for each $1 in cash raised from private sources by the program supported under the national service laws in excess of amounts required to be provided by the program to satisfy matching funds requirements. After an initial 3-year grant period, a grant under this subsection may provide not more than $1 of assistance under this subsection for each $2 in cash raised from private sources by the program in excess of amounts required to be provided by the program to satisfy matching funds requirements. The Corporation may permit the use of local or State funds under this paragraph in lieu of cash raised from private sources if the Corporation determines that such use would be equitable due to a lack of available private funds at the local level. The Corporation shall establish a ceiling on the amount of assistance that may be provided to a national service program under this subsection.

(Pub. L. 101–610, title I, §126, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 795; amended Pub. L. 111–13, title I, §1305, Apr. 21, 2009, 123 Stat. 1500.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (b), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Part A of title I of the Act is classified generally to part A (§4951 et seq.) of subchapter I of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

Prior sections 12576 to 12580, which related to national and community service, were omitted in the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

Section 12576, Pub. L. 101–610, title I, §146, Nov. 16, 1990, 104 Stat. 3153; Pub. L. 102–10, §6(b), Mar. 12, 1991, 105 Stat. 31; Pub. L. 102–325, title XV, §1557, July 23, 1992, 106 Stat. 841, related to post-service benefits.

A prior section 126 of Pub. L. 101–610 was renumbered section 199F and is classified to section 12655e of this title.

Section 12577, Pub. L. 101–610, title I, §147, Nov. 16, 1990, 104 Stat. 3154, related to living allowances for participants.

Section 12578, Pub. L. 101–610, title I, §148, Nov. 16, 1990, 104 Stat. 3155, related to training of participants.

Section 12579, Pub. L. 101–610, title I, §149, Nov. 16, 1990, 104 Stat. 3156, related to cooperation between public and private entities.

Section 12580, Pub. L. 101–610, title I, §150, Nov. 16, 1990, 104 Stat. 3156, related to in-service education benefits.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–13, §1305(1)(A), substituted "$250,000 and $1,000,000" for "$125,000 and $750,000" and "12681(a)(5)" for "12681(a)(4)".

Subsec. (a)(2), (3). Pub. L. 111–13, §1305(1)(B), added pars. (2) and (3) and struck out former par. (2). Text of former par. (2) read as follows: "Notwithstanding the amounts specified in paragraph (1), the amount of a grant that may be provided to a State Commission under this subsection, together with other Federal funds available to establish or operate the State Commission, may not exceed—

"(A) 85 percent of the total cost to establish or operate the State Commission for the first year for which the State Commission receives assistance under this subsection; and

"(B) such smaller percentage of such cost as the Corporation may establish for the second, third, and fourth years of such assistance in order to ensure that the Federal share does not exceed 50 percent of such

costs for the fifth year, and any subsequent year, for which the State Commission receives assistance under this subsection."

Subsec. (b). Pub. L. 111–13, §1305(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The Corporation may undertake activities, including activities carried out through part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), to involve in disaster relief efforts youth corps programs described in section 12572(a)(2) of this title and other programs that receive assistance under the national service laws."

Subsec. (c)(1). Pub. L. 111–13, §1305(3)(A), substituted "to programs supported under the national service laws" for "to national service programs that receive assistance under section 12571 of this title".

Subsec. (c)(3). Pub. L. 111–13, §1305(3)(B), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "A challenge grant under this subsection may provide not more than $1 of assistance under this subsection for each $1 in cash raised by the national service program from private sources in excess of amounts required to be provided by the program to satisfy matching funds requirements under section 12571(e) of this title. The Corporation shall establish a ceiling on the amount of assistance that may be provided to a national service program under this subsection."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

PART II—APPLICATION AND APPROVAL PROCESS

§12581. Provision of assistance and approved national service positions

(a) One percent allotment for certain territories

Of the funds allocated by the Corporation for provision of assistance under section 12571(a) of this title for a fiscal year, the Corporation shall reserve 1 percent for grants to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands upon approval by the Corporation of an application submitted under section 12582 of this title. The Corporation shall allot for a grant to each such territory under this subsection for a fiscal year an amount that bears the same ratio to 1 percent of the allocated funds for that fiscal year as the population of the territory bears to the total population of all such territories.

(b) Allotment for Indian tribes

Of the funds allocated by the Corporation for provision of assistance under section 12571(a) of this title for a fiscal year, the Corporation shall reserve at least 1 percent for grants to Indian tribes to be allotted by the Corporation on a competitive basis.

(c) Reservation of approved positions

The Corporation shall ensure that each individual selected during a fiscal year for assignment as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or as a participant in the National Civilian Community Corps Program under division E shall receive the national service educational award described in division D if the individual satisfies the eligibility requirements for the award. Funds for approved national service positions required by this paragraph for a fiscal year shall be deducted from the total funding for approved national service positions to be available for distribution under subsections (d) and (e) for that fiscal year.

(d) Allotment for competitive grants

(1) In general

Of the funds allocated by the Corporation for provision of assistance under section 12571(a) of this title for a fiscal year and subject to section 12585(d)(3) of this title, the Corporation shall reserve not more than 62.7 percent for grants awarded on a competitive basis to States specified in subsection (e)(1) for national service programs, to nonprofit organizations seeking to operate a national service program in 2 or more of those States, and to Indian tribes.

(2) Equitable treatment

In the consideration of applications for such grants, the Corporation shall ensure the equitable treatment of applicants from urban areas, applicants from rural areas, applicants of diverse sizes (as measured by the number of participants served), applicants from States, and applicants from national nonprofit organizations.

(3) Encore service programs

In making grants under this subsection for a fiscal year, the Corporation shall make an effort to allocate not less than 10 percent of the financial assistance and approved national service positions provided through the grants for that fiscal year to eligible entities proposing to carry out encore service programs, unless the Corporation does not receive a sufficient number of applications of adequate quality to justify making that percentage available to those eligible entities.

(4) Corps programs

In making grants under this subsection for a fiscal year, the Corporation—

(A) shall select 2 or more of the national service corps described in section 12572(a) of this title to receive grants under this subsection; and

(B) may select national service programs described in section 12572(b) of this title to receive such grants.

(e) Allotment to certain States on formula basis

(1) Grants

Of the funds allocated by the Corporation for provision of assistance under section 12571(a) of this title for a fiscal year, the Corporation shall make a grant to each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico that submits an application under section 12582 of this title that is approved by the Corporation.

(2) Allotments

The Corporation shall allot for a grant to each such State under this subsection for a fiscal year an amount that bears the same ratio to 35.3 percent of the allocated funds for that fiscal year as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, in compliance with paragraph (3).

(3) Minimum amount

Notwithstanding paragraph (2), the minimum grant made available to each State approved by the Corporation under paragraph (1) for each fiscal year shall be at least $600,000, or 0.5 percent of the amount allocated for the State formula under this subsection for the fiscal year, whichever is greater.

(f) Effect of failure to apply

If a State or territory fails to apply for, or fails to give notice to the Corporation of its intent to apply for, an allotment under this section, or the Corporation does not approve the application consistent with section 12585 of this title, the Corporation may use the amount that would have been allotted under this section to the State or territory to—

(1) make grants (and provide approved national service positions in connection with such grants) to other community-based entities under section 12571 of this title that propose to carry out national service programs in such State or territory; and

(2) make reallotments to other States or territories with approved applications submitted under section 12582 of this title, from the allotment funds not used to make grants as described in paragraph (1).

(g) Application required

The Corporation shall make an allotment of assistance (including the provision of approved national service positions) to a recipient under this section only pursuant to an application submitted by a State or other applicant under section 12582 of this title.

(h) Approval of positions subject to available funds

The Corporation may not approve positions as approved national service positions under this division for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under division D based on completed service. If appropriations are insufficient to provide the maximum allowable national service educational awards under division D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

(i) Sponsorship of approved national service positions

(1) Sponsorship authorized

The Corporation may enter into agreements with persons or entities who offer to sponsor national service positions for which the person or entity will be responsible for supplying the funds necessary to provide a national service educational award. The distribution of those approved national service positions shall be made pursuant to the agreement, and the creation of those positions shall not be taken into consideration in determining the number of approved national service positions to be available for distribution under this section.

(2) Deposit of contribution

Funds provided pursuant to an agreement under paragraph (1) shall be deposited in the National Service Trust established in section 12601 of this title until such time as the funds are needed.

(j) Reservation of funds for special assistance

(1) Reservation

From amounts appropriated for a fiscal year pursuant to the authorization of appropriations in section 12681(a)(2) of this title and allocated to carry out this division and subject to the limitation in such section, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under subsections (b) and (c) of section 12576 of this title.

(2) Limitation

The amount reserved under paragraph (1) for a fiscal year may not exceed $10,000,000.

(3) Timing

The Corporation shall reserve such amount, and any amount reserved under subsection (k) from funds appropriated and allocated to carry out this division, before allocating funds for the provision of assistance under any other provision of this division.

(k) Reservation of funds to increase the participation of individuals with disabilities

(1) Reservation

To make grants to public or private nonprofit organizations to increase the participation of individuals with disabilities in national service and for demonstration activities in furtherance of this purpose, and subject to the limitation in paragraph (2), the Chief Executive Officer shall reserve not less than 2 percent from the amounts, appropriated to carry out this division and divisions D, E, and H for each fiscal year.

(2) Limitation

The amount reserved under paragraph (1) for a fiscal year may not exceed $20,000,000.

(3) Remainder

The Chief Executive Officer may use the funds reserved under paragraph (1), and not distributed to make grants under this subsection for other activities described in section 12681(a)(2) of this title.

(l) Authority for fixed-amount grants

(1) In general

(A) Authority

From amounts appropriated for a fiscal year to provide financial assistance under the national service laws, the Corporation may provide assistance in the form of fixed-amount grants in an amount determined by the Corporation under paragraph (2) rather than on the basis of actual costs incurred by a program.

(B) Limitation

Other than fixed-amount grants to support programs described in section 12581a of this title, for the 1-year period beginning on the effective date of the Serve America Act, the Corporation may provide assistance in the form of fixed-amount grants to programs that only offer full-time positions.

(2) Determination of amount of fixed-amount grants

A fixed-amount grant authorized by this subsection shall be in an amount determined by the Corporation that is—

(A) significantly less than the reasonable and necessary costs of administering the program supported by the grant; and

(B) based on an amount per individual enrolled in the program receiving the grant, taking into account—

(i) the capacity of the entity carrying out the program to manage funds and achieve programmatic results;

(ii) the number of approved national service positions, approved silver scholar positions, or approved summer of service positions for the program, if applicable;

(iii) the proposed design of the program;

(iv) whether the program provides service to, or involves the participation of, disadvantaged youth or otherwise would reasonably incur a relatively higher level of costs; and

(v) such other factors as the Corporation may consider under section 12585 of this title in considering applications for assistance.

(3) Requirements for grant recipients

In awarding a fixed-amount grant under this subsection, the Corporation—

(A) shall require the grant recipient—

(i) to return a pro rata amount of the grant funds based upon the difference between the number of hours served by a participant and the minimum number of hours for completion of a term of service (as established by the Corporation);

(ii) to report on the program's performance on standardized measures and performance levels established by the Corporation;

(iii) to cooperate with any evaluation activities undertaken by the Corporation; and

(iv) to provide assurances that additional funds will be raised in support of the program, in addition to those received under the national service laws; and

(B) may adopt other terms and conditions that the Corporation considers necessary or appropriate based on the relative risks (as determined by the Corporation) associated with any application for a fixed-amount grant.

(4) Other requirements not applicable

Limitations on administrative costs and matching fund documentation requirements shall not apply to fixed-amount grants provided in accordance with this subsection.

(5) Rule of construction

Nothing in this subsection shall relieve a grant recipient of the responsibility to comply with the requirements of chapter 75 of title 31 or other requirements of Office of Management and Budget Circular A–133.

(Pub. L. 101–610, title I, §129, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 796; amended Pub. L. 111–13, title I, §1306, Apr. 21, 2009, 123 Stat. 1501.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (c), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

For the effective date of the Serve America Act, referred to in subsec. (l)(1)(B), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PRIOR PROVISIONS

A prior section 129 of Pub. L. 101–610 was renumbered section 199H and is classified to section 12655h of this title.

AMENDMENTS

2009—Pub. L. 111–13 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to allotments of assistance and approved national service positions to States and Indian tribes, reservation of the national service educational award for eligible individuals in approved positions, reservation of amounts appropriated as considered appropriate for special assistance, competitive distribution of remaining funds, application requirement, approval of positions subject to available funds, and sponsorship of approved national service positions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12581a. Educational awards only program

(a) In general

From amounts appropriated for a fiscal year to provide financial assistance under this division and consistent with the restriction in subsection (b), the Corporation may, through fixed-amount grants (in accordance with section 12581(l) of this title), provide operational support to programs that receive approved national service positions but do not receive funds under section 12571(a) of this title.

(b) Limit on Corporation grant funds

The Corporation may provide the operational support under this section for a program in an

amount that is not more than $800 per individual enrolled in an approved national service position, or not more than $1,000 per such individual if at least 50 percent of the persons enrolled in the program are disadvantaged youth.

(c) Inapplicable provisions

The following provisions shall not apply to programs funded under this section:

(1) The limitation on administrative costs under section 12571(d) of this title.

(2) The matching funds requirements under section 12571(e) of this title.

(3) The living allowance and other benefits under sections 12583(e) and 12594 of this title (other than individualized support services for participants with disabilities under section 12594(f) of this title).

(Pub. L. 101–610, title I, §129A, as added Pub. L. 111–13, title I, §1307, Apr. 21, 2009, 123 Stat. 1505.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12582. Application for assistance and approved national service positions

(a) Time, manner, and content of application

To be eligible to receive assistance under section 12571(a) of this title or approved national service positions for participants who serve in the national service programs to be carried out using the assistance, a State, territory, subdivision of a State, Indian tribe, public or private nonprofit organization, or institution of higher education shall prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

(b) Types of permissible application information

In order to have adequate information upon which to consider an application under section 12585 of this title, the Corporation may require the following information to be provided in an application submitted under subsection (a):

(1) A description of the national service programs proposed to be carried out directly by the applicant using assistance provided under section 12571 of this title.

(2) A description of the national service programs that are selected by the applicant to receive a grant using assistance requested under section 12571 of this title and a description of the process and criteria by which the programs were selected.

(3) A description of other funding sources to be used, or sought to be used, for the national service programs referred to in paragraphs (1) and (2), and, if the application is submitted for the purpose of seeking a renewal of assistance, a description of the success of the programs in reducing their reliance on Federal funds.

(4) A description of the extent to which the projects to be conducted using the assistance will address unmet human, educational, environmental, or public safety needs and produce a direct benefit for the community in which the projects are performed.

(5) A description of the plan to be used to recruit participants, including youth who are individuals with disabilities and economically disadvantaged young men and women, for the national service programs referred to in paragraphs (1) and (2).

(6) A description of the manner in which the national service programs referred to in paragraphs (1) and (2) build on existing programs, including Federal programs.

(7) A description of the manner in which the national service programs referred to in paragraphs (1) and (2) will involve participants—

(A) in projects that build an ethic of civic responsibility and produce a positive change in the lives of participants through training and participation in meaningful service experiences and opportunities for reflection on such experiences; and

(B) in leadership positions in implementing and evaluating the program.

(8) Measurable goals for the national service programs referred to in paragraphs (1) and (2), and a strategy to achieve such goals, in terms of—

(A) the impact to be made in meeting unmet human, educational, environmental, or public safety needs; and

(B) the service experience to be provided to participants in the programs.

(9) A description of the manner and extent to which the national service programs referred to in paragraphs (1) and (2) conform to the national service priorities established by the Corporation under section 12572(f) of this title.

(10) A description of the past experience of the applicant in operating a comparable program or in conducting a grant program in support of other comparable service programs.

(11) A description of the type and number of proposed service positions in which participants will receive the national service educational award described in division D and a description of the manner in which approved national service positions will be apportioned by the applicant.

(12) A description of the manner and extent to which participants, representatives of the community served, community-based agencies with a demonstrated record of experience in providing services, municipalities and governments of counties in which such a community is located, and labor organizations contributed to the development of the national service programs referred to in paragraphs (1) and (2), including the identity of the individual representing each appropriate labor organization (if any) who was consulted and the nature of the consultation.

(13) Such other information as the Corporation may reasonably require.

(c) Required application information

An application submitted under subsection (a) shall contain the following information:

(1) A description of the proposed positions into which participants will be placed using the assistance provided under section 12571 of this title.

(2) A description of the proposed minimum qualifications that individuals shall meet to become participants in such programs.

(3) In the case of a nonprofit organization intending to operate programs in 2 or more States, a description of the manner in which and extent to which the organization consulted with the State Commissions of each State in which the organization intends to operate and the nature of the consultation.

(d) Additional required application information

An application submitted under subsection (a) for programs described in 12572(a) [1] of this title shall also contain—

(1) measurable goals, to be used for annual measurements of the program's performance on 1 or more of the corresponding indicators described in section 12572 of this title;

(2) information describing how the applicant proposes to utilize funds to improve performance on the corresponding indicators utilizing participants, including describing the activities in which such participants will engage to improve performance on those indicators;

(3) information identifying the geographical area in which the eligible entity proposing to carry out the program proposes to use funds to improve performance on the corresponding indicators, and demographic information on the students or individuals, as appropriate, in such area, and statistics demonstrating the need to improve such indicators in such area; and

(4) if applicable, information on how the eligible entity will work with other community-based entities to carry out activities to improve performance on the corresponding indicators using such funds.

(e) Application to receive only approved national service positions

(1) Applicability of subsection

This subsection shall apply in the case of an application in which—

(A) the applicant is not seeking assistance under section 12571(a) of this title, but requests national service educational awards for individuals serving in service positions described in section 12573 of this title; or

(B) the applicant requests national service educational awards for service positions described in section 12573 of this title, but the positions are not positions in a national service program described in subsection (a), (b), or (c) of section 12572 of this title for which assistance may be provided under section 12571(a) of this title.

(2) Special application requirements

For the applications described in paragraph (1), the Corporation shall establish special application requirements in order to determine—

(A) whether the service positions meet unmet human, educational, environmental, or public safety needs and meet the criteria for assistance under this division; and

(B) whether the Corporation should approve the positions as approved national service positions.

(f) Special rule for State applicants

(1) Submission by State Commission

The application of a State for approved national service positions or for a grant under section 12571(a) of this title shall be submitted by the State Commission.

(2) Competitive selection

The application of a State shall contain an assurance that all assistance provided under section 12571(a) of this title to the State will be used to support national service programs that were or will be selected by the State on a competitive basis. In making such competitive selections, the State shall seek to ensure the equitable allocation within the State of assistance and approved national service positions provided under this division to the State taking into consideration such factors as the location of the programs applying to the State, population density, and economic distress.

(3) Assistance to non-State entities

The application of a State shall also contain an assurance that not less than 60 percent of the assistance will be used to make grants in support of national service programs other than national service programs carried out by a State agency. The Corporation may permit a State to deviate from the percentage specified by this subsection if the State has not received a sufficient number of acceptable applications to comply with the percentage.

(g) Special rule for certain applicants

(1) Written concurrence

In the case of an applicant that proposes to also serve as the service sponsor, the application shall include the written concurrence of any local labor organization representing employees of the service sponsor who are engaged in the same or substantially similar work as that proposed to be carried out.

(2) Applicant defined

For purposes of this subsection, the term "applicant" means—

(A) a State, subdivision of a State, territory, Indian tribe, public or private nonprofit organization, or institution of higher education submitting an application under this section; or

(B) an entity applying for assistance or approved national service positions through a grant program conducted using assistance provided to a State, subdivision of a State, territory, Indian tribe, public or private nonprofit organization, or institution of higher education under section

12571 of this title.

(h) Limitation on same project receiving multiple grants

Unless specifically authorized by law, the Corporation may not provide more than 1 grant under the national service laws for a fiscal year to support the same project under the national service laws.

(Pub. L. 101–610, title I, §130, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 800; amended Pub. L. 111–13, title I, §1308, Apr. 21, 2009, 123 Stat. 1505.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 130 of Pub. L. 101–610 was renumbered section 199I and is classified to section 12655i of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1308(1), substituted "section 12571(a)" for "section 12571", inserted "territory," after "assistance, a State,", and substituted "or institution of higher education" for "institution of higher education, or Federal agency".

Subsec. (b)(9). Pub. L. 111–13, §1308(2)(A), substituted "section 12572(f)" for "section 12572(c)".

Subsec. (b)(12). Pub. L. 111–13, §1308(2)(B), inserted "municipalities and governments of counties in which such a community is located," after "providing services,".

Subsec. (c)(1). Pub. L. 111–13, §1308(3)(A), substituted "proposed positions" for "jobs or positions" and a period for ", including descriptions of specific tasks to be performed by such participants."

Subsec. (c)(2). Pub. L. 111–13, §1308(3)(B), inserted "proposed" before "minimum".

Subsec. (c)(3). Pub. L. 111–13, §1308(3)(C), added par. (3).

Subsec. (d). Pub. L. 111–13, §1308(5), added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (d)(1). Pub. L. 111–13, §1308(4), substituted "section 12571(a)" for "subsection (a) or (b) of section 12571" in subpars. (A) and (B) and "subsection (a), (b), or (c) of section 12572" for "section 12572(a)" in subpar. (B).

Subsecs. (e), (f). Pub. L. 111–13, §1308(5), redesignated subsecs. (d) and (e) as (e) and (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (f)(2). Pub. L. 111–13, §1308(6), which directed substitution of "were or will be selected" for "were selected" in par. (2)(A), was executed by making the substitution in par. (2) to reflect the probable intent of Congress because par. (2) does not contain subpars.

Subsec. (g). Pub. L. 111–13, §1308(5), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 111–13, §1308(7)(A), substituted "an applicant" for "a program applicant".

Subsec. (g)(2). Pub. L. 111–13, §1308(7)(B)(i), (ii), substituted "Applicant" for "Program applicant" in heading and "applicant" for "program applicant" in introductory provisions.

Subsec. (g)(2)(A), (B). Pub. L. 111–13, §1308(7)(B)(iii), (iv), inserted "territory," after "subdivision of a State," and substituted "or institution of higher education" for "institution of higher education, or Federal agency".

Subsec. (h). Pub. L. 111–13, §1308(5), (8), redesignated subsec. (g) as (h) and amended subsec. (h) generally. Prior to amendment, text read as follows: "The Corporation shall reject an application submitted under this section if a project proposed to be conducted using assistance requested by the applicant is already described in another application pending before the Corporation."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

[1] *So in original. Probably should be preceded by "section".*

§12583. National service program assistance requirements

(a) Impact on communities

An application submitted under section 12582 of this title shall include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 12571 of this title and any national service program supported by a grant made by the applicant using such assistance will—

(1) address unmet human, educational, environmental, or public safety needs through services that provide a direct benefit to the community in which the service is performed; and

(2) comply with the nonduplication and nondisplacement requirements of section 12637 of this title and the grievance procedure requirements of section 12636(f) of this title.

(b) Impact on participants

An application submitted under section 12582 of this title shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 12571 of this title and any national service program supported by a grant made by the applicant using such assistance will—

(1) provide participants in the national service program with the training, skills, and knowledge necessary for the projects that participants are called upon to perform;

(2) provide support services to participants, such as the provision of appropriate information and support—

(A) to those participants who are completing a term of service and making the transition to other educational and career opportunities; and

(B) to those participants who are school dropouts in order to assist those participants in earning the equivalent of a high school diploma; and

(3) provide, if appropriate, structured opportunities for participants to reflect on their service experiences.

(c) Consultation

An application submitted under section 12582 of this title shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 12571 of this title and any national service program supported by a grant made by the applicant using such assistance will—

(1) provide in the design, recruitment, and operation of the program for broad-based input from—

(A) the community served, the municipality and government of the county (if appropriate) in which the community is located, and potential participants in the program; and

(B) community-based agencies with a demonstrated record of experience in providing services and local labor organizations representing employees of service sponsors, if these entities exist in the area to be served by the program;

(2) prior to the placement of participants, consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program to ensure compliance with the nondisplacement requirements specified in section 12637 of this title; and

(3) in the case of a program that is not funded through a State (including a national service program that a nonprofit organization seeks to operate in 2 or more States), consult with and coordinate activities with the State Commission for each State in which the program will operate, and the Corporation shall obtain confirmation from the State Commission that the applicant seeking assistance under this chapter has consulted with and coordinated with the State Commission when seeking to operate the program in that State.

(d) Evaluation and performance goals

(1) In general

An application submitted under section 12582 of this title shall also include an assurance by the applicant that the applicant will—

(A) arrange for an independent evaluation of any national service program carried out using assistance provided to the applicant under section 12571 of this title or, with the approval of the Corporation, conduct an internal evaluation of the program;

(B) apply measurable performance goals and evaluation methods (such as the use of surveys of participants and persons served), which are to be used as part of such evaluation to determine the impact of the program—

(i) on communities and persons served by the projects performed by the program;

(ii) on participants who take part in the projects; and

(iii) in such other areas as the Corporation may require; and

(C) cooperate with any evaluation activities undertaken by the Corporation.

(2) Evaluation

Subject to paragraph (3), the Corporation shall develop evaluation criteria and performance goals applicable to all national service programs carried out with assistance provided under section 12571 of this title.

(3) Alternative evaluation requirements

The Corporation may establish alternative evaluation requirements for national service programs based upon the amount of assistance received under section 12571 of this title or received by a grant made by a recipient of assistance under such section. The determination of whether a national service program is covered by this paragraph shall be made in such manner as the Corporation may prescribe.

(e) Living allowances and other inservice benefits

Except as provided in section 12594(c) of this title, an application submitted under section 12582 of this title shall also include an assurance by the applicant that the applicant will—

(1) ensure the provision of a living allowance and other benefits specified in section 12594 of this title to participants in any national service program carried out by the applicant using assistance provided under section 12571 of this title; and

(2) require that each national service program that receives a grant from the applicant using such assistance will also provide a living allowance and other benefits specified in section 12594 of this title to participants in the program.

(f) Selection of participants from individuals recruited by Corporation or State Commissions

The Corporation may also require an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 12571 of this title and any national service program supported by a grant made by the applicant using such assistance will select a portion of the participants for the program from among prospective participants recruited by the Corporation or State Commissions under section 12592(d) of this title. The Corporation may specify a minimum percentage of participants to be selected from the national leadership pool established under section 12592(e) of this title and may vary the percentage for different types of national service programs.

(Pub. L. 101–610, title I, §131, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 803; amended Pub. L. 111–13, title I, §1309, Apr. 21, 2009, 123 Stat. 1507.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3), was in the original "this Act", meaning Pub. L. 101–610, Nov.

16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

PRIOR PROVISIONS

A prior section 131 of Pub. L. 101–610 was renumbered section 199J and is classified to section 12655j of this title.

AMENDMENTS

2009—Subsec. (c)(1)(A). Pub. L. 111–13, §1309(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "the community served and potential participants in the program; and".

Subsec. (c)(3). Pub. L. 111–13, §1309(2), added par. (3) and struck out former par. (3) which read as follows: "in the case of a program that is not funded through a State, consult with and coordinate activities with the State Commission for the State in which the program operates."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12584. Ineligible service categories

(a) In general

Except as provided in subsection (b), an application submitted to the Corporation under section 12582 of this title shall include an assurance by the applicant that any national service program carried out using assistance provided under section 12571 of this title and any approved national service position provided to an applicant will not be used to perform service that provides a direct benefit to any—

(1) business organized for profit;

(2) labor union;

(3) partisan political organization;

(4) organization engaged in religious activities, unless such service does not involve the use of assistance provided under section 12571 of this title or participants—

(A) to give religious instruction;

(B) to conduct worship services;

(C) to provide instruction as part of a program that includes mandatory religious education or worship;

(D) to construct or operate facilities devoted to religious instruction or worship or to maintain facilities primarily or inherently devoted to religious instruction or worship; or

(E) to engage in any form of proselytization; or

(5) nonprofit organization that fails to comply with the restrictions contained in section 501(c) of title 26, except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative.

(b) Regional Corporation

The requirement of subsection (a) relating to an assurance regarding direct benefits to businesses organized for profit shall not apply with respect to a Regional Corporation, as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)), that is established in accordance with such Act [43 U.S.C. 1601 et seq.] as a for-profit corporation but that is engaging in nonprofit activities.

(Pub. L. 101–610, title I, §132, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 805.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (b), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 132 of Pub. L. 101–610 was renumbered section 199L and classified to section 12655k of this title, prior to repeal by Pub. L. 103–82, §101(e)(8)(A).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12584a. Prohibited activities and ineligible organizations

(a) Prohibited activities

An approved national service position under this division may not be used for the following activities:

(1) Attempting to influence legislation.

(2) Organizing or engaging in protests, petitions, boycotts, or strikes.

(3) Assisting, promoting, or deterring union organizing.

(4) Impairing existing contracts for services or collective bargaining agreements.

(5) Engaging in partisan political activities, or other activities designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(6) Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials.

(7) Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of proselytization, consistent with section 12584 of this title.

(8) Consistent with section 12584 of this title, providing a direct benefit to any—

(A) business organized for profit;

(B) labor union;

(C) partisan political organization;

(D) nonprofit organization that fails to comply with the restrictions contained in section 501(c) of title 26, except that nothing in this paragraph shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and

(E) organization engaged in the religious activities described in paragraph (7), unless the position is not used to support those religious activities.

(9) Providing abortion services or referrals for receipt of such services.

(10) Conducting a voter registration drive or using Corporation funds to conduct a voter registration drive.

(11) Carrying out such other activities as the Corporation may prohibit.

(b) Ineligibility

No assistance provided under this division may be provided to any organization that has violated a Federal criminal statute.

(c) Nondisplacement of employed workers or other volunteers

A participant in an approved national service position under this division may not be directed to perform any services or duties, or to engage in any activities, prohibited under the nonduplication, nondisplacement, or nonsupplantation requirements relating to employees and volunteers in section 12637 of this title.

(Pub. L. 101–610, title I, §132A, as added Pub. L. 111–13, title I, §1310, Apr. 21, 2009, 123 Stat. 1507.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12585. Consideration of applications

(a) Corporation consideration of certain criteria

The Corporation shall apply the criteria described in subsections (c) and (d) in determining whether—

(1) to approve an application submitted under section 12582 of this title and provide assistance under section 12571 of this title to the applicant; and

(2) to approve service positions described in the application as national service positions that include the national service educational award described in division D and provide such approved national service positions to the applicant.

(b) Application to subgrants

(1) In general

A State or other entity that uses assistance provided under section 12571(a) of this title to support national service programs selected on a competitive basis to receive a share of the assistance shall use the criteria described in subsections (c) and (d) when considering an application submitted by a national service program to receive a portion of such assistance or an approved national service position.

(2) Contents

The application of the State or other entity under section 12582 of this title shall contain—

(A) a certification that the State or other entity used these criteria in the selection of national service programs to receive assistance;

(B) a description of the positions into which participants will be placed using such assistance, including descriptions of specific tasks to be performed by such participants; and

(C) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

(c) Assistance criteria

The criteria required to be applied in evaluating applications submitted under section 12582 of this title are as follows:

(1) The quality of the national service program proposed to be carried out directly by the applicant or supported by a grant from the applicant.

(2) The innovative aspects of the national service program, and the feasibility of replicating the

program.

(3) The sustainability of the national service program, based on evidence such as the existence—

(A) of strong and broad-based community support for the program; and

(B) of multiple funding sources or private funding for the program.

(4) The quality of the leadership of the national service program, the past performance of the program, and the extent to which the program builds on existing programs.

(5) The extent to which participants of the national service program are recruited from among residents of the communities in which projects are to be conducted, and the extent to which participants and community residents are involved in the design, leadership, and operation of the program.

(6) The extent to which projects would be conducted in the following areas where they are needed most:

(A) Communities designated as empowerment zones or redevelopment areas, targeted for special economic incentives, or otherwise identifiable as having high concentrations of low-income people.

(B) Areas that are environmentally distressed.

(C) Areas adversely affected by Federal actions related to the management of Federal lands that result in significant regional job losses and economic dislocation.

(D) Areas adversely affected by reductions in defense spending or the closure or realignment of military installations.

(E) Areas that have an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

(7) In the case of applicants other than States, the extent to which the application is consistent with the application under section 12582 of this title of the State in which the projects would be conducted.

(8) Such other criteria as the Corporation considers to be appropriate.

(d) Other considerations

(1) Geographic diversity

The Corporation shall ensure that recipients of assistance provided under section 12571 of this title are geographically diverse and include projects to be conducted in those urban and rural areas in a State with the highest rates of poverty.

(2) Priorities

The Corporation may designate, under such criteria as may be established by the Corporation, certain national service programs or types of national service programs described in subsection (a), (b), or (c) of section 12572 of this title for priority consideration in the competitive distribution of funds under section 12581(d) of this title. In designating national service programs to receive priority, the Corporation may include—

(A) national service programs that—

(i) conform to the national service priorities in effect under section 12572(f) of this title;

(ii) are innovative; and

(iii) are well established in 1 or more States at the time of the application and are proposed to be expanded to additional States using assistance provided under section 12571 of this title;

(B) grant programs in support of other national service programs if the grant programs are to be conducted by nonprofit organizations with demonstrated and extensive expertise in the provision of services to meet human, educational, environmental, or public safety needs; and

(C) professional corps programs described in section 12572(c)(1)(D) of this title.

(3) Additional priority

In making a competitive distribution of funds under section 12581(d) of this title, the Corporation may give priority consideration to a national service program that is—

(A) proposed in an application submitted by a State Commission; and

(B) not one of the types of programs described in paragraph (2),

if the State Commission provides an adequate explanation of the reasons why it should not be a priority of such State to carry out any of such types of programs in the State.

(4) Review panel

The Corporation shall—

(A) establish panels of experts for the purpose of securing recommendations on applications submitted under section 12582 of this title for more than $250,000 in assistance, or for national service positions that would require more than $250,000 in national service educational awards; and

(B) consider the opinions of such panels prior to making such determinations.

(e) Emphasis on areas most in need

In making assistance available under section 12571 of this title and in providing approved national service positions under section 12573 of this title, the Corporation shall ensure that not less than 50 percent of the total amount of assistance to be distributed to States under subsections (d) and (e) of section 12581 of this title for a fiscal year is provided to carry out or support national service programs and projects that—

(1) are conducted in any of the areas described in subsection (c)(6) or on Federal or other public lands, to address unmet human, educational, environmental, or public safety needs in such areas or on such lands; and

(2) place a priority on the recruitment of participants who are residents of any of such areas or Federal or other public lands.

(f) Views of State Commission

In making competitive awards under section 12581(d) of this title, the Corporation shall solicit and consider the views of a State Commission regarding any application for assistance to carry out a national service program within the State.

(g) Rejection of State applications

(1) Notification of State applicants

If the Corporation rejects an application submitted by a State Commission under section 12582 of this title for funds described in section 12581(e) of this title, the Corporation shall promptly notify the State Commission of the reasons for the rejection of the application.

(2) Resubmission and reconsideration

The Corporation shall provide a State Commission notified under paragraph (1) with a reasonable opportunity to revise and resubmit the application. At the request of the State Commission, the Corporation shall provide technical assistance to the State Commission as part of the resubmission process. The Corporation shall promptly reconsider an application resubmitted under this paragraph.

(3) Reallotment

The amount of any State's allotment under section 12581(e) of this title for a fiscal year that the Corporation determines will not be provided for that fiscal year shall be available for distribution by the Corporation as provided in section 12581(f) of this title.

(Pub. L. 101–610, title I, §133, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 805; amended Pub. L. 111–13, title I, §1311, Apr. 21, 2009, 123 Stat. 1509.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 133 of Pub. L. 101–610 was renumbered section 199K and is classified to section 12655l of this title.

AMENDMENTS

2009—Subsec. (b)(2)(B). Pub. L. 111–13, §1311(1), struck out "jobs or" before "positions".

Subsec. (d)(2). Pub. L. 111–13, §1311(2)(A)(i), substituted "subsection (a), (b), or (c) of section 12572" for "section 12572(a)" and "section 12581(d)" for "section 12581(d)(2)" in introductory provisions.

Subsec. (d)(2)(A) to (G). Pub. L. 111–13, §1311(2)(A)(ii), added subpars. (A) to (C) and struck out former subpars. (A) to (G), which set forth programs the Corporation could include in designating national service programs to receive priority.

Subsec. (d)(3). Pub. L. 111–13, §1311(2)(B), substituted "section 12581(d)" for "section 12581(d)(2)" in introductory provisions.

Subsec. (e). Pub. L. 111–13, §1311(3), substituted "subsections (d) and (e) of section 12581" for "subsections (a) and (d)(1) of section 12581" in introductory provisions.

Subsec. (f). Pub. L. 111–13, §1311(6), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 111–13, §1311(4)(A), substituted "section 12581(e)" for "section 12581(a)(1)".

Subsec. (f)(3). Pub. L. 111–13, §1311(4)(B), substituted "section 12581(e)" for "section 12581(a)" and "section 12581(f) of this title" for "paragraph (3) of such subsection".

Subsec. (g). Pub. L. 111–13, §1311(5), redesignated subsec. (f) as (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

PART III—NATIONAL SERVICE PARTICIPANTS

§12591. Description of participants

(a) In general

For purposes of this division, an individual shall be considered to be a participant in a national service program carried out using assistance provided under section 12571 of this title if the individual—

(1) meets such eligibility requirements, directly related to the tasks to be accomplished, as may be established by the program;

(2) is selected by the program to serve in a position with the program;

(3) is 17 years of age or older at the time the individual begins the term of service;

(4) has received a high school diploma or its equivalent, agrees to obtain a high school diploma or its equivalent (unless this requirement is waived based on an individual education assessment conducted by the program) and the individual did not drop out of an elementary or secondary school to enroll in the program, or is enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under section 1091 of title 20; and

(5) is a citizen or national of the United States or lawful permanent resident alien of the United States.

(b) Special rules for certain youth programs

An individual shall be considered to be a participant in a youth corps program described in section 12572(a)(3)(B)(x) of this title that is carried out with assistance provided under section 12571(a) of this title if the individual—

(1) satisfies the requirements specified in subsection (a), except paragraph (3) of such subsection; and

(2) is between the ages of 16 and 25, inclusive, at the time the individual begins the term of service.

(c) Waiver

The Corporation may waive the requirements of subsection (a)(4) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its equivalent.

(Pub. L. 101–610, title I, §137, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 808; amended Pub. L. 103–304, §3(b)(3), Aug. 23, 1994, 108 Stat. 1567; Pub. L. 111–13, title I, §1312, Apr. 21, 2009, 123 Stat. 1509.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12591, Pub. L. 101–610, title I, §155, Nov. 16, 1990, 104 Stat. 3156, related to limitation on grants for innovative and demonstration programs and projects, prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Subsec. (a)(3) to (6). Pub. L. 111–13, §1312(1), redesignated pars. (4) to (6) as (3) to (5), respectively, and struck out former par. (3), which read as follows: "will serve in the program for a term of service specified in section 12593 of this title to be performed before, during, or after attendance at an institution of higher education;".

Subsec. (b). Pub. L. 111–13, §1312(2)(A), substituted "section 12572(a)(3)(B)(x)" for "section 12572(a)(2) of this title or a program described in section 12572(a)(9)" in introductory provisions.

Subsec. (b)(1). Pub. L. 111–13, §1312(2)(B), substituted "paragraph (3)" for "paragraph (4)".

Subsec. (c). Pub. L. 111–13, §1312(3), substituted "(a)(4)" for "(a)(5)".

1994—Subsec. (c). Pub. L. 103–304 substituted "subsection (a)(5)" for "subsection (a)(5)(A)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12592. Selection of national service participants

(a) Selection process

Subject to subsections (b) and (c) and section 12583(f) of this title, the actual recruitment and selection of an individual to serve in a national service program receiving assistance under section 12571 of this title or to fill an approved national service position shall be conducted by the entity to which the assistance and approved national service positions are provided.

(b) Nondiscrimination and nonpolitical selection of participants

The recruitment and selection of individuals to serve in national service programs receiving assistance under section 12571 of this title or to fill approved national service positions shall be consistent with the requirements of section 12635 of this title.

(c) Second term

Acceptance into a national service program to serve a second term of service under section 12593 of this title shall only be available to individuals who perform satisfactorily in their first term of service.

(d) Recruitment and placement

The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq. [and 5000 et seq.]). The Corporation and State Commissions shall disseminate information regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are individuals with disabilities.

(e) National leadership pool

(1) Selection and training

From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

(2) Emphasis on certain individuals

In selecting individuals to receive leadership training under this subsection, the Corporation shall make special efforts to select individuals who have served—

(A) in the Peace Corps;

(B) as VISTA volunteers;

(C) as participants in national service programs receiving assistance under section 12571 of this title, particularly those who were considered, at the time of their service, disadvantaged youth;

(D) as participants in programs receiving assistance under part D of this subchapter, as in effect on the day before September 21, 1993; or

(E) as members of the Armed Forces of the United States and who were honorably discharged from such service.

(3) Assignment

At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

(f) Evaluation of service

The Corporation shall issue regulations regarding the manner and criteria by which the service of a participant shall be evaluated to determine whether the service is satisfactory and successful for purposes of eligibility for a second term of service or a national service educational award.

(Pub. L. 101–610, title I, §138, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 809; amended Pub. L. 111–13, title I, §1313, Apr. 21, 2009, 123 Stat. 1510.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (d), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Titles I and II of the Act are classified generally to subchapters I (§4951 et seq.) and II (§5000 et seq.), respectively, of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

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

Part D of this subchapter, as in effect on the day before September 21, 1993, referred to in subsec. (e)(2)(D), means former part D of this subchapter prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 816.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1313(1), substituted "conducted by the entity" for "conducted by the State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, Federal agency, or other entity".

Subsec. (e)(2)(C). Pub. L. 111–13, §1313(2), inserted ", particularly those who were considered, at the time of their service, disadvantaged youth" before semicolon at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12593. Terms of service

(a) In general

As a condition of receiving a national service education award under division D, a participant in an approved national service position shall be required to perform full- or part-time national service for at least one term of service specified in subsection (b).

(b) Term of service

(1) Full-time service

An individual performing full-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 1,700 hours during a period of not more than 1 year.

(2) Part-time service

Except as provided in paragraph (3), an individual performing part-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 900 hours during a period of not more than 2 years.

(3) Reduction in hours of part-time service

The Corporation may reduce the number of hours required to be served to successfully complete part-time national service to a level determined by the Corporation, except that any reduction in the required term of service shall include a corresponding reduction in the amount of any national service educational award that may be available under division D with regard to that service.

(4) Extension of term for disaster purposes

(A) Extension

An individual in an approved national service position performing service directly related to disaster relief efforts may continue in a term of service for a period of 90 days beyond the period otherwise specified in, as appropriate, this subsection or section 12613(d) of this title or in section 4954 of this title.

(B) Single term of service

A period of service performed by an individual in an originally-agreed to [1] term of service and service performed under this paragraph shall constitute a single term of service for purposes of subsections (b)(1) and (c) of section 12602 of this title.

(C) Benefits

An individual performing service under this paragraph may continue to receive a living allowance and other benefits under section 12594 of this title but may not receive an additional national service educational award under section 12595 of this title.

(c) Release from completing term of service

(1) Release authorized

A recipient of assistance under section 12571 of this title or a program sponsoring an approved national service position may release a participant from completing a term of service in the position—

(A) for compelling personal circumstances as determined by the organization responsible for granting the release, if the participant has otherwise performed satisfactorily and has completed at least 15 percent of the term of service; or

(B) for cause.

(2) Effect of release for compelling circumstances

If a participant eligible for release under paragraph (1)(A) is serving in an approved national service position, the recipient of assistance under section 12571 of this title or a program sponsoring an approved national service position may elect—

(A) to grant such release and certify the participant's eligibility for that portion of the national service educational award corresponding to the portion of the term of service actually completed, as provided in section 12603(c) of this title; or

(B) to permit the participant to temporarily suspend performance of the term of service for a period of up to 2 years (and such additional period as the Corporation may allow for extenuating circumstances) and, upon completion of such period, to complete the remainder of the term of service and obtain the entire national service educational award.

(3) Effect of release for cause

A participant released for cause may not receive any portion of the national service educational award.

(Pub. L. 101–610, title I, §139, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 810; amended Pub. L. 111–13, title I, §1314, Apr. 21, 2009, 123 Stat. 1510.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–13, §1314(1)(A), struck out "not less than 9 months and" before "not more than 1 year".

Subsec. (b)(2). Pub. L. 111–13, §1314(1)(B), substituted "during a period of not more than 2 years." for "during a period of—

"(A) not more than 2 years; or

"(B) not more than 3 years if the individual is enrolled in an institute of higher education while

preforming all or a portion of the service."

Subsec. (b)(4). Pub. L. 111–13, §1314(1)(C), added par. (4).

Subsec. (c)(1)(A). Pub. L. 111–13, §1314(2)(A), substituted "as determined by the organization responsible for granting the release, if the participant has otherwise performed satisfactorily and has completed at least 15 percent of the term of service" for "as demonstrated by the participant".

Subsec. (c)(2)(A). Pub. L. 111–13, §1314(2)(B)(i), substituted "certify the participant's eligibility for that portion of the national service educational award" for "provide to the participant that portion of the national service educational award".

Subsec. (c)(2)(B). Pub. L. 111–13, §1314(2)(B)(ii), struck out "to allow return to the program with which the individual was serving in order" before "to complete the remainder".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

[1] So in original. Probably should be "originally-agreed-to".

§12594. Living allowances for national service participants

(a) Provision of living allowance

(1) Living allowance required

Subject to paragraphs (2) and (3), a national service program carried out using assistance provided under section 12571 of this title shall provide to each participant who participates on a full-time basis in the program a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(2) Maximum living allowance

Except as provided in subsection (c), the total amount of an annual living allowance that may be provided to a participant in a national service program shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(3) Federal work-study students

The living allowance that may be provided under paragraph (1) to an individual whose term of service includes hours for which the individual receives a Federal work-study award under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) [1] shall be reduced by the amount of the individual's Federal work study award.

(4) Proration of living allowance

The amount provided as a living allowance under this subsection shall be prorated in the case of a participant who is authorized to serve a term of service that is less than 12 months.

(5) Waiver or reduction of living allowance

The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

(A) such requirement is inconsistent with the objectives of the program; and

(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

(6) Exemption

The requirement of paragraph (1) shall not apply to any program that was in existence on September 21, 1993.

(b) Coverage of certain employment-related taxes

To the extent a national service program that receives assistance under section 12571 of this title is subject, with respect to the participants in the program, to the taxes imposed on an employer under sections 3111 and 3301 of title 26 and taxes imposed on an employer under a workmen's compensation act, the assistance provided to the program under section 12571 of this title may be used to pay the taxes described in this subsection.

(c) Exception from maximum living allowance for certain assistance

A professional corps program described in section 12572(c)(1)(D) of this title that desires to provide a living allowance in excess of the maximum allowance authorized in subsection (a)(2) may still apply for such assistance, except that—

(1) any assistance provided to the applicant under section 12571 of this title may not be used to pay for any portion of the allowance; and

(2) the national service program shall be operated directly by the applicant and shall meet urgent, unmet human, educational, environmental, or public safety needs, as determined by the Corporation.

(d) Health insurance

(1) In general

A State or other recipient of assistance under section 12571 of this title shall provide or make available a basic health care policy for each full-time participant in a national service program carried out or supported using the assistance, if the participant is not otherwise covered by a health care policy. The Corporation shall establish minimum standards that all plans must meet in order to qualify for payment under this part, any circumstances in which an alternative health care policy may be substituted for the basic health care policy, and mechanisms to prohibit participants from dropping existing coverage.

(2) Option

A State or other recipient of assistance under section 12571 of this title may elect to provide from its own funds or make available a health care policy for participants that does not meet all of the standards established by the Corporation if the fair market value of such policy is equal to or greater than the fair market value of a plan that meets the minimum standards established by the Corporation, and is consistent with other applicable laws.

(e) Child care

(1) Availability

A State or other recipient of assistance under section 12571 of this title shall—

(A) make child care available for children of each full-time participant who needs child care in order to participate in a national service program carried out or supported by the recipient using the assistance; or

(B) provide a child care allowance to each full-time participant in a national service program who needs such assistance in order to participate in the program.

(2) Guidelines

The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any allowance to be provided.

(f) Individualized support services

A State or other recipient of assistance under section 12571 of this title shall provide reasonable accommodation, including auxiliary aids and services (as defined in section 12102(1) [1] of this title), based on the individualized need of a participant who is a qualified individual with a disability (as

defined in section 12111(8) of this title).

(Pub. L. 101–610, title I, §140, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 811; amended Pub. L. 111–13, title I, §1315, Apr. 21, 2009, 123 Stat. 1511.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Part C of title IV of the Act was formerly classified generally to part C (§2751 et seq.) of subchapter I of chapter 34 of this title prior to transfer to part C (§1087–51 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

Section 12102 of this title, referred to in subsec. (f), was amended generally by Pub. L. 110–325, §4(a), Sept. 25, 2008, 122 Stat. 3555, and, as so amended, no longer defines "auxiliary aids and services". However, such term is defined in section 12103(1) of this title.

PRIOR PROVISIONS

A prior section 140 of Pub. L. 101–610 was set out as a note under section 12501 of this title, prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–13, §1315(1)(A), substituted "paragraphs (2) and (3)" for "paragraph (3)".

Subsec. (a)(2), (3). Pub. L. 111–13, §1315(1)(B)–(D), added par. (3), redesignated former par. (3) as (2), and struck out former par. (2). Text of former par. (2) read as follows: "The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under section 12571 of this title and using any other Federal funds shall not exceed 85 percent of the total average annual provided to VISTA volunteers under section 4955 of this title."

Subsec. (a)(4). Pub. L. 111–13, §1315(1)(E), substituted "a term of service that is less than 12 months" for "a reduced term of service under section 12593(b)(3) of this title".

Subsec. (b). Pub. L. 111–13, §1315(2), substituted "may be used to pay the taxes described in this subsection." for "shall include an amount sufficient to cover 85 percent of such taxes based upon the lesser of—

"(1) the total average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title; and

"(2) the annual living allowance established by the program."

Subsec. (c). Pub. L. 111–13, §1315(3), substituted "section 12572(c)(1)(D)" for "section 12572(a)(8)" and "subsection (a)(2)" for "subsection (a)(3) of this section" in introductory provisions, redesignated par. (3) as (2), and struck out former par. (2) which read as follows: "the applicant shall apply for such assistance only by submitting an application to the Corporation for assistance on a competitive basis; and".

Subsec. (d)(1). Pub. L. 111–13, §1315(4)(A), substituted "shall provide or make available" for "shall provide" and struck out second sentence which read as follows: "Not more than 85 percent of the cost of a premium shall be provided by the Corporation, with the remaining cost paid by the entity receiving assistance under section 12571 of this title."

Subsec. (d)(2). Pub. L. 111–13, §1315(4)(B), substituted "provide from its own funds or make available" for "provide from its own funds".

Subsecs. (g), (h). Pub. L. 111–13, §1315(5), struck out subsecs. (g) and (h) which allowed waiver in whole or in part of limitation on Federal share and limited number of terms of service for federally subsidized living allowance, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

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

§12595. National service educational awards

(a) Eligibility generally

A participant in a national service program carried out using assistance provided to an applicant under section 12571 of this title shall be eligible for the national service educational award described in division D if the participant—

(1) serves in an approved national service position; and

(2) satisfies the eligibility requirements specified in section 12602 of this title with respect to service in that approved national service position.

(b) Special rule for VISTA volunteers

A VISTA volunteer who serves in an approved national service position shall be ineligible for a national service educational award if the VISTA volunteer accepts the stipend authorized under section 4955(a)(1) of this title.

(Pub. L. 101–610, title I, §141, as added Pub. L. 103–82, title I, §101(b), Sept. 21, 1993, 107 Stat. 814.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 141 of Pub. L. 101–610 was classified to section 12571 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

Division D—National Service Trust and Provision of Educational Awards

EDITORIAL NOTES

CODIFICATION

Subtitle D of title I of Pub. L. 101–610, comprising this division, was formerly classified to part D (§12571 et seq.) of this subchapter prior to the general amendment by Pub. L. 103–82, §102(a).

Pub. L. 111–13, title I, §1401(a), Apr. 21, 2009, 123 Stat. 1512, amended div. heading generally.

§12601. Establishment of the National Service Trust

(a) Establishment

There is established in the Treasury of the United States an account to be known as the National

Service Trust. The Trust shall consist of—

(1) from the amounts appropriated to the Corporation and made available to carry out this division, such amounts as the Corporation may designate to be available for the payment of—

(A) national service educational awards, summer of service educational awards, and silver scholar educational awards; and

(B) interest expenses pursuant to section 12604(e) of this title;

(2) any amounts received by the Corporation as gifts, bequests, devises, or otherwise pursuant to section 12651g(a)(2) of this title, if the terms of such donations direct that the donated amounts be deposited in the National Service Trust;

(3) any amounts recovered by the Corporation pursuant to section 12602a of this title; and

(4) the interest on, and proceeds from the sale or redemption of, any obligations held by the Trust.

(b) Investment of Trust

It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the Trust. Except as otherwise expressly provided in instruments concerning a gift, bequest, devise, or other donation and agreed to by the Corporation, such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. Any obligation acquired by the Trust may be sold by the Secretary at the market price.

(c) Expenditures from Trust

Amounts in the Trust shall be available, to the extent provided for in advance by appropriation, for—

(1) payments of national service educational awards, summer of service educational awards, and silver scholar educational awards in accordance with section 12604 of this title; and

(2) payments of interest in accordance with section 12604(e) of this title.

(d) Reports to the authorizing committees on receipts and expenditures

Not later than March 1 of each year, the Corporation shall submit a report to the authorizing committees on the financial status of the Trust during the preceding fiscal year. Such report shall—

(1) specify the amount deposited to the Trust from the most recent appropriation to the Corporation, the amount received by the Corporation as gifts, bequests, devises, or otherwise pursuant to section 12651g(a)(2) of this title during the period covered by the report, and any amounts obtained by the Trust pursuant to subsection (a)(3);

(2) identify the number of individuals who are currently performing service to qualify, or have qualified, for national service educational awards, summer of service educational awards, or silver scholar awards;

(3) identify the number of individuals whose expectation to receive national service educational awards, summer of service educational awards, or silver scholar awards during the period covered by the report—

(A) has been reduced pursuant to section 12603(c) of this title; or

(B) has lapsed pursuant to section 12602(d) of this title; and

(4) estimate the number of additional approved national service positions, additional approved summer of service positions, and additional approved silver scholar positions that the Corporation will be able to make available on the basis of any accumulated surplus in the Trust above the amount required to provide national service educational awards, summer of service educational awards, or silver scholar awards to individuals identified under paragraph (2), including any amounts available as a result of the circumstances referred to in paragraph (3).

(Pub. L. 101–610, title I, §145, as added Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 816; amended Pub. L. 111–13, title I, §1401(b), Apr. 21, 2009, 123 Stat. 1512.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12601, Pub. L. 101–610, title I, §156, Nov. 16, 1990, 104 Stat. 3156, related to authority of Commission on National and Community Service to make grants to States or Indian tribes for creation of innovative volunteer and community service programs, prior to repeal by Pub. L. 103–82, §104(a).

A prior section 145 of Pub. L. 101–610 was classified to section 12575 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–13, §1401(b)(1)(A)(i), struck out "pursuant to section 12681(a)(2) of this title" after "carry out this division" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 111–13, §1401(b)(1)(A)(ii), inserted ", summer of service educational awards, and silver scholar educational awards" after "national service educational awards".

Subsec. (a)(2). Pub. L. 111–13, §1401(b)(1)(B)(i), substituted "pursuant to section 12651g(a)(2) of this title, if the terms of such donations direct that the donated amounts be deposited in the National Service Trust" for "pursuant to section 12651g(a)(2) of this title".

Subsec. (a)(3), (4). Pub. L. 111–13, §1401(b)(1)(B)(ii)–(D), added par. (3) and redesignated former par. (3) as (4).

Subsec. (c). Pub. L. 111–13, §1401(b)(2), substituted "for—" for "for payments of national service educational awards in accordance with section 12604 of this title." and added pars. (1) and (2).

Subsec. (d). Pub. L. 111–13, §1401(b)(3)(A), (B), substituted "the authorizing committees" for "Congress" in heading and "the authorizing committees" for "the Congress" in introductory provisions.

Subsec. (d)(2), (3). Pub. L. 111–13, §1401(b)(3)(C), inserted ", summer of service educational awards, or silver scholar awards" after "national service educational awards".

Subsec. (d)(4). Pub. L. 111–13, §1401(b)(3)(C), (D), inserted ", additional approved summer of service positions, and additional approved silver scholar positions" after "additional approved national service positions", struck out "under division C of this subchapter" after "make available", and inserted ", summer of service educational awards, or silver scholar awards" after "national service educational awards".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

SEGAL AMERICORPS EDUCATION AWARD

Pub. L. 109–234, title VII, §7014, June 15, 2006, 120 Stat. 484, provided that: "Any national service educational award described in subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.), made with funds appropriated to, funds transferred to, or interest accumulated in the National Service Trust, shall hereafter be known as a 'Segal AmeriCorps Education Award'."

§12601a. Transfer of funds; notice to Congress

For fiscal year 2009 and thereafter, in addition to amounts otherwise provided to the National Service Trust, at no later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available, unobligated balances of appropriations available for grants under the National Service Trust Program under subtitle C of title I of the 1990 Act [42 U.S.C.

12571 et seq.] during such fiscal year may be transferred to the National Service Trust after notice is transmitted to the Committees on Appropriations of the House of Representatives and the Senate, if such funds are initially obligated before the expiration of their period of availability.

(Pub. L. 111–8, div. F, title IV, §409, Mar. 11, 2009, 123 Stat. 796.)

EDITORIAL NOTES

REFERENCES IN TEXT

The 1990 Act, referred to in text, is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990. Subtitle C of title I of the Act is classified generally to division C (§12571 et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the National and Community Service Act of 1990 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation act:
Pub. L. 110–161, div. G, title IV, Dec. 26, 2007, 121 Stat. 2200.

§12602. Individuals eligible to receive an educational award from the Trust

(a) Eligible individuals

An individual shall receive a national service educational award, summer of service educational award, or silver scholar educational award from the National Service Trust if the organization responsible for the individual's supervision in a national service program certifies that the individual—

(1) met the applicable eligibility requirements for the approved national service position, approved silver scholar position, or approved summer of service position, as appropriate, in which the individual served;

(2)(A) for a full-time or part-time national service educational award, successfully completed the required term of service described in subsection (b)(1) in the approved national service position;

(B) for a partial educational award in accordance with section 12593(c) of this title—

(i) satisfactorily performed prior to being granted a release for compelling personal circumstances under such section; and

(ii) completed at least 15 percent of the required term of service described in subsection (b) for the approved national service position;

(C) for a summer of service educational award, successfully completed the required term of service described in subsection (b)(2) in an approved summer of service position, as certified through a process determined by the Corporation through regulations consistent with section 12592(f) of this title; or

(D) for a silver scholar educational award, successfully completed the required term of service described in subsection (b)(3) in an approved silver scholar position, as certified through a process determined by the Corporation through regulations consistent with section 12592(f) of this title; and

(3) is a citizen or national of the United States or lawful permanent resident alien of the United States.

(b) Term of service

(1) Approved national service position

The term of service for an approved national service position shall not be less than the full- or part-time term of service specified in section 12593(b) of this title.

(2) Approved summer of service position

The term of service for an approved summer of service position shall not be less than 100 hours of service during the summer months.

(3) Approved silver scholar position

The term of service for an approved silver scholar position shall be not less than 350 hours during a 1-year period.

(c) Limitation on receipt of national service educational awards

An individual may not receive, through national service educational awards and silver scholar educational awards, more than an amount equal to the aggregate value of 2 such awards for full-time service. The value of summer of service educational awards that an individual receives shall have no effect on the aggregate value of the national service educational awards the individual may receive.

(d) Time for use of educational award

(1) In general

Subject to paragraph (2), an individual eligible to receive a national service educational award or a silver scholar educational award under this section may not use such award after the end of the 7-year period beginning on the date the individual completes the term of service in an approved national service position or an approved silver scholar position, as applicable, that is the basis of the award. Subject to paragraph (2), an individual eligible to receive a summer of service educational award under this section may not use such award after the end of the 10-year period beginning on the date the individual completes the term of service in an approved summer of service position that is the basis of the award.

(2) Exception

The Corporation may extend the period within which an individual may use a national service educational award, summer of service educational award, or silver scholar educational award if the Corporation determines that the individual—

(A) was unavoidably prevented from using the national service educational award, summer of service educational award, or silver scholar educational award during the original 7-year period, or 10-year period, as appropriate; or

(B) performed another term of service in an approved national service position, approved summer of service position, or approved silver scholar position during that period.

(3) Term for transferred educational awards

For purposes of applying paragraphs (1) and (2)(A) to an individual who is eligible to receive an educational award as a designated individual (as defined in section 12604(f)(8) of this title), references to a seven-year period shall be considered to be references to a 10-year period that begins on the date the individual who transferred the educational award to the designated individual completed the term of service in the approved national service position or approved silver scholar position that is the basis of the award.

(e) Suspension of eligibility for drug-related offenses

(1) In general

An individual who, after qualifying under this section or under section 12563(c)(8) of this title as an eligible individual, has been convicted under any Federal or State law of the possession or sale of a controlled substance shall not be eligible to receive a national service educational award,

a summer of service educational award, or a silver scholar educational award during the period beginning on the date of such conviction and ending after the interval specified in the following table:

If convicted of:	
The possession of a controlled substance:	Ineligibility period is:
1st conviction	1 year
2nd conviction	2 years
3rd conviction	indefinite
The sale of a controlled substance:	
1st conviction	2 years
2nd conviction	indefinite

(2) Rehabilitation

An individual whose eligibility has been suspended under paragraph (1) shall resume eligibility before the end of the period determined under such paragraph if the individual satisfactorily completes a drug rehabilitation program that complies with such criteria as the Corporation shall prescribe for purposes of this paragraph.

(3) First convictions

An individual whose eligibility has been suspended under paragraph (1) and is convicted of a first offense may resume eligibility before the end of the period determined under such paragraph if the individual demonstrates that he or she has enrolled or been accepted for enrollment in a drug rehabilitation program described in paragraph (2).

(4) "Controlled substance" defined

As used in this subsection, the term "controlled substance" has the meaning given in section 802(6) of title 21.

(5) Effective date

This subsection shall be effective upon publication by the Corporation in the Federal Register of criteria prescribed under paragraph (2).

(f) Authority to establish demonstration programs

The Corporation may establish by regulation demonstration programs for the creation and evaluation of innovative volunteer and community service programs.

(Pub. L. 101–610, title I, §146, as added Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 818; amended Pub. L. 103–304, §3(b)(4), Aug. 23, 1994, 108 Stat. 1567; Pub. L. 111–13, title I, §1402, Apr. 21, 2009, 123 Stat. 1512.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12602, Pub. L. 101–610, title I, §157, Nov. 16, 1990, 104 Stat. 3156; Pub. L. 102–10, §7, Mar. 12, 1991, 105 Stat. 31, related to grant applications, awards, and uses, prior to repeal by Pub. L. 103–82, §104(a).

A prior section 146 of Pub. L. 101–610 was classified to section 12576 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

AMENDMENTS

2009—Pub. L. 111–13, §1402(1), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 111–13, §1402(2)(A), inserted ", summer of service educational award, or silver scholar educational award" after "national service educational award" and substituted "if the organization responsible for the individual's supervision in a national service program certifies that the individual" for "if the individual" in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 111–13, §1402(2)(B), added pars. (1) and (2) and struck out former pars. (1) and (2), which read as follows:

"(1) successfully completes the required term of service described in subsection (b) of this section in an approved national service position;

"(2) was 17 years of age or older at the time the individual began serving in the approved national service position or was an out-of-school youth serving in an approved national service position with a youth corps program described in section 12572(a)(2) of this title or a program described in section 12572(a)(9) of this title;".

Subsec. (a)(3), (4). Pub. L. 111–13, §1402(2)(B), (C), redesignated par. (4) as (3) and struck out former par. (3), which read as follows: "at the time the individual uses the national service educational award—

"(A) has received a high school diploma, or the equivalent of such diploma;

"(B) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of subsection (a) of section 1091 of title 20 and meets the requirements of subsection (a) of such section; or

"(C) has received a waiver described in section 12591(c) of this title; and".

Subsec. (b). Pub. L. 111–13, §1402(3), designated existing provisions as par. (1), inserted par. (1) heading, and added pars. (2) and (3).

Subsec. (c). Pub. L. 111–13, §1402(4), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Although an individual may serve more than 2 terms of service described in subsection (b) of this section in an approved national service position, the individual shall receive a national service educational award from the National Service Trust only on the basis of the first and second of such terms of service."

Subsec. (d)(1). Pub. L. 111–13, §1402(5)(A)(i), substituted "In general" for "Seven-year requirement" in heading.

Pub. L. 111–13, §1402(5)(A)(ii)–(v), substituted "Subject to paragraph (2), an" for "An" and inserted "or a silver scholar educational award" after "national service educational award", "or an approved silver scholar position, as applicable," after "approved national service position", and "Subject to paragraph (2), an individual eligible to receive a summer of service educational award under this section may not use such award after the end of the 10-year period beginning on the date the individual completes the term of service in an approved summer of service position that is the basis of the award." at end.

Subsec. (d)(2). Pub. L. 111–13, §1402(5)(B)(i), inserted ", summer of service educational award, or silver scholar educational award" after "national service educational award" in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 111–13, §1402(5)(B)(i), (ii), inserted ", summer of service educational award, or silver scholar educational award" after "national service educational award" and ", or 10-year period, as appropriate" after "7-year period".

Subsec. (d)(2)(B). Pub. L. 111–13, §1402(5)(B)(iii), inserted ", approved summer of service position, or approved silver scholar position" after "approved national service position".

Subsec. (d)(3). Pub. L. 111–13, §1402(5)(C), added par. (3).

Subsec. (e)(1). Pub. L. 111–13, §1402(6), inserted "or under section 12563(c)(8) of this title" after "qualifying under this section" and ", a summer of service educational award, or a silver scholar educational award" after "to receive a national service educational award".

1994—Subsec. (a)(3). Pub. L. 103–304 struck out second par. (3) which read as follows: "has received a high school diploma, or the equivalent of such diploma, at the time the individual uses the national service educational award, unless this requirement has been waived based on an individual education assessment conducted by the program; and".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993

Amendment note under section 1701 of Title 16, Conservation.

STUDY TO EVALUATE THE EFFECTIVENESS OF AGENCY COORDINATION

Pub. L. 111–13, title I, §1711, Apr. 21, 2009, 123 Stat. 1550, provided that:

"(a) STUDY.—In order to reduce administrative burdens and lower costs for national service programs carried out under the national service laws, the Corporation shall conduct a study to determine the feasibility and effectiveness of implementing a data matching system under which the statements of an individual declaring that such individual is in compliance with the requirements of section 146(a)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12602(a)(3)) shall be verified by the Corporation by comparing information provided by the individual with information relevant to such a declaration in the possession of other Federal agencies. Such study shall—

"(1) review the feasibility of—

"(A) expanding, and participating in, the data matching conducted by the Department of Education with the Social Security Administration and the Department of Homeland Security, pursuant to section 484(g) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)); or

"(B) establishing a comparable system of data matching with the Social Security Administration and the Department of Homeland Security; and

"(2) identify—

"(A) the costs, for both the Corporation and the other Federal agencies identified in paragraph (1), associated with expanding or establishing such a system of data matching;

"(B) the benefits or detriments of such an expanded or comparable system both for the Corporation and for the other Federal agencies so identified;

"(C) strategies for ensuring the privacy and security of participant information that is shared between Federal agencies and organizations receiving assistance under the national service laws;

"(D) the information that needs to be shared in order to fulfill the eligibility requirements of section 146(a)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12602(a)(3));

"(E) an alternative system through which an individual's compliance with section 146(a)(3) of such Act may be verified, should such an expanded or comparable system fail to verify the individual's declaration of compliance; and

"(F) recommendations for implementation of such an expanded or comparable system.

"(b) CONSULTATION.—The Corporation shall carry out the study in consultation with the Secretary of Education, the Commissioner of the Social Security Administration, the Secretary of Homeland Security, and other Federal agencies, entities, and individuals that the Corporation considers appropriate.

"(c) REPORT.—Not later than 9 months after the effective date of this Act [for general effective date of Pub. L. 111–13 as Oct. 1, 2009, see Effective Date of 2009 Amendment note under section 4950 of this title], the Corporation shall submit to the authorizing committees a report on the results of the study required by subsection (a) and a plan for implementation of a pilot data matching program using promising strategies and approaches identified in such study, if the Corporation determines such program to be feasible.

"(d) PILOT PROGRAM.—From amounts made available to carry out this section, the Corporation may develop and carry out a pilot data matching program based on the report submitted under subsection (c).

"(e) DEFINITIONS.—In this section, the terms 'Corporation', 'authorizing committees', and 'national service laws' have the meanings given the terms in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511)."

§12602a. Certifications of successful completion of terms of service

(a) Certifications

In making any authorized disbursement from the National Service Trust in regard to an eligible individual (including disbursement for a designated individual, as defined in section 12604(f)(8) of this title, due to the service of an eligible individual) under section 12602 of this title who served in an approved national service position, an approved summer of service position, or an approved silver scholar position, the Corporation shall rely on a certification. The certification shall be made by the entity that selected the individual for and supervised the individual in the approved national service position in which such individual successfully completed a required term of service, in a national service program.

(b) Effect of erroneous certifications

If the Corporation determines that the certification under subsection (a) is erroneous or incorrect, the Corporation shall assess against the national service program a charge for the amount of any associated payment or potential payment from the National Service Trust. In assessing the amount of the charge, the Corporation shall consider the full facts and circumstances surrounding the erroneous or incorrect certification.

(Pub. L. 101–610, title I, §146A, as added Pub. L. 111–13, title I, §1403, Apr. 21, 2009, 123 Stat. 1514.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12603. Determination of the amount of the educational award

(a) Amount for full-time national service

Except as provided in subsection (c), an individual described in section 12602(a) of this title who successfully completes a required term of full-time national service in an approved national service position shall receive a national service educational award having a value equal to the maximum amount of a Federal Pell Grant under section 1070a of title 20 that a student eligible for such Grant may receive in the aggregate (without regard to whether the funds are provided through discretionary or mandatory appropriations), for the award year for which the national service position is approved by the Corporation.

(b) Amount for part-time national service

Except as provided in subsection (c), an individual described in section 12602(a) of this title who successfully completes a required term of part-time national service in an approved national service position shall receive a national service educational award having a value equal to 50 percent of value of the national service educational award determined under subsection (a).

(c) Award for partial completion of service

If an individual serving in an approved national service position is released in accordance with section 12593(c)(1)(A) of this title from completing the full-time or part-time term of service agreed to by the individual, the Corporation may provide the individual with that portion of the national service educational award approved for the individual that corresponds to the quantity of the term of service actually completed by the individual.

(d) Amount for summer of service

An individual described in section 12602(a) of this title who successfully completes a required summer of service term shall receive a summer of service educational award having a value, for each of not more than 2 of such terms of service, equal to $500 (or, at the discretion of the Chief Executive Officer, equal to $750 in the case of a participant who is economically disadvantaged).

(e) Amount for silver scholars

An individual described in section 12602(a) of this title who successfully completes a required silver scholar term shall receive a silver scholar educational award having a value of $1,000.

(Pub. L. 101–610, title I, §147, as added Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 819; amended Pub. L. 111–13, title I, §1404, Apr. 21, 2009, 123 Stat. 1515.)

EDITORIAL NOTES

AMENDMENTS

2009—Pub. L. 111–13, §1404(1), substituted section catchline for former section catchline.

Subsec. (a). Pub. L. 111–13, §1404(2), amended subsec. (a) generally. Prior to amendment, text read as follows: "Except as provided in subsection (c) of this section, an individual described in section 12602(a) of this title who successfully completes a required term of full-time national service in an approved national service position shall receive a national service educational award having a value, for each of not more than 2 of such terms of service, equal to 90 percent of—

"(1) one-half of an amount equal to the aggregate basic educational assistance allowance provided in section 3015(b)(1) of title 38 (as in effect on July 28, 1993), for the period referred to in section 3013(a)(1) of such title (as in effect on July 28, 1993), for a member of the Armed Forces who is entitled to such an allowance under section 3011 of such title and whose initial obligated period of active duty is 2 years; less

"(2) one-half of the aggregate basic contribution required to be made by the member in section 3011(b) of such title (as in effect on July 28, 1993)."

Subsec. (b). Pub. L. 111–13, §1404(3), struck out ", for each of not more than 2 of such terms of service," after "having a value".

Subsecs. (d), (e). Pub. L. 111–13, §1404(4), added subsecs. (d) and (e).

PRIOR PROVISIONS

A prior section 147 of Pub. L. 101–610 was classified to section 12577 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12604. Disbursement of educational awards

(a) In general

Amounts in the Trust shall be available—

(1) to repay student loans in accordance with subsection (b);

(2) to pay all or part of the cost of attendance or other educational expenses at an institution of higher education in accordance with subsection (c);

(3) to pay expenses incurred in participating in an approved school-to-work program in accordance with subsection (d);

(4) to pay expenses incurred in enrolling in an educational institution or training establishment that is approved under chapter 36 of title 38, or other applicable provisions of law, for offering programs of education, apprenticeship, or on-job training for which educational assistance may be provided by the Secretary of Veterans Affairs; and

(5) to pay interest expenses in accordance with regulations prescribed pursuant to subsection (e).

(b) Use of educational award to repay outstanding student loans

(1) Application by eligible individuals

An eligible individual under section 12602 of this title who desires to apply the national service educational award of the individual, an eligible individual under section 12602(a) of this title who served in a summer of service program and desires to apply that individual's summer of service educational award, or an eligible individual under section 12602(a) of this title who served in a

silver scholar program and desires to apply that individual's silver scholar educational award, to the repayment of qualified student loans shall submit, in a manner prescribed by the Corporation, an application to the Corporation that—

(A) identifies, or permits the Corporation to identify readily, the holder or holders of such loans;

(B) indicates, or permits the Corporation to determine readily, the amounts of principal and interest outstanding on the loans;

(C) specifies, if the outstanding balance is greater than the amount disbursed under paragraph (2), which of the loans the individual prefers to be paid by the Corporation; and

(D) contains or is accompanied by such other information as the Corporation may require.

(2) Disbursement of repayments

Upon receipt of an application from an eligible individual of an application that complies with paragraph (1), the Corporation shall, as promptly as practicable consistent with paragraph (5), disburse the amount of the national service educational award, the summer of service educational award, or the silver scholar educational award, as applicable, that the eligible individual has earned. Such disbursement shall be made by check or other means that is payable to the holder of the loan and requires the endorsement or other certification by the eligible individual.

(3) Application of disbursed amounts

If the amount disbursed under paragraph (2) is less than the principal and accrued interest on any qualified student loan, such amount shall be applied according to the specified priorities of the individual.

(4) Reports by holders

Any holder receiving a loan payment pursuant to this subsection shall submit to the Corporation such information as the Corporation may require to verify that such payment was applied in accordance with this subsection and any regulations prescribed to carry out this subsection.

(5) Notification of individual

The Corporation upon disbursing the national service educational award, the summer of service educational award, or the silver scholar educational award, as applicable, shall notify the individual of the amount paid for each outstanding loan and the date of payment.

(6) Authority to aggregate payments

The Corporation may, by regulation, provide for the aggregation of payments to holders under this subsection.

(7) "Qualified student loans" defined

As used in this subsection, the term "qualified student loans" means—

(A) any loan made, insured, or guaranteed pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078–2);

(B) any loan made pursuant to title VII or VIII of the Public Health Service Act [42 U.S.C. 292 et seq., 296 et seq.]; and

(C) any loan (other than a loan described in subparagraph (A) or (B)) determined by an institution of higher education to be necessary to cover a student's educational expenses and made, insured, or guaranteed by—

(i) an eligible lender, as defined in section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085);

(ii) the direct student loan program under part D of title IV of such Act (20 U.S.C. 1087a et seq.);

(iii) a State agency; or

(iv) a lender otherwise determined by the Corporation to be eligible to receive disbursements from the National Service Trust.

(8) "Holder" defined

As used in this subsection, the term "holder" with respect to any eligible loan means the original lender or, if the loan is subsequently sold, transferred, or assigned to some other person, and such other person acquires a legally enforceable right to receive payments from the borrower, such other person.

(c) Use of educational awards to pay current educational expenses

(1) Application by eligible individual

An eligible individual under section 12602 of this title who desires to apply the individual's national service educational award, an eligible individual under section 12602(a) of this title who desires to apply the individual's summer of service educational award, or an eligible individual under section 12602(a) of this title who served in a silver scholar program and desires to apply that individual's silver scholar educational award, to the payment of current full-time or part-time educational expenses shall, on a form prescribed by the Corporation, submit an application to the institution of higher education in which the student will be enrolled that contains such information as the Corporation may require to verify the individual's eligibility.

(2) Submission of requests for payment by institutions

An institution of higher education that receives one or more applications that comply with paragraph (1) shall submit to the Corporation a statement, in a manner prescribed by the Corporation, that—

(A) identifies each eligible individual filing an application under paragraph (1) for a disbursement of the individual's national service educational award, summer of service educational award, or silver scholar educational award, as applicable, under this subsection;

(B) specifies the amounts for which such eligible individuals are, consistent with paragraph (6), qualified for disbursement under this subsection;

(C) certifies that—

(i) the institution of higher education has in effect a program participation agreement under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094);

(ii) the institution's eligibility to participate in any of the programs under title IV of such Act (20 U.S.C. 1070 et seq.) has not been limited, suspended, or terminated; and

(iii) individuals using national service educational awards, summer of service educational awards, or silver scholar educational awards, as applicable, received under this division to pay for educational costs do not comprise more than 15 percent of the total student population of the institution; and

(D) contains such provisions concerning financial compliance as the Corporation may require.

(3) Disbursement of payments

Upon receipt of a statement from an institution of higher education that complies with paragraph (2), the Corporation shall, subject to paragraph (4), disburse the total amount of the national service educational awards [1] summer of service educational awards, or silver scholar educational awards for which eligible individuals who have submitted applications to that institution under paragraph (1) are scheduled to receive. Such disbursement shall be made by check or other means that is payable to the institution and requires the endorsement or other certification by the eligible individual.

(4) Multiple disbursements required

The total amount required to be disbursed to an institution of higher education under paragraph (3) for any period of enrollment shall be disbursed by the Corporation in 2 or more installments, none of which exceeds ½ of such total amount. The interval between the first and second such

installment shall not be less than ½ of such period of enrollment, except as necessary to permit the second installment to be paid at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(5) Refund rules

The Corporation shall, by regulation, provide for the refund to the Corporation (and the crediting to the national service educational award, summer of service educational award, or silver scholar educational award, as applicable, of an eligible individual) of amounts disbursed to institutions for the benefit of eligible individuals who withdraw or otherwise fail to complete the period of enrollment for which the assistance was provided. Such regulations shall be consistent with the fair and equitable refund policies required of institutions pursuant to section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b). Amounts refunded to the Trust pursuant to this paragraph may be used by the Corporation to fund additional approved national service positions under division C, additional approved summer of service positions, and additional approved silver scholar positions.

(6) Maximum award

The portion of an eligible individual's total available national service educational award, summer of service educational award, or silver scholar educational award that may be disbursed under this subsection for any period of enrollment shall not exceed the difference between—

(A) the eligible individual's cost of attendance and other educational expenses for such period of enrollment, determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll); and

(B) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.).

(d) Use of educational award to participate in approved school-to-work programs

The Corporation shall by regulation provide for the payment of national service educational awards, summer of service educational awards, and silver scholar educational awards to permit eligible individuals to participate in school-to-work programs approved by the Secretaries of Labor and Education.

(e) Interest payments during forbearance on loan repayment

The Corporation shall provide by regulation for the payment on behalf of an eligible individual of interest that accrues during a period for which such individual has obtained forbearance in the repayment of a qualified student loan (as defined in subsection (b)(7)), if the eligible individual successfully completes the individual's required term of service (as determined under section 12602(b) of this title). Such regulations shall be prescribed after consultation with the Secretary of Education.

(f) Transfer of educational awards

(1) In general

An individual who is eligible to receive a national service educational award or silver scholar educational award due to service in a program described in paragraph (2) may elect to receive the award (in the amount described in the corresponding provision of section 12603 of this title) and transfer the award to a designated individual. Subsections (b), (c), and (d) shall apply to the designated individual in lieu of the individual who is eligible to receive the national service educational award or silver scholar educational award, except that amounts refunded to the account under subsection (c)(5) on behalf of a designated individual may be used by the Corporation to fund additional placements in the national service program in which the eligible individual who transferred the national service educational award or silver scholar educational award participated for such award.

(2) Conditions for transfer

An educational award may be transferred under this subsection if—

(A)(i) the award is a national service educational award for service in a national service program that receives a grant under division C; and

(ii) before beginning the term of service involved, the eligible individual is age 55 or older; or

(B) the award is a silver scholarship educational award under section 12653c(a) of this title.

(3) Modification or revocation

(A) In general

An individual transferring an educational award under this subsection may, on any date on which a portion of the educational award remains unused, modify or revoke the transfer of the educational award with respect to that portion.

(B) Notice

A modification or revocation of the transfer of an educational award under this paragraph shall be made by the submission of written notice to the Corporation.

(4) Prohibition on treatment of transferred award as marital property

An educational award transferred under this subsection may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(5) Death of transferor

The death of an individual transferring an educational award under this subsection shall not affect the use of the educational award by the child, foster child, or grandchild to whom the educational award is transferred if such educational award is transferred prior to the death of the individual.

(6) Procedures to prevent waste, fraud, or abuse

The Corporation shall establish requirements to prevent waste, fraud, or abuse in connection with the transfer of an educational award and to protect the integrity of the educational award under this subsection.

(7) Technical assistance

The Corporation may, as appropriate, provide technical assistance, to individuals and eligible entities carrying out national service programs, concerning carrying out this subsection.

(8) Definition of a designated individual

In this subsection, the term "designated individual" is an individual—

(A) whom an individual who is eligible to receive a national service educational award or silver scholar educational award due to service in a program described in paragraph (2) designates to receive the educational award;

(B) who meets the eligibility requirements of paragraphs (3) and (4) of section 12602(a) of this title; and

(C) who is a child, foster child, or grandchild of the individual described in subparagraph (A).

(g) Exception

With the approval of the Chief Executive Officer, an approved national service program funded under section 12571 of this title, may offer participants the option of waiving their right to receive a national service educational award, summer of service educational award, or silver scholar educational award, as appropriate, in order to receive an alternative post-service benefit funded by the program entirely with non-Federal funds.

(h) "Institution of higher education" defined

Notwithstanding section 12511 of this title, for purposes of this section the term "institution of higher education" has the meaning provided by section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002].

(Pub. L. 101–610, title I, §148, as added Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 820; amended Pub. L. 105–244, title I, §102(c)(2), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 111–13, title

I, §1405, Apr. 21, 2009, 123 Stat. 1515.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsecs. (b)(7)(A), (C)(ii) and (c)(2)(C)(ii), (6)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. Parts A and D of title IV of the Act are classified generally to parts A (§1070 et seq.) and D (§1087a et seq.), respectively, of subchapter IV of chapter 28 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (b)(7)(B), is act July 1, 1944, ch. 373, 58 Stat. 682. Titles VII and VIII of the Act are classified generally to subchapters V (§292 et seq.) and VI (§296 et seq.), respectively, of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

PRIOR PROVISIONS

A prior section 148 of Pub. L. 101–610 was classified to section 12578 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, §102(a).

AMENDMENTS

2009—Pub. L. 111–13, §1405(1), substituted section catchline for former section catchline.

Subsec. (a)(2) to (5). Pub. L. 111–13, §1405(2), substituted "cost of attendance or other educational expenses" for "cost of attendance" in par. (2), added par. (4), and redesignated former par. (4) as (5).

Subsec. (b)(1). Pub. L. 111–13, §1405(3)(A), inserted ", an eligible individual under section 12602(a) of this title who served in a summer of service program and desires to apply that individual's summer of service educational award, or an eligible individual under section 12602(a) of this title who served in a silver scholar program and desires to apply that individual's silver scholar educational award," after "the national service educational award of the individual" in introductory provisions.

Subsec. (b)(2). Pub. L. 111–13, §1405(3)(B), inserted ", the summer of service educational award, or the silver scholar educational award, as applicable," after "the national service educational award".

Subsec. (b)(5). Pub. L. 111–13, §1405(3)(C), inserted ", the summer of service educational award, or the silver scholar educational award, as applicable" after "the national service educational award".

Subsec. (b)(7)(C). Pub. L. 111–13, §1405(3)(D), added subpar. (C).

Subsec. (c)(1). Pub. L. 111–13, §1405(4)(A), inserted ", an eligible individual under section 12602(a) of this title who desires to apply the individual's summer of service educational award, or an eligible individual under section 12602(a) of this title who served in a silver scholar program and desires to apply that individual's silver scholar educational award," after "national service educational award".

Subsec. (c)(2)(A). Pub. L. 111–13, §1405(4)(B)(i), inserted ", summer of service educational award, or silver scholar educational award, as applicable," after "national service educational award".

Subsec. (c)(2)(C)(iii). Pub. L. 111–13, §1405(4)(B)(ii), inserted ", summer of service educational awards, or silver scholar educational awards, as applicable," after "national service educational awards".

Subsec. (c)(3). Pub. L. 111–13, §1405(4)(C), inserted "summer of service educational awards, or silver scholar educational awards" after "national service educational awards".

Subsec. (c)(5). Pub. L. 111–13, §1405(4)(D), inserted ", summer of service educational award, or silver scholar educational award, as applicable," after "national service educational award" and ", additional approved summer of service positions, and additional approved silver scholar positions" before period at end.

Subsec. (c)(6). Pub. L. 111–13, §1405(4)(E)(i), inserted ", summer of service educational award, or silver scholar educational award" after "national service educational award" in introductory provisions.

Subsec. (c)(6)(A). Pub. L. 111–13, §1405(4)(E)(ii), inserted "and other educational expenses" after "cost of attendance".

Subsec. (c)(6)(B). Pub. L. 111–13, §1405(4)(E)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: "the sum of—

"(i) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.); and

"(ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c))."

Subsec. (d). Pub. L. 111–13, §1405(5), inserted ", summer of service educational awards, and silver scholar educational awards" after "national service educational awards".

Subsec. (e). Pub. L. 111–13, §1405(6), substituted "subsection (b)(7)" for "subsection (b)(6)".

Subsec. (f). Pub. L. 111–13, §1405(9), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 111–13, §1405(7), substituted "Chief Executive Officer" for "Director" and inserted ", summer of service educational award, or silver scholar educational award, as appropriate," after "national service educational award".

Subsecs. (g), (h). Pub. L. 111–13, §1405(8), redesignated subsecs. (f) and (g) as (g) and (h), respectively.

1998—Subsec. (g). Pub. L. 105–244 substituted "section 102 of the Higher Education Act of 1965" for "section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

[1] So in original. Probably should be followed by a comma.

§12605. Repealed. Pub. L. 111–13, title I, §1406(b), Apr. 21, 2009, 123 Stat. 1521

Section, Pub. L. 108–45, §2, July 3, 2003, 117 Stat. 844, related to the process of approval of national service positions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12606. Approval process for approved positions

(a) Timing and recording requirements

(1) In general

Notwithstanding divisions C, D, and H, and any other provision of law, in approving a position as an approved national service position, an approved summer of service position, or an approved silver scholar position, the Corporation—

(A) shall approve the position at the time the Corporation—

(i) enters into an enforceable agreement with an individual participant to serve in a program carried out under division E of this subchapter, section 12653b or 12653c(a) of this title, or under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), a summer of service program described in section 12563(c)(8) of this title, or a silver scholarship program described in section 12653c(a) of this title; or

(ii) except as provided in clause (i), awards a grant to (or enters into a contract or cooperative agreement with) an entity to carry out a program for which such a position is

approved under section 12573 of this title; and

(B) shall record as an obligation an estimate of the net present value of the national service educational award, summer of service educational award, or silver scholar educational award associated with the position, based on a formula that takes into consideration historical rates of enrollment in such a program, and of earning and using national service educational awards, summer of service educational awards, or silver scholar educational awards, as appropriate, for such a program and remain available.

(2) Formula

In determining the formula described in paragraph (1)(B), the Corporation shall consult with the Director of the Congressional Budget Office.

(3) Certification report

The Chief Executive Officer of the Corporation shall annually prepare and submit to the authorizing committees a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1).

(4) Approval

The requirements of this subsection shall apply to each approved national service position, approved summer of service position, or approved silver scholarship position that the Corporation approves—

(A) during fiscal year 2010; and

(B) during any subsequent fiscal year.

(b) Reserve account

(1) Establishment and contents

(A) Establishment

Notwithstanding divisions C, D, and H, and any other provision of law, within the National Service Trust established under section 12601 of this title, the Corporation shall establish a reserve account.

(B) Contents

To ensure the availability of adequate funds to support the awards of approved national service positions, approved summer of service positions, and approved silver scholar positions, for each fiscal year, the Corporation shall place in the account—

(i) during fiscal year 2010, a portion of the funds that were appropriated for fiscal year 2010 or a previous fiscal year under section 12681 of this title or section 501 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081), were made available to carry out division C, D, or E of this subchapter, section 12653b or 12653c(a) of this title, subtitle A [1] of title I of the Domestic Volunteer Service Act of 1973, or summer of service programs described in section 12563(c)(8) of this title, and remain available; and

(ii) during fiscal year 2011 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 12681 of this title or section 501 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081), were made available to carry out division C, D, or E of this subchapter, section 12653b or 12653c(a) of this title, subtitle A [1] of title I of the Domestic Volunteer Service Act of 1973, or summer of service programs described in section 12563(c)(8) of this title, and remain available.

(2) Obligation

The Corporation shall not obligate the funds in the reserve account until the Corporation—

(A) determines that the funds will not be needed for the payment of national service educational awards associated with previously approved national service positions, summer of service educational awards associated with previously approved summer of service positions,

and silver scholar educational awards associated with previously approved silver scholar positions; or

(B) obligates the funds for the payment of national service educational awards for such previously approved national service positions, summer of service educational awards for such previously approved summer of service positions, or silver scholar educational awards for such previously approved silver scholar positions, as applicable.

(c) Audits

The accounts of the Corporation relating to the appropriated funds for approved national service positions, approved summer of service positions, and approved silver scholar positions, and the records demonstrating the manner in which the Corporation has recorded estimates described in subsection (a)(1)(B) as obligations, shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. A report containing the results of each such independent audit shall be included in the annual report required by subsection (a)(3).

(d) Availability of amounts

Except as provided in subsection (b), all amounts included in the National Service Trust under paragraphs (1), (2), and (3) of section 12601(a) of this title shall be available for payments of national service educational awards, summer of service educational awards, or silver scholar educational awards under section 12604 of this title.

(Pub. L. 101–610, title I, §149, as added Pub. L. 111–13, title I, §1406(a), Apr. 21, 2009, 123 Stat. 1519.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsecs. (a)(1)(A)(i) and (b)(1)(B)(i), (ii), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. Reference to subtitle A of title I of the Act probably means part A of title I of the Act, which is classified generally to part A (§4951 et seq.) of subchapter I of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 149 of Pub. L. 101–610 was classified to section 12579 of this title prior to the general amendment of subtitle D of title I of Pub. L. 101–610 (former part D of this subchapter) by Pub. L. 103–82, §102(a).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

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

Division E—National Civilian Community Corps

EDITORIAL NOTES

CODIFICATION

Subtitle E of title I of Pub. L. 101–610, comprising this division, was formerly classified to part H (§12653 et seq.) of this subchapter prior to amendment by Pub. L. 103–82, §104(b).

Pub. L. 111–13, title I, §1517, Apr. 21, 2009, 123 Stat. 1529, inserted division heading and struck out former heading.

PRIOR PROVISIONS

This division is comprised of subtitle E, §§151–165, of title I of Pub. L. 101–610. A prior part E (§12591 et seq.), comprised of subtitle E, §§155–167, of title I of Pub. L. 101–610, related to innovative and demonstration programs and projects, prior to repeal by Pub. L. 103–82, §104(a).

§12611. Purpose

It is the purpose of this division to authorize the operation of, and support for, residential and other service programs that combine the best practices of civilian service with the best aspects of military service, including leadership and team building, to meet national and community needs. The needs to be met under such programs include those needs related to—

(1) natural and other disasters;
(2) infrastructure improvement;
(3) environmental stewardship and conservation;
(4) energy conservation; and
(5) urban and rural development.

(Pub. L. 101–610, title I, §151, formerly §195, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2522; renumbered §151, Pub. L. 103–82, title I, §104(b), Sept. 21, 1993, 107 Stat. 840; amended Pub. L. 111–13, title I, §1501, Apr. 21, 2009, 123 Stat. 1521.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653 of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 12611, Pub. L. 101–610, title I, §160, Nov. 16, 1990, 104 Stat. 3157, authorized Commission to make grants to Directors of Peace Corps and ACTION to carry out training and educational benefits demonstration programs, prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Pub. L. 111–13 amended section generally. Prior to amendment, section provided that the purpose of this division was to authorize the establishment of a Civilian Community Corps to provide a basis for certain determinations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

§12612. Establishment of National Civilian Community Corps Program

(a) In general

The Corporation may establish the National Civilian Community Corps Program to carry out the purpose of this division.

(b) Program components

Under the National Civilian Community Corps Program authorized by subsection (a), the members of a National Civilian Community Corps shall receive training and perform service in at least one of the following two program components:

(1) A national service program.

(2) A summer national service program.

(c) Residential components

Both programs referred to in subsection (b) may include a residential component.

(Pub. L. 101–610, title I, §152, formerly §195A, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2523; renumbered §152 and amended Pub. L. 103–82, title I, §104(b), title IV, §402(b)(2), Sept. 21, 1993, 107 Stat. 840, 919; Pub. L. 111–13, title I, §1502, Apr. 21, 2009, 123 Stat. 1521.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653a of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 12612, Pub. L. 101–610, title I, §161, Nov. 16, 1990, 104 Stat. 3157; Pub. L. 102–384, §7(a), Oct. 5, 1992, 106 Stat. 1456, related to eligibility and selection procedures, prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Pub. L. 111–13, §1502(1), amended section catchline generally.

Subsec. (a). Pub. L. 111–13, §1502(2), substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program".

Subsec. (b). Pub. L. 111–13, §1502(3), in introductory provisions, substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program" and "a National Civilian Community Corps" for "a Civilian Community Corps".

Subsec. (c). Pub. L. 111–13, §1502(4), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service."

1993—Subsec. (a). Pub. L. 103–82, §402(b)(2), substituted "Corporation" for "Commission on National and Community Service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 402(b)(2) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

REPORT AND STUDY REQUIREMENTS

Pub. L. 102–484, div. A, title X, §1092(b), Oct. 23, 1992, 106 Stat. 2534, as amended by Pub. L. 103–82, title I, §104(e)(1)(B), (C), title IV, §402(a)(1), Sept. 21, 1993, 107 Stat. 846, 918, related to a progress report to be submitted to the appropriate committees of Congress assessing the activities undertaken in establishing and administering Civilian Community Corps camps and analyzing the level of coordination of Corps

activities with activities of other departments or agencies of the Federal Government and a report to be submitted to the appropriate committees of Congress concerning the desirability and feasibility of establishing the Civilian Community Corps as an independent agency of the Federal Government.

COORDINATION OF PROGRAMS

Pub. L. 102–484, div. A, title X, §1093, Oct. 23, 1992, 106 Stat. 2534, as amended by Pub. L. 103–82, title I, §104(e)(1)(B), title IV, §402(a)(2), Sept. 21, 1993, 107 Stat. 846, 918, provided that:

"(a) COORDINATED ADMINISTRATION.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Chief Executive Officer of the Corporation for National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1091 [of Pub. L. 102–484, 32 U.S.C. 501 note] and the Civilian Community Corps Demonstration Program established pursuant to the authorization contained in section 152 of the National and Community Service Act of 1990 [42 U.S.C. 12612] (as added by section 1092(a)).

"(b) OBJECTIVES.—The officials referred to in subsection (a) shall ensure that—

"(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

"(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

"(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area."

§12613. National service program

(a) In general

Under the national service program component of the National Civilian Community Corps Program authorized by section 12612(a) of this title, eligible young people shall work in teams on National Civilian Community Corps projects.

(b) Eligible participants

A person shall be eligible for selection for the national service program if the person—

(1) is, or will be, at least 18 years of age on or before December 31 of the calendar year in which the individual enrolls in the program, but is not more than 24 years of age as of the date the individual begins participating in the program; and

(2) is a high school graduate or has not received a high school diploma or its equivalent.

(c) Diverse backgrounds of participants

In selecting persons for the national service program, the Director shall endeavor to ensure that participants are from economically, geographically, and ethnically diverse backgrounds. The Director shall take appropriate steps, including through outreach and recruitment activities, to increase the percentage of participants in the program who are disadvantaged youth to 50 percent of all participants by year 2012. The Director shall report to the authorizing committees biennially on such steps, any challenges faced, and the annual participation rates of disadvantaged youth in the program.

(d) Period of participation

Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than nine months and not more than one year, as specified by the Director, and may renew the agreement for not more than one additional such period.

(Pub. L. 101–610, title I, §153, formerly §195B, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2523; renumbered §153 and amended Pub. L. 103–82, title I,

§104(b), (e)(2)(A), Sept. 21, 1993, 107 Stat. 840, 846; Pub. L. 111–13, title I, §1503, Apr. 21, 2009, 123 Stat. 1521.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653b of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 12613, Pub. L. 101–610, title I, §162, Nov. 16, 1990, 104 Stat. 3158, related to training program in skills to be employed in Peace Corps or VISTA, prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1503(1), substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program" and "on National Civilian Community Corps" for "on Civilian Community Corps".

Subsec. (b)(1). Pub. L. 111–13, §1503(2), added par. (1) and struck out former par. (1) which read as follows: "is at least 16 and not more than 24 years of age; and".

Subsec. (c). Pub. L. 111–13, §1503(3), substituted "backgrounds" for "backrounds" in heading and inserted at end "The Director shall take appropriate steps, including through outreach and recruitment activities, to increase the percentage of participants in the program who are disadvantaged youth to 50 percent of all participants by year 2012. The Director shall report to the authorizing committees biennially on such steps, any challenges faced, and the annual participation rates of disadvantaged youth in the program."

Subsecs. (d), (e). Pub. L. 111–13, §1503(4), (5), redesignated subsec. (e) as (d) and struck out former subsec. (d). Text of former subsec. (d) read as follows: "To the extent practicable, at least 50 percent of the participants in the national service program shall be economically disadvantaged youths."

1993—Subsec. (a). Pub. L. 103–82, §104(e)(2)(A), substituted "section 12612(a)" for "section 12653a(a)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12614. Summer national service program

(a) In general

Under the summer national service program of the National Civilian Community Corps Program authorized by section 12612(a) of this title, a diverse group of youth aged 14 through 18 years who are from urban or rural areas shall work in teams on National Civilian Community Corps projects.

(b) Necessary participants

To the extent practicable, at least 50 percent of the participants in the summer national service program shall be from economically and ethnically diverse backgrounds, including youth who are in foster care.

(c) Seasonal program

The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

(Pub. L. 101–610, title I, §154, formerly §195C, as added Pub. L. 102–484, div. A, title X,

§1092(a)(1), Oct. 23, 1992, 106 Stat. 2524; renumbered §154 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(B), Sept. 21, 1993, 107 Stat. 840, 847; Pub. L. 111–13, title I, §1504, Apr. 21, 2009, 123 Stat. 1522.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653c of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 12614, Pub. L. 101–610, title I, §163, Nov. 16, 1990, 104 Stat. 3158; Pub. L. 102–384, §7(b), Oct. 5, 1992, 106 Stat. 1456, related to higher education benefits for those selected for Peace Corps or VISTA demonstration programs, prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1504(1), substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program" and "on National Civilian Community Corps" for "on Civilian Community Corps".

Subsec. (b). Pub. L. 111–13, §1504(2), substituted "shall be from economically and ethnically diverse backgrounds, including youth who are in foster care." for "shall be economically disadvantaged youths."

1993—Subsec. (a). Pub. L. 103–82, §104(e)(2)(B), substituted "section 12612(a)" for "section 12653a(a)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12615. National Civilian Community Corps

(a) Director

Upon the establishment of the National Civilian Community Corps Program, the National Civilian Community Corps shall be under the direction of the Director appointed pursuant to section 12619(c)(1) of this title.

(b) Membership in National Civilian Community Corps

(1) Participants to be members

Persons selected to participate in the national service program or the summer national service program components of the Program shall become members of the National Civilian Community Corps.

(2) Selection of members

The Director or the Director's designee shall select individuals for membership in the Corps.

(3) Application for membership

To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall

contain information about the work experience of the applicant and sufficient information to enable the Director, or the campus director of the appropriate campus, to determine whether selection of the applicant for membership in the Corps is appropriate.

(4) Team leaders

(A) In general

The Director may select individuals with prior supervisory or service experience to be team leaders within units in the National Civilian Community Corps, to perform service that includes leading and supervising teams of Corps members. Each team leader shall be selected without regard to the age limitation under section 12613(b) of this title.

(B) Rights and benefits

A team leader shall be provided the same rights and benefits applicable to other Corps members, except that the Director may increase the limitation on the amount of the living allowance under section 12618(b) of this title by not more than 10 percent for a team leader.

(c) Organization of Corps into units

(1) Units

The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

(2) Unit leaders

The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 12619(c)(2) of this title. The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

(d) Campuses

(1) Units to be assigned to campuses

The units of the Corps shall be grouped together as appropriate in campuses for operational, support, and boarding purposes. The Corps campus for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the campuses.

(2) Campus director

There shall be a campus director for each campus. The campus director is the head of the campus.

(3) Eligible site for campus

A campus shall be cost effective and may, upon the completion of a feasibility study, be located in a facility referred to in section 12622(c) of this title.

(e) Distribution of units and campuses

The Director shall ensure that the Corps units and campuses are cost effective and are distributed in urban areas and rural areas such that each Corps unit in a region can be easily deployed for disaster and emergency response to such region.

(f) Standards of conduct

(1) In general

The campus director of each campus shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the campus.

(2) Sanctions

Under procedures prescribed by the Director, the campus director of a campus may—

(A) transfer a member of the Corps in that campus to another unit or campus if the campus director determines that the retention of the member in the member's unit or in the campus director's campus will jeopardize the enforcement of the standards or diminish the opportunities

of other Corps members in that unit or campus, as the case may be; or

(B) dismiss a member of the Corps from the Corps if the campus director determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

(3) Appeals

Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a campus director to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

(Pub. L. 101–610, title I, §155, formerly §195D, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2524; renumbered §155 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(C), title IV, §403(b), Sept. 21, 1993, 107 Stat. 840, 847, 920; Pub. L. 103–304, §3(b)(5)(A), Aug. 23, 1994, 108 Stat. 1567; Pub. L. 111–13, title I, §1505, Apr. 21, 2009, 123 Stat. 1522.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653d of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 12615, Pub. L. 101–610, title I, §164, Nov. 16, 1990, 104 Stat. 3159; Pub. L. 102–384, §4, Oct. 5, 1992, 106 Stat. 1455, related to evaluation reports on Peace Corps and VISTA demonstration programs, prior to repeal by Pub. L. 103–82, §104(a).

A prior section 155 of Pub. L. 101–610 was classified to section 12591 of this title prior to repeal by Pub. L. 103–82.

AMENDMENTS

2009—Pub. L. 111–13, §1505(1), amended section catchline generally.

Subsec. (a). Pub. L. 111–13, §1505(2), substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program" and "the National Civilian Community Corps shall" for "the Civilian Community Corps shall".

Subsec. (b). Pub. L. 111–13, §1505(3)(A), amended heading generally.

Subsec. (b)(1). Pub. L. 111–13, §1505(3)(B), inserted "National" before "Civilian Community Corps".

Subsec. (b)(3). Pub. L. 111–13, §1505(3)(C), substituted "campus director of the appropriate campus" for "superintendent of the appropriate camp".

Subsec. (b)(4). Pub. L. 111–13, §1505(3)(D), added par. (4).

Subsec. (d). Pub. L. 111–13, §1505(4)(A), amended heading generally.

Subsec. (d)(1). Pub. L. 111–13, §1505(4)(B), amended heading generally and substituted "in campuses" for "in camps", "Corps campus" for "Corps camp", and "in the campuses" for "in the camps".

Subsec. (d)(2), (3). Pub. L. 111–13, §1505(4)(C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) related to camp superintendents and eligible sites for camps, respectively.

Subsec. (e). Pub. L. 111–13, §1505(5), amended heading generally and substituted "campuses are cost effective and are distributed" for "camps are distributed" and "rural areas such that each Corps unit in a region can be easily deployed for disaster and emergency response to such region." for "rural areas in various regions throughout the United States."

Subsec. (f)(1). Pub. L. 111–13, §1505(6)(A), substituted "campus director" for "superintendent" and, in two places, substituted "campus" for "camp".

Subsec. (f)(2). Pub. L. 111–13, §1505(6)(B)(i), substituted "campus director of a campus" for "superintendent of a camp" in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 111–13, §1505(6)(B)(ii), substituted "campus to another unit or campus" for "camp to another unit or camp", "campus director" for "superintendent", "campus director's campus" for "superintendent's camp", and "that unit or campus" for "that unit or camp".

Subsec. (f)(2)(B). Pub. L. 111–13, §1505(6)(B)(iii), substituted "campus director" for "superintendent".

Subsec. (f)(3). Pub. L. 111–13, §1505(6)(C), substituted "campus director" for "camp superintendent".

1994—Subsec. (e). Pub. L. 103–304 substituted "camps" for "Corps" in heading.

1993—Subsec. (a). Pub. L. 103–82, §403(b), substituted "Director" for "Director of the Civilian Community Corps".

Pub. L. 103–82, §104(e)(2)(C)(i), substituted "section 12619(c)(1)" for "section 12653h(c)(1)".

Subsec. (c)(2). Pub. L. 103–82, §104(e)(2)(C)(ii), substituted "section 12619(c)(2)" for "section 12653h(c)(2)".

Subsec. (d)(3). Pub. L. 103–82, §104(e)(2)(C)(iii), substituted "section 12622(a)(3)" for "section 12653k(a)(3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 104(b), (e)(2)(C) of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12616. Training

(a) Common curriculum

Each member of the National Civilian Community Corps shall be provided with between three and six weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning. The Director shall ensure that, to the extent practicable, each member of the Corps is trained in CPR, first aid, and other skills related to disaster preparedness and response.

(b) Advanced service training

(1) National service program

Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects, including a focus on energy conservation, environmental stewardship or conservation, infrastructure improvement, urban and rural development, or disaster preparedness needs, as appropriate.

(2) Summer national service program

Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

(c) Training personnel

(1) In general

Members of the cadre appointed under section 12619(c)(2) of this title shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

(2) Coordination with other entities

Members of the cadre may provide, either directly or through grants, contracts, or cooperative agreements, the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, other qualified individuals, or organizations with expertise in training youth, including disadvantaged youth, in the skills described in such subsection.

(d) Facilities

The training may be provided at installations and other facilities of the Department of Defense,

and at National Guard facilities, identified under section 12622(c) of this title.

(Pub. L. 101–610, title I, §156, formerly §195E, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2525; renumbered §156 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(D), Sept. 21, 1993, 107 Stat. 840, 847; Pub. L. 111–13, title I, §1506, Apr. 21, 2009, 123 Stat. 1524.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653e of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 156 of Pub. L. 101–610 was classified to section 12601 of this title prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1506(1), inserted "National" before "Civilian Community Corps" and inserted at end "The Director shall ensure that, to the extent practicable, each member of the Corps is trained in CPR, first aid, and other skills related to disaster preparedness and response."

Subsec. (b)(1). Pub. L. 111–13, §1506(2), inserted before period at end ", including a focus on energy conservation, environmental stewardship or conservation, infrastructure improvement, urban and rural development, or disaster preparedness needs, as appropriate".

Subsec. (c)(2). Pub. L. 111–13, §1506(3), amended par. (2) generally. Prior to amendment, text read as follows: "Members of the cadre may provide the advanced service training referred to in subsection (b)(1) of this section in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals."

Subsec. (d). Pub. L. 111–13, §1506(4), substituted "section 12622(c)" for "section 12622(a)(3)".

1993—Subsec. (c)(1). Pub. L. 103–82, §104(e)(2)(D)(i), substituted "section 12619(c)(2)" for "section 12653h(c)(2)".

Subsec. (d). Pub. L. 103–82, §104(e)(2)(D)(ii), substituted "section 12622(a)(3)" for "section 12653k(a)(3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12617. Service projects

(a) Project requirements

The service projects carried out by the National Civilian Community Corps shall—

(1) meet an identifiable public need, with specific emphasis on projects in support of infrastructure improvement, energy conservation, and urban and rural development;

(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service-learning and skills development;

(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

(4) include continued education and training in various technical fields.

(b) Project proposals

(1) Development of proposals

(A) Specific executive departments

Upon the establishment of the Program, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Administrator of the Federal Emergency Management Agency, the Secretary of Energy, the Secretary of Transportation, and the Chief of the Forest Service shall develop proposals for Corps projects pursuant to guidance which the Director shall prescribe.

(B) Other sources

Other public and private organizations and agencies, including community-based entities and representatives of local communities in the vicinity of a Corps campus, may develop proposals for projects for a Corps campus. Corps members shall also be encouraged to identify projects for the Corps.

(2) Consultation requirements

The process for developing project proposals under paragraph (1) shall include consultation with the Corporation, representatives of local communities, State Commissions, and persons involved in other youth service programs.

(c) Project selection, organization, and performance

(1) Selection

The campus director of a Corps campus shall select the projects to be performed by the members of the Corps assigned to the units in that campus. The campus director shall select projects from among the projects proposed or identified pursuant to subsection (b).

(2) Innovative local arrangements for project performance

The Director shall encourage campus directors to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

(Pub. L. 101–610, title I, §157, formerly §195F, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2526; renumbered §157 and amended Pub. L. 103–82, title I, §104(b), title IV, §§402(b)(2), 403(b), Sept. 21, 1993, 107 Stat. 840, 919, 920; Pub. L. 111–13, title I, §1507, Apr. 21, 2009, 123 Stat. 1524.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653f of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 157 of Pub. L. 101–610 was classified to section 12602 of this title prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1507(1)(A), inserted "National" before "Civilian Community Corps" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–13, §1507(1)(B), inserted ", with specific emphasis on projects in support of infrastructure improvement, energy conservation, and urban and rural development" before semicolon at end.

Subsec. (a)(2). Pub. L. 111–13, §1507(1)(C), substituted "service-learning" for "service learning".

Subsec. (b)(1)(A). Pub. L. 111–13, §1507(2)(A)(i), substituted "the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Administrator of the Federal

Emergency Management Agency, the Secretary of Energy, the Secretary of Transportation, and the Chief of the Forest Service" for "and the Secretary of Housing and Urban Development".

Subsec. (b)(1)(B). Pub. L. 111–13, §1507(2)(A)(ii), inserted "community-based entities and" before "representatives of local communities" and substituted "campus" for "camp" in two places.

Subsec. (b)(2). Pub. L. 111–13, §1507(2)(B), inserted "State Commissions," before "and persons involved in other youth service programs."

Subsec. (c)(1). Pub. L. 111–13, §1507(3)(A), substituted "campus director of a Corps campus" for "superintendent of a Corps camp" and "campus. The campus director" for "camp. The superintendent".

Subsec. (c)(2). Pub. L. 111–13, §1507(3)(B), substituted "campus directors" for "camp superintendents".

1993—Subsec. (b)(1)(A). Pub. L. 103–82, §403(b), substituted "Director" for "Director of the Civilian Community Corps".

Subsec. (b)(2). Pub. L. 103–82, §402(b)(2), substituted "Corporation" for "Commission on National and Community Service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 402(b)(2) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

§12618. Authorized benefits for Corps members

(a) In general

The Director shall provide for members of the National Civilian Community Corps to receive benefits authorized by this section.

(b) Living allowance

The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of this title.[1]

(c) Other authorized benefits

While receiving training or engaging in service projects as members of the National Civilian Community Corps, members may be provided the following benefits, as the Director determines appropriate:

(1) Allowances for travel expenses, personal expenses, and other expenses.
(2) Quarters.
(3) Subsistence.
(4) Transportation.
(5) Equipment.
(6) Uniforms.
(7) Supplies.
(8) Other services determined by the Director to be consistent with the purposes of the Program.

(d) Supportive services

As the Director determines appropriate, the Director may provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

(e) Post-service benefits

Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

(f) National service educational awards

A Corps member who successfully completes a period of agreed service in the Corps may receive the national service educational award described in division D if the Corps member—

(1) serves in an approved national service position; and

(2) satisfies the eligibility requirements specified in section 12602 of this title with respect to service in that approved national service position.

(g) Alternative benefit

If a Corps member who successfully completes a period of agreed service in the Corps is ineligible for the national service educational award described in division D, the Director may provide for the provision of a suitable alternative benefit for the Corps member.

(Pub. L. 101–610, title I, §158, formerly §195G, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2526; renumbered §158 and amended Pub. L. 103–82, title I, §104(b), (g), title IV, §403(b), Sept. 21, 1993, 107 Stat. 840, 847, 920; Pub. L. 111–13, title I, §1508, Apr. 21, 2009, 123 Stat. 1525.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CODIFICATION

Section was formerly classified to section 12653g of this title prior to renumbering by Pub. L. 103–82, §104(b).

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1508(1), inserted "National" before "Civilian Community Corps".

Subsec. (c). Pub. L. 111–13, §1508(2)(A), in introductory provisions, inserted "National" before "Civilian Community Corps" and ", as the Director determines appropriate" before colon.

Subsec. (c)(6). Pub. L. 111–13, §1508(2)(B), substituted "Uniforms" for "Clothing".

Subsec. (c)(7). Pub. L. 111–13, §1508(2)(C), substituted "Supplies" for "Recreational services and supplies".

1993—Subsec. (a). Pub. L. 103–82, §403(b), substituted "Director" for "Director of the Civilian Community Corps".

Subsecs. (f) to (h). Pub. L. 103–82, §104(g), added subsecs. (f) and (g) and struck out former subsecs. (f) to (h) which related to monetary educational assistance, cash benefit election for Corps members, and other post-service benefits, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 104(b), (g) of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

[1] *So in original. A closing parenthesis probably should precede the period.*

§12619. Administrative provisions

(a) Supervision

The Chief Executive Officer shall monitor and supervise the administration of the National

Civilian Community Corps Program authorized to be established under section 12612 of this title. In carrying out this section, the Chief Executive Officer shall—

(1) approve such guidelines, including those recommended by the Board, for the design, selection of members, and operation of the National Civilian Community Corps as the Chief Executive Officer considers appropriate;

(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 12611 of this title; and

(3) carry out any other activities determined appropriate by the Board.

(b) Monitoring and coordination

The Chief Executive Officer shall—

(1) monitor the overall operation of the National Civilian Community Corps;

(2) coordinate the activities of the Corps with other youth service programs administered by the Corporation; and

(3) carry out any other activities determined appropriate by the Board.

(c) Staff

(1) Director

(A) Appointment

Upon the establishment of the Program, the Chief Executive Officer shall appoint a Director. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

(B) Duties

The Director shall—

(i) design, develop, and administer the National Civilian Community Corps programs;

(ii) be responsible for managing the daily operations of the Corps; and

(iii) report to the Chief Executive Officer.

(C) Authority to employ staff

The Director may employ such staff as is necessary to carry out this division. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

(2) Permanent cadre

(A) Establishment

The Chief Executive Officer shall establish a permanent cadre that includes the Director and other appointed supervisors and training instructors for National Civilian Community Corps programs.

(B) Appointment

The Chief Executive Officer shall consider the recommendations of the Director in appointing the other members of the permanent cadre.

(C) Employment considerations

In appointing individuals to cadre positions, the Chief Executive Officer shall—

(i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 12622(b) of this title;

(ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;

(iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds;

(iv) give consideration to retired and other former law enforcement, fire, rescue, and

emergency personnel, and other individuals with backgrounds in disaster preparedness, relief, and recovery; and

(v) consider applicants' experience in other youth service programs.

(D) Community service credit

Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 4403 of the National Defense Authorization Act for Fiscal Year 1993.

(E) Training

The Director shall provide to other members of the permanent cadre appropriate training in youth development techniques, including techniques for working with and enhancing the development of disadvantaged youth, and the principles of service-learning. All members of the permanent cadre shall be required to participate in the training.

(3) Inapplicability of certain civil service laws

The Director, other members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. In the case of a member of the permanent cadre who was recommended for appointment in accordance with 12622(b)(1) [1] of this title and is entitled to retired or retainer pay, section 5532 [2] of title 5 shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.

(4) Voluntary services

Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(Pub. L. 101–610, title I, §159, formerly §195H, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2528; renumbered §159 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(E), title IV, §§402(b)(1), 403(a)(1)–(3), (b), Sept. 21, 1993, 107 Stat. 840, 847, 918–920; Pub. L. 103–304, §3(b)(5)(B), Aug. 23, 1994, 108 Stat. 1567; Pub. L. 103–337, div. A, title VI, §640, Oct. 5, 1994, 108 Stat. 2791; Pub. L. 111–13, title I, §1509, Apr. 21, 2009, 123 Stat. 1525; Pub. L. 115–232, div. A, title V, §553(b)(3), Aug. 13, 2018, 132 Stat. 1772.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4403 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (c)(2)(D), is section 4403 of Pub. L. 102–484 which is set out as a note under section 1293 of Title 10, Armed Forces.

Section 5532 of title 5, referred to in subsec. (c)(3), was repealed by Pub. L. 106–65, div. A, title VI, §651(a)(1), Oct. 5, 1999, 113 Stat. 664.

CODIFICATION

Section was formerly classified to section 12653h of this title prior to renumbering by Pub. L. 103–82, §104(b).

AMENDMENTS

2018—Subsec. (c)(2)(D). Pub. L. 115–232 struck out "and as employment with a public service or community service organization for purposes of section 4464 of that Act" before period at end.

2009—Subsec. (a). Pub. L. 111–13, §1509(1)(A), substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–13, §1509(1)(B), inserted "including those" before "recommended" and "National" before "Civilian Community Corps".

Subsec. (b)(1). Pub. L. 111–13, §1509(2), inserted "National" before "Civilian Community Corps".

Subsec. (c)(1)(B)(i). Pub. L. 111–13, §1509(3)(A), inserted "National" before "Civilian Community Corps".

Subsec. (c)(2)(A). Pub. L. 111–13, §1509(3)(B)(i), substituted "The Chief Executive Officer shall establish a permanent cadre that includes the Director and other appointed" for "The Director shall establish a permanent cadre of" and inserted "National" before "Civilian Community Corps".

Subsec. (c)(2)(B). Pub. L. 111–13, §1509(3)(B)(ii), substituted "The Chief Executive Officer shall consider the recommendations of the Director in appointing the other members" for "The Director shall appoint the members".

Subsec. (c)(2)(C). Pub. L. 111–13, §1509(3)(B)(iii)(I), substituted "the Chief Executive Officer" for "the Director" in introductory provisions.

Subsec. (c)(2)(C)(i). Pub. L. 111–13, §1509(3)(B)(iii)(II), substituted "section 12622(b)" for "section 12622(a)(2)".

Subsec. (c)(2)(C)(iv), (v). Pub. L. 111–13, §1509(3)(B)(iii)(III)–(V), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (c)(2)(E). Pub. L. 111–13, §1509(3)(B)(iv), substituted "to other members" for "to members", inserted ", including techniques for working with and enhancing the development of disadvantaged youth," after "techniques", and substituted "service-learning" for "service learning".

Subsec. (c)(3). Pub. L. 111–13, §1509(3)(C), substituted "other members" for "the members" and "12622(b)(1)" for "section 12622(a)(2)(A)".

1994—Subsec. (c)(2)(C)(i). Pub. L. 103–304 substituted "section 12622(a)(2)" for "section section 12622(a)(2)".

Subsec. (c)(3). Pub. L. 103–337 inserted at end "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section 12622(a)(2)(A) of this title and is entitled to retired or retainer pay, section 5532 of title 5 shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre."

1993—Subsec. (a). Pub. L. 103–82, §403(a)(1)(A), (B), substituted "Supervision" for "Board" in heading and "The Chief Executive Officer shall monitor" for "The Board shall monitor" and "the Chief Executive Officer shall—" for "the Board shall—" in introductory provisions.

Pub. L. 103–82, §104(e)(2)(E)(i)(I), substituted "section 12612" for "section 12653a" in introductory provisions.

Subsec. (a)(1). Pub. L. 103–82, §403(a)(1)(B), (C), substituted "by the Board" for "by the Director" and "as the Chief Executive Officer" for "as the Board".

Subsec. (a)(2). Pub. L. 103–82, §104(e)(2)(E)(i)(II), substituted "section 12611" for "section 12653".

Subsec. (b). Pub. L. 103–82, §403(a)(2), substituted "Monitoring and coordination" for "Executive Director" in heading and "The Chief Executive Officer shall" for "The Executive Director of the Commission on National and Community Service shall" in introductory provisions.

Subsec. (b)(2). Pub. L. 103–82, §402(b)(1), substituted "by the Corporation" for "by the Commission".

Subsec. (c)(1)(A). Pub. L. 103–82, §403(a)(3)(A), (b), substituted "the Chief Executive Officer shall appoint a Director" for "the Board, in consultation with the Executive Director, shall appoint a Director of the Civilian Community Corps".

Subsec. (c)(1)(B)(iii). Pub. L. 103–82, §403(a)(3)(B), substituted "the Chief Executive Officer" for "the Board through the Executive Director".

Subsec. (c)(2)(C)(i). Pub. L. 103–82, §104(e)(2)(E)(ii), substituted "section 12622(a)(2)" for "12653k(a)(2)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 104(b), (e)(2)(E) of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

[1] *So in original. Probably should be preceded by "section".*

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

§12620. Status of Corps members and Corps personnel under Federal law

(a) In general

Except as otherwise provided in this section, members of the National Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

(b) Work-related injuries

(1) In general

For purposes of subchapter I of chapter 81 of title 5 relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term "employee", as defined in section 8101 of such title.

(2) Special rule

In the application of the provisions of subchapter I of chapter 81 of title 5 to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

(c) Tort claims procedure

A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28 relating to tort claims liability and procedure.

(Pub. L. 101–610, title I, §160, formerly §195I, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2530; renumbered §160, Pub. L. 103–82, title I, §104(b), Sept. 21, 1993, 107 Stat. 840; amended Pub. L. 111–13, title I, §1510, Apr. 21, 2009, 123 Stat. 1526.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653i of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 160 of Pub. L. 101–610 was classified to section 12611 of this title prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13 inserted "National" before "Civilian Community Corps".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

§12621. Contract and grant authority

(a) Programs

The Director may, by contract or grant, provide for any public or private organization to carry out the National Civilian Community Corps program.

(b) Equipment and facilities

(1) Federal and National Guard property

The Director shall enter into agreements, as necessary, with the Secretary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

(A) equipment of the Department of Defense and equipment of the National Guard; and

(B) Department of Defense facilities and National Guard facilities identified pursuant to section 12622(c) of this title.

(2) Other property

The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the National Civilian Community Corps and leaders of Corps units.

(Pub. L. 101–610, title I, §161, formerly §195J, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2530; renumbered §161 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(F), Sept. 21, 1993, 107 Stat. 840, 847; Pub. L. 111–13, title I, §1511, Apr. 21, 2009, 123 Stat. 1526.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653j of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 12621, Pub. L. 101–610, title I, §165, Nov. 16, 1990, 104 Stat. 3159, related to rural youth service demonstration project, prior to repeal by Pub. L. 103–82, §104(a).

A prior section 161 of Pub. L. 101–610 was classified to section 12612 of this title prior to repeal by Pub. L. 103–82.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1511(1), substituted "carry out the National Civilian Community Corps program" for "perform any program function under this division".

Subsec. (b)(1)(B). Pub. L. 111–13, §1511(2)(A), substituted "section 12622(c)" for "section 12622(a)(3)".

Subsec. (b)(2). Pub. L. 111–13, §1511(2)(B), inserted "National" before "Civilian Community Corps".

1993—Subsec. (b)(1)(B). Pub. L. 103–82, §104(e)(2)(F), substituted "section 12622(a)(3)" for "section 12653k(a)(3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12622. Responsibilities of Department of Defense

(a) Liaison office

(1) Establishment

Upon the establishment of the Program, the Secretary of Defense shall establish an office to provide for liaison between the Secretary and the National Civilian Community Corps.

(2) Duties

The office shall provide assistance in the coordination of Department of Defense activities with the Corps.

(b) Corps cadre

(1) List of recommended personnel

Upon the establishment of the Program, the Secretary of Defense, in consultation with the liaison office established under subsection (a) shall develop a list of individuals from which individuals may be selected for appointment by the Director in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 12611(3) [1] of this title who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

(2) Recommendations regarding grade and pay

The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this subsection.

(3) Contribution for retired member's pay

If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Corporation from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

(c) Facilities

Upon the establishment of the Program, the Secretary of Defense shall identify military installations and other facilities of the Department of Defense and, in consultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the National Civilian Community Corps for training or housing Corps members. The Secretary of Defense shall carry out this subsection in consultation with the liaison office established under subsection (a).

(d) Information regarding Corps

The Secretary of Defense may permit Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

(Pub. L. 101–610, title I, §162, formerly §195K, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2531; renumbered §162 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(G), title IV, §402(b)(2), Sept. 21, 1993, 107 Stat. 840, 847, 919; Pub. L. 103–304, §3(b)(5)(C), Aug. 23, 1994, 108 Stat. 1567; Pub. L. 111–13, title I, §1512, Apr. 21, 2009, 123 Stat. 1526; Pub. L. 115–232, div. A, title V, §553(b)(4), Aug. 13, 2018, 132 Stat. 1772.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12611 of this title, referred to in subsec. (b)(1), was amended generally by Pub. L. 111–13, title I, §1501, Apr. 21, 2009, 123 Stat. 1521, and section 12611(3) no longer relates to members and former members of the Armed Forces.

CODIFICATION

Section was formerly classified to section 12653k of this title prior to renumbering by Pub. L. 103–82,

§104(b).

PRIOR PROVISIONS

A prior section 12622, Pub. L. 101–610, title I, §166, Nov. 16, 1990, 104 Stat. 3159; Pub. L. 102–384, §8, Oct. 5, 1992, 106 Stat. 1456, related to assistance for Head Start programs, prior to repeal by Pub. L. 103–82, §104(a).

A prior section 162 of Pub. L. 101–610 was classified to section 12613 of this title prior to repeal by Pub. L. 103–82.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115–232 substituted "shall provide" for "shall—

"(A) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 1143a of title 10; and

"(B) provide other".

2009—Pub. L. 111–13, §1512(b)(2)–(5)(A), substituted "Liaison office" for "Secretary of Defense" as subsec. (a) heading, struck out par. (1) heading "Liaison office" after subsec. (a) heading, redesignated subpars. (A) and (B) of former subsec. (a)(1) as pars. (1) and (2), respectively, of subsec. (a), redesignated cls. (i) and (ii) of former subsec. (a)(1)(B) as subpars. (A) and (B), respectively, of subsec. (a)(2), redesignated former pars. (2) to (4) of subsec. (a) as subsecs. (b) to (d), respectively, redesignated former subpars. (A) to (C) of former subsec. (a)(2) as pars. (1) to (3), respectively, of subsec. (b), and realigned margins.

Pub. L. 111–13, §1512(b)(1), substituted "Department of Defense" for "other departments" in section catchline.

Subsec. (a)(1). Pub. L. 111–13, §1512(a)(1)(A), inserted "National" before "Civilian Community Corps" in subpar. (A) and substituted "the registry established by section 1143a of title 10;" for "the registry established by section 4462 of the National Defense Authorization Act for Fiscal Year 1993;" in subpar. (B)(i).

Subsec. (a)(2)(A). Pub. L. 111–13, §1512(a)(1)(B), substituted "from which individuals may be selected for appointment by the Director" for "to be recommended for appointment".

Subsec. (a)(3). Pub. L. 111–13, §1512(a)(1)(C), inserted "National" before "Civilian Community Corps".

Subsec. (b). Pub. L. 111–13, §1512(a)(2), struck out subsec. (b). Text read as follows: "Upon the establishment of the Program, the Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training."

Subsec. (b)(1). Pub. L. 111–13, §1512(b)(5)(B), substituted "subsection (a)" for "paragraph (1)".

Subsec. (b)(2). Pub. L. 111–13, §1512(b)(5)(C), substituted "subsection" for "paragraph".

Subsec. (c). Pub. L. 111–13, §1512(b)(6), substituted "this subsection" for "this paragraph" and "subsection (a)" for "paragraph (1)".

1994—Subsec. (a)(1)(B)(ii). Pub. L. 103–304, which directed the substitution of "section 1143a of title 10" for "section 4462 of the National Defense Authorization Act for Fiscal Year 1993", could not be executed because "section 4462 of the National Defense Authorization Act for Fiscal Year 1993" did not appear in cl. (ii).

1993—Subsec. (a)(2)(A). Pub. L. 103–82, §104(e)(2)(G), substituted "section 12611(3)" for "section 12653(3)".

Subsec. (a)(2)(C). Pub. L. 103–82, §402(b)(2), substituted "Corporation" for "Commission on National and Community Service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 104(b), (e)(2)(G) of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(2) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

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

§12623. Advisory Board

(a) Establishment and purpose

There shall be established a National Civilian Community Corps Advisory Board to advise the Director concerning the administration of this division and to assist the Corps in responding rapidly and efficiently in times of natural and other disasters. The Advisory Board members shall help coordinate activities with the Corps as appropriate, including the mobilization of volunteers and coordination of volunteer centers to help local communities recover from the effects of natural and other disasters.

(b) Membership

The Advisory Board shall be composed of the following members:

(1) The Secretary of Labor.
(2) The Secretary of Defense.
(3) The Secretary of the Interior.
(4) The Secretary of Agriculture.
(5) The Secretary of Education.
(6) The Secretary of Housing and Urban Development.
(7) The Chief of the National Guard Bureau.
(8) The Administrator of the Federal Emergency Management Agency.
(9) The Secretary of Transportation.
(10) The Chief of the Forest Service.
(11) The Administrator of the Environmental Protection Agency.
(12) The Secretary of Energy.
(13) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, public and private organizations, youth, and labor unions.
(14) The Chief Executive Officer.

(c) Inapplicability of termination requirement

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

(Pub. L. 101–610, title I, §163, formerly §195L, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532; renumbered §163 and amended Pub. L. 103–82, title I, §104(b), title IV, §§402(b)(3), 403(b), Sept. 21, 1993, 107 Stat. 840, 919, 920; Pub. L. 111–13, title I, §1513, Apr. 21, 2009, 123 Stat. 1527.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (c), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 12653l of this title prior to renumbering by Pub. L. 103–82.

PRIOR PROVISIONS

A prior section 12623, Pub. L. 101–610, title I, §167, Nov. 16, 1990, 104 Stat. 3159, related to employer-based retiree volunteer programs, prior to repeal by Pub. L. 103–82, title I, §104(a), Sept. 21, 1993, 107 Stat. 840.

A prior section 163 of Pub. L. 101–610 was classified to section 12614 of this title prior to repeal by Pub. L. 103–82.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1513(1), substituted "There shall be" for "Upon the establishment of the Program, there shall also be", inserted "National" before "Civilian Community Corps Advisory Board", and substituted "to assist the Corps in responding rapidly and efficiently in times of natural and other disasters. The Advisory Board members shall help coordinate activities with the Corps as appropriate, including the mobilization of volunteers and coordination of volunteer centers to help local communities recover from the effects of natural and other disasters." for "to assist in the development and administration of the Corps."

Subsec. (b)(8) to (12). Pub. L. 111–13, §1513(2)(B), added pars. (8) to (12). Former pars. (8) and (9) redesignated (13) and (14), respectively.

Subsec. (b)(13). Pub. L. 111–13, §1513(2)(A), (C), redesignated par. (8) as (13) and substituted "public and private organizations," for "industry,".

Subsec. (b)(14). Pub. L. 111–13, §1513(2)(A), redesignated par. (9) as (14).

1993—Subsec. (a). Pub. L. 103–82, §403(b), substituted "Director" for "Director of the Civilian Community Corps".

Subsec. (b)(9). Pub. L. 103–82, §402(b)(3), substituted "Chief Executive Officer" for "Chair of the Commission on National and Community Service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 402(b)(3) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

§12624. Evaluations

Pursuant to the provisions for evaluations conducted under section 12639 of this title, and in particular subsection (g) of such section, the Corporation shall conduct periodic evaluations of the National Civilian Community Corps Program authorized under this division. Upon completing each such evaluation, the Corporation shall transmit to the authorizing committees a report on the evaluation.

(Pub. L. 101–610, title I, §164, formerly §195M, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532; renumbered §164 and amended Pub. L. 103–82, title I, §104(b), title IV, §402(b)(2), Sept. 21, 1993, 107 Stat. 840, 919; Pub. L. 111–13, title I, §1514, Apr. 21, 2009, 123 Stat. 1528.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653m of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 164 of Pub. L. 101–610 was classified to section 12615 of this title prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Pub. L. 111–13 in section catchline substituted "Evaluations" for "Annual evaluation" and in text substituted "periodic evaluations" for "an annual evaluation" and "National Civilian Community Corps Program" for "Civilian Community Corps programs" and inserted at end "Upon completing each such evaluation, the Corporation shall transmit to the authorizing committees a report on the evaluation."

1993—Pub. L. 103–82, §402(b)(2), substituted "Corporation" for "Commission on National and Community Service".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 402(b)(2) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

§12625. Repealed. Pub. L. 111–13, title I, §1515, Apr. 21, 2009, 123 Stat. 1528

Section, Pub. L. 101–610, title I, §165, formerly §195N, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532; renumbered §165 and amended Pub. L. 103–82, title I, §104(b), title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 840, 918, directed the Corporation to ensure that no amounts appropriated under section 12681 of this title be utilized to carry out this division.

Section was formerly classified to section 12653n of this title prior to renumbering by section 104(b) of Pub. L. 103–82.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12626. Definitions

In this division:

(1) Board

The term "Board" means the Board of Directors of the Corporation.

(2) Campus director

The term "campus director", with respect to a Corps campus, means the head of the campus under section 12615(d) of this title.

(3) Corps

The term "Corps" means the National Civilian Community Corps required under section 12615 of this title as part of the National Civilian Community Corps Program.

(4) Corps campus

The term "Corps campus" means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

(5) Corps members

The term "Corps members" means persons receiving training and participating in projects under the National Civilian Community Corps Program.

(6) Director

The term "Director" means the Director of the National Civilian Community Corps.

(7) Institution of higher education

The term "institution of higher education" has the meaning given that term in section 1001 of

title 20.

(8) Program

The term "Program" means the National Civilian Community Corps Program established pursuant to section 12612 of this title.

(9) Service-learning

The term "service-learning", with respect to Corps members, means a method—

(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

(10) Unit

The term "unit" means a unit of the Corps referred to in section 12615(c) of this title.

(Pub. L. 101–610, title I, §165, formerly §195O, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532; renumbered §166 and amended Pub. L. 103–82, title I, §104(b), (e)(2)(H), title IV, §§402(b)(2), 403(a)(4), Sept. 21, 1993, 107 Stat. 840, 847, 919; Pub. L. 105–244, title I, §102(a)(13)(L), Oct. 7, 1998, 112 Stat. 1621; renumbered §165 and amended Pub. L. 111–13, title I, §1516, Apr. 21, 2009, 123 Stat. 1528.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12653o of this title prior to renumbering by Pub. L. 103–82, §104(b).

PRIOR PROVISIONS

A prior section 165 of Pub. L. 101–610 was classified to section 12625 of this title prior to repeal by Pub. L. 111—13, title I, §1515, Apr. 21, 2009, 123 Stat. 1528, effective Oct. 1, 2009.

Another prior section 165 of Pub. L. 101–610 was classified to section 12621 of this title prior to repeal by Pub. L. 103–82, §104(a).

AMENDMENTS

2009—Pars. (2) to (4). Pub. L. 111–13, §1516(2)(A), (C), added pars. (2) to (4) and struck out former pars. (2) and (3) which read as follows:

"(2) CORPS.—The terms 'Civilian Community Corps' and 'Corps' mean the Civilian Community Corps required under section 12615 of this title as part of the Civilian Community Corps Demonstration Program.

"(3) CORPS CAMP.—The term 'Corps camp' means the facility or central location established as the operational headquarters and boarding place for particular Corps units."

Former par. (4) redesignated (5).

Par. (5). Pub. L. 111–13, §1516(2)(B), (D), redesignated par. (4) as (5) and substituted "National Civilian Community Corps Program" for "Civilian Community Corps Demonstration Program". Former par. (5) redesignated (6).

Par. (6). Pub. L. 111–13, §1516(2)(B), (E), redesignated par. (5) as (6) and inserted "National" before "Civilian Community Corps". Former par. (6) redesignated (7).

Par. (7). Pub. L. 111–13, §1516(2)(B), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 111–13, §1516(2)(F), which directed substitution of "The term 'Program' means the National Civilian Community Corps Program" for " 'The terms' and all that follows through 'Demonstration Program' ", was executed by making the substitution for "The terms 'Civilian Community Corps Demonstration Program' and 'Program' mean the Civilian Community Corps Demonstration Program" to reflect the probable intent of Congress.

Pub. L. 111–13, §1516(2)(B), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Par. (9). Pub. L. 111–13, §1516(2)(G), substituted "Service-learning" for "Service learning" in heading and "service-learning" for "service learning" in introductory provisions.

Pub. L. 111–13, §1516(2)(A), (B), redesignated par. (8) as (9) and struck out former par. (9). Text read as follows: "The term 'superintendent', with respect to a Corps camp, means the head of the camp under section 12615(d) of this title."

1998—Par. (6). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

1993—Par. (1). Pub. L. 103–82, §402(b)(2), substituted "Corporation" for "Commission on National and Community Service".

Par. (2). Pub. L. 103–82, §104(e)(2)(H)(i), substituted "section 12615" for "section 12653d".

Par. (6). Pub. L. 103–82, §403(a)(4), which directed amendment of par. (6) of this section by striking par. (6) and redesignating par. (7) of this section as (6) was executed by redesignating par. (7) of this section as (6) and striking out former par. (6) which defined "Executive Director" as Executive Director of Commission on National and Community Service, to reflect the probable intent of Congress.

Par. (7). Pub. L. 103–82, §403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (8) as (7) was executed by redesignating par. (8) of this section as (7), to reflect the probable intent of Congress. Former par. (7) redesignated (6).

Par. (8). Pub. L. 103–82, §403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (9) as (8) was executed by redesignating par. (9) of this section as (8), to reflect the probable intent of Congress. Former par. (8) redesignated (7).

Pub. L. 103–82, §104(e)(2)(H)(ii), substituted "section 12612" for "section 12653a".

Par. (9). Pub. L. 103–82, §403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (10) as (9) was executed by redesignating par. (10) of this section as (9), to reflect the probable intent of Congress. Former par. (9) redesignated (8).

Par. (10). Pub. L. 103–82, §403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (11) as (10) was executed by redesignating par. (11) of this section as (10), to reflect the probable intent of Congress. Former par. (10) redesignated (9).

Pub. L. 103–82, §104(e)(2)(H)(iii), substituted "section 12615(d)" for "section 12653d(d)".

Par. (11). Pub. L. 103–82, §403(a)(4)(B), which directed amendment of par. (6) of this section by redesignating par. (11) as (10) was executed by redesignating par. (11) of this section as (10), to reflect the probable intent of Congress.

Pub. L. 103–82, §104(e)(2)(H)(iv), substituted "section 12615(c)" for "section 12653d(c)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 104(b), (e)(2)(H) of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(2) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

Division F—Administrative Provisions

§12631. Family and medical leave

(a) Participants in private, State, and local projects

For purposes of title I of the Family and Medical Leave Act of 1993 [29 U.S.C. 2611 et seq.], if—

(1) a participant has provided service for the period required by section 101(2)(A)(i) (29 U.S.C. 2611(2)(A)(i)), and has met the hours of service requirement of section 101(2)(A)(ii), of such Act with respect to a project authorized under the national service laws; and

(2) the service sponsor of the project is an employer described in section 101(4) of such Act (other than an employing agency within the meaning of subchapter V of chapter 63 of title 5),

the participant shall be considered to be an eligible employee of the service sponsor.

(b) Participants in Federal projects

For purposes of subchapter V of chapter 63 of title 5, if—

(1) a participant has provided service for the period required by section 6381(1)(B) of such title with respect to a project; and

(2) the service sponsor of the project is an employing agency within the meaning of such subchapter,

the participant shall be considered to be an employee of the service sponsor.

(c) Treatment of absence

The period of any absence of a participant from a service position pursuant to title I of the Family and Medical Leave Act of 1993 [29 U.S.C. 2611 et seq.] or subchapter V of chapter 63 of title 5 shall not be counted toward the completion of the term of service of the participant under section 12593 of this title.

(Pub. L. 101–610, title I, §171, Nov. 16, 1990, 104 Stat. 3159; Pub. L. 103–82, title I, §113(a), Sept. 21, 1993, 107 Stat. 861; Pub. L. 111–13, title I, §1601, Apr. 21, 2009, 123 Stat. 1529.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Family and Medical Leave Act of 1993, referred to in subsecs. (a) and (c), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§2611 et seq.) of chapter 28 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–13 substituted "with respect to a project authorized under the national service laws" for "with respect to a project".

1993—Pub. L. 103–82 amended section generally, substituting provisions relating to family and medical leave for provisions relating to limitation on number of grants under this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12632. Reports

(a) State reports

(1) In general

Each State receiving assistance under this subchapter shall prepare and submit, to the

Corporation, an annual report concerning the use of assistance provided under this subchapter and the status of the national and community service programs that receive assistance under such subchapter in such State.

(2) Local grantees

Each State may require local grantees that receive assistance under this subchapter to supply such information to the State as is necessary to enable the State to complete the report required under paragraph (1), including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and the existence of any problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(3) Report demonstrating compliance

(A) In general

Each State receiving assistance under this subchapter shall include information in the report required under paragraph (1) that demonstrates the compliance of the State with the provisions of this chapter, including section 12637 of this title.

(B) Local grantees

Each State may require local grantees to supply such information to the State as is necessary to enable the State to comply with the requirement of paragraph (1).

(4) Availability of report

Reports submitted under paragraph (1) shall be made available to the public on request.

(b) Report to Congress by Corporation

(1) In general

Not later than 120 days after the end of each fiscal year, the Corporation shall prepare and submit, to the authorizing committees, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate, a report concerning the programs that receive assistance under the national service laws.

(2) Content

Reports submitted under paragraph (1) shall contain a summary of the information contained in the State reports submitted under subsection (a), and shall reflect the findings and actions taken as a result of any evaluation conducted by the Corporation.

(Pub. L. 101–610, title I, §172, Nov. 16, 1990, 104 Stat. 3159; Pub. L. 103–82, title I, §114, title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 861, 918; Pub. L. 111–13, title I, §1602, Apr. 21, 2009, 123 Stat. 1529; Pub. L. 112–81, div. A, title X, §1063(c), Dec. 31, 2011, 125 Stat. 1586.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3)(A), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112–81 struck out subsec. (c). Prior to amendment, text read as follows:

"(1) STUDY.—The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this subchapter on recruitment for the Armed Forces.

"(2) REPORT.—The Secretary of Defense shall annually submit a report to the authorizing committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate."

2009—Subsec. (b)(1). Pub. L. 111–13, §1602(1), which directed substitution of "authorizing committees, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate" for "appropriate authorizing and appropriations Committees of Congress", was executed by making the substitution for "appropriate authorizing and appropriation Committees of Congress" to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 111–13, §1602(2), substituted "the authorizing committees, the Committee on Armed Services of the House of Representatives, and the Committee on Armed Services of the Senate" for "the appropriate committees of Congress".

1993—Subsec. (a)(1). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Subsec. (a)(3)(A). Pub. L. 103–82, §114(1), substituted "section 12637" for "sections 12637 and 12523(9)".

Subsec. (b). Pub. L. 103–82, §114(2)(A), substituted "Report to Congress by Corporation" for "Report to Congress" in heading.

Subsec. (b)(1). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Pub. L. 103–82, §114(2)(B), substituted "the national service laws" for "this subchapter".

Subsec. (b)(2). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Subsec. (c). Pub. L. 103–82, §114(3), added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 114 of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

§12633. Supplementation

(a) In general

Assistance provided under this subchapter shall be used to supplement the level of State and local public funds expended for services of the type assisted under this subchapter in the previous fiscal year.

(b) Aggregate expenditure

Subsection (a) shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this subchapter.

(Pub. L. 101–610, title I, §173, Nov. 16, 1990, 104 Stat. 3160.)

§12634. Prohibition on use of funds

(a) Prohibited uses

No assistance made available under a grant under this subchapter shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) Political activity

Assistance provided under this subchapter shall not be used by program participants and program staff to—

(1) assist, promote, or deter union organizing; or

(2) finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) Contracts or collective bargaining agreements

A program that receives assistance under this subchapter shall not impair existing contracts for services or collective bargaining agreements.

(d) Referrals for Federal assistance

A program may not receive assistance under the national service laws for the sole purpose of referring individuals to Federal assistance programs or State assistance programs funded in part by the Federal Government.

(Pub. L. 101–610, title I, §174, Nov. 16, 1990, 104 Stat. 3160; Pub. L. 111–13, title I, §1603, Apr. 21, 2009, 123 Stat. 1529.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–13 added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

§12635. Nondiscrimination

(a) In general

(1) Basis

An individual with responsibility for the operation of a project that receives assistance under this subchapter shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

(2) "Qualified individual with a disability" defined

As used in paragraph (1), the term "qualified individual with a disability" has the meaning given the term in section 12111(8) of this title.

(b) Federal financial assistance

Any assistance provided under this subchapter shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(c) Religious discrimination

(1) In general

Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this subchapter shall not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with funds received under this subchapter.

(2) Exception

Paragraph (1) shall not apply to the employment, with assistance provided under this subchapter, of any member of the staff, of a project that receives assistance under this subchapter, who was employed with the organization operating the project on the date the grant under this subchapter was awarded.

(d) Rules and regulations

The Chief Executive Officer shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

(Pub. L. 101–610, title I, §175, Nov. 16, 1990, 104 Stat. 3161; Pub. L. 103–82, title I, §115, Sept. 21, 1993, 107 Stat. 862.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Education Amendments of 1972, referred to in subsec. (b), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (b), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–82 amended section generally, making revisions relating to discrimination based on disability, the laws for which assistance under this subchapter constitutes Federal financial assistance, and the responsibility for promulgating regulations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12636. Notice, hearing, and grievance procedures

(a) In general

(1) Suspension of payments

The Corporation may in accordance with the provisions of this subchapter, suspend or terminate payments under a contract or grant providing assistance under this subchapter, or revoke the designation of positions, related to the grant or contract, as approved national service positions, whenever the Corporation determines there is a material failure to comply with this subchapter or the applicable terms and conditions of any such grant or contract issued pursuant to this subchapter.

(2) Procedures to ensure assistance

The Corporation shall prescribe procedures to ensure that—

(A) assistance provided under this subchapter shall not be suspended for failure to comply with the applicable terms and conditions of this subchapter except, in emergency situations, a

suspension may be granted for 1 or more periods of 30 days not to exceed a total of 90 days; and

(B) assistance provided under this subchapter shall not be terminated or revoked for failure to comply with applicable terms and conditions of this subchapter unless the recipient of such assistance has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) Hearings

Hearings or other meetings that may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient of assistance under this subchapter.

(c) Transcript or recording

A transcript or recording shall be made of a hearing conducted under this section and shall be available for inspection by any individual.

(d) State legislation

Nothing in this subchapter shall be construed to preclude the enactment of State legislation providing for the implementation, consistent with this subchapter, of the programs administered under this subchapter.

(e) Construction

Nothing in this subchapter shall be construed to link performance of service with receipt of Federal student financial assistance, other than assistance provided pursuant to this chapter.

(f) Grievance procedure

(1) In general

An entity that receives assistance under this subchapter shall establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning projects that receive assistance under this subchapter, including grievances regarding proposed placements of such participants in such projects.

(2) Deadline for grievances

Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

(3) Deadline for hearing and decision

(A) Hearing

A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days after the filing of such grievance.

(B) Decision

A decision on any such grievance shall be made not later than 60 days after the filing of such grievance.

(4) Arbitration

(A) In general

(i) Jointly selected arbitrator

In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

(ii) Appointed arbitrator

If the parties cannot agree on an arbitrator, the Chief Executive Officer shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

(B) Deadline for proceeding

An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the Chief Executive Officer in accordance with subparagraph (A)(ii), not later than 30 days after the appointment of such arbitrator.

(C) Deadline for decision

A decision concerning a grievance shall be made not later than 30 days after the date such arbitration proceeding begins.

(D) Cost

(i) In general

Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

(ii) Exception

If a participant, labor organization, or other interested individual described in paragraph (1) prevails under a binding arbitration proceeding, the State or local applicant described in paragraph (1) that is a party to such grievance shall pay the total cost of such proceeding and the attorneys' fees of such participant, labor organization, or individual, as the case may be.

(5) Proposed placement

If a grievance is filed regarding a proposed placement of a participant in a project that receives assistance under this subchapter, such placement shall not be made unless the placement is consistent with the resolution of the grievance pursuant to this subsection.

(6) Remedies

Remedies for a grievance filed under this subsection include—

(A) suspension of payments for assistance under this subchapter;

(B) termination of such payments;

(C) prohibition of the placement described in paragraph (5);

(D) in a case in which the grievance is filed by an individual applicant or participant—

(i) the applicant's selection or the participant's reinstatement, as the case may be; and

(ii) other changes in the terms and conditions of service applicable to the individual; and

(E) in a case in which the grievance involves a violation of subsection (a) or (b) of section 12637 of this title and the employer of the displaced employee is the recipient of assistance under this subchapter—

(i) reinstatement of the displaced employee to the position held by such employee prior to displacement;

(ii) payment of lost wages and benefits of the displaced employee;

(iii) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

(iv) such equitable relief as is necessary to correct any violation of subsection (a) or (b) of section 12637 of this title or to make the displaced employee whole.

(7) Enforcement

Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.

(Pub. L. 101–610, title I, §176, Nov. 16, 1990, 104 Stat. 3161; Pub. L. 103–82, title I, §116, title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 863, 918; Pub. L. 111–13, title I, §1604, Apr. 21, 2009, 123 Stat. 1529.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(2)(A). Pub. L. 111–13, §1604(1), substituted "1 or more periods of 30 days not to exceed a total of 90 days" for "30 days".

Subsec. (f)(1). Pub. L. 111–13, §1604(2)(A), substituted "An entity" for "A State or local applicant".

Subsec. (f)(6)(D), (E). Pub. L. 111–13, §1604(2)(B), added subpar. (D) and redesignated former subpar. (D) as (E).

1993—Subsec. (a)(1). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission" in two places.

Pub. L. 103–82, §116(a)(1), inserted ", or revoke the designation of positions, related to the grant or contract, as approved national service positions," after "assistance under this subchapter".

Subsec. (a)(2). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission" in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 103–82, §116(a)(2), inserted "or revoked" after "terminated".

Subsec. (e). Pub. L. 103–82, §116(b), inserted before period at end ", other than assistance provided pursuant to this chapter".

Subsec. (f). Pub. L. 103–82, §116(c), amended subsec. (f) generally, substituting pars. (1) to (6) for former pars. (1) to (6) relating to same subjects and adding par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 116 of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

§12637. Nonduplication and nondisplacement

(a) Nonduplication

(1) In general

Assistance provided under the national service laws shall be used only for a program that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program.

(2) Private nonprofit entity

Assistance made available under the national service laws shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of subsection (b) are met.

(b) Nondisplacement

(1) In general

An employer shall not displace an employee, position, or volunteer (other than a participant under the national service laws), including partial displacement such as reduction in hours, wages,

or employment benefits, as a result of the use by such employer of a participant in a program receiving assistance under the national service laws.

(2) Service opportunities

A service opportunity shall not be created under the national service laws that will infringe in any manner on the promotional opportunity of an employed individual.

(3) Limitation on services

(A) Duplication of services

A participant in a program receiving assistance under the national service laws shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(B) Supplantation of hiring

A participant in any program receiving assistance under the national service laws shall not perform any services or duties, or engage in activities, that—

(i) will supplant the hiring of employed workers; or

(ii) are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures.

(C) Duties formerly performed by another employee

A participant in any program receiving assistance under the national service laws shall not perform services or duties that have been performed by or were assigned to any—

(i) presently employed worker;

(ii) employee who recently resigned or was discharged;

(iii) employee who—

(I) is subject to a reduction in force; or

(II) has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;

(iv) employee who is on leave (terminal, temporary, vacation, emergency, or sick); or

(v) employee who is on strike or who is being locked out.

(c) Labor market information

The Secretary of Labor shall make available to the Corporation and to any program agency under this subchapter such labor market information as is appropriate for use in carrying out the purposes of this subchapter.

(d) Treatment of benefits

Allowances, earnings, and payments to individuals participating in programs that receive assistance under this subchapter shall not be considered to be income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(e) Standards of conduct

Programs that receive assistance under this subchapter shall establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

(f) Parental involvement

(1) In general

Programs that receive assistance under the national service laws shall consult with the parents or legal guardians of children in developing and operating programs that include and serve children.

(2) Parental permission

Programs that receive assistance under the national service laws shall, before transporting minor children, provide the children's parents with the reason for the transportation and obtain the parents' written permission for such transportation, consistent with State law.

(Pub. L. 101–610, title I, §177, Nov. 16, 1990, 104 Stat. 3163; Pub. L. 103–82, title I, §117, title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 864, 918; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(42)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–427; Pub. L. 111–13, title I, §1605, Apr. 21, 2009, 123 Stat. 1530.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(1), (2). Pub. L. 111–13, §1605(1), substituted "under the national service laws" for "under this subchapter".

Subsec. (b)(1). Pub. L. 111–13, §1605(1), (2), substituted "employee, position, or volunteer (other than a participant under the national service laws)" for "employee or position" and "under the national service laws" for "under this subchapter".

Subsec. (b)(2), (3). Pub. L. 111–13, §1605(1), substituted "under the national service laws" for "under this subchapter" wherever appearing.

Subsec. (f). Pub. L. 111–13, §1605(3), added subsec. (f).

1998—Subsec. (d). Pub. L. 105–277 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "Section 142(b) of the Job Training Partnership Act shall apply to the projects conducted under this subchapter as such projects were conducted under the Job Training Partnership Act."

1993—Subsec. (b)(3)(B). Pub. L. 103–82, §117(1), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: "A participant in any program receiving assistance under this subchapter shall not perform any services or duties or engage in activities that will supplant the hiring of employed workers."

Subsec. (b)(3)(C)(iii). Pub. L. 103–82, §117(2), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "employee who is subject to a reduction in force;".

Subsec. (c). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 117 of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 402(b)(1) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

§12638. State Commissions on National and Community Service

(a) Existence required

(1) State Commission

Except as provided in paragraph (2), to be eligible to receive a grant or allotment under division B or C or to receive a distribution of approved national service positions under division C, a State

shall maintain a State Commission on National and Community Service that satisfies the requirements of this section.

(2) Alternative administrative entity

The chief executive officer of a State may apply to the Corporation for approval to use an alternative administrative entity to carry out the duties otherwise entrusted to a State Commission under this chapter. The chief executive officer shall ensure that any alternative administrative entity used in lieu of a State Commission provides for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the submission of applications on behalf of the State under section 12582 of this title.

(b) Appointment and size

Except as provided in subsection (c)(3), the members of a State Commission for a State shall be appointed by the chief executive officer of the State. A State Commission shall consist of not fewer than 15, and not more than 25, voting members, and any ex officio nonvoting members, as described in paragraph (3) or (4) of subsection (c).

(c) Composition and membership

(1) Required members

The State Commission for a State shall include as voting members at least one of each of the following individuals:

(A) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth.

(B) An individual with experience in promoting the involvement of older adults in service and voluntarism.

(C) A representative of community-based agencies or community-based organizations within the State.

(D) The head of the State educational agency.

(E) A representative of local governments in the State.

(F) A representative of local labor organizations in the State.

(G) A representative of business.

(H) An individual between the ages of 16 and 25 who is a participant or supervisor in a program.

(I) A representative of a national service program described in subsection (a), (b), or (c) of section 12572 of this title.

(J) A representative of the volunteer sector.

(2) Sources of other members

The State Commission for a State may include as voting members the following individuals:

(A) Members selected from among local educators.

(B) Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.

(C) Representatives of Indian tribes.

(D) Members selected from among out-of-school youth or other at-risk youth.

(E) Representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(3) Corporation representative

The representative of the Corporation designated under section 12651f(c) of this title for a State shall be an ex officio nonvoting member of the State Commission or alternative administrative entity for that State.

(4) Ex officio State representatives

The chief executive officer of a State may appoint, as ex officio nonvoting members of the State

Commission for the State, representatives selected from among officers and employees of State agencies operating community service, youth service, education, social service, senior service, and job training programs.

(5) Limitation on number of State employees as members

The number of voting members of a State Commission selected under paragraph (1) or (2) who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of the State Commission.

(d) Miscellaneous matters

(1) Membership balance

The chief executive officer of a State shall ensure, to the maximum extent practicable, that the membership of the State Commission for the State is diverse with respect to race, ethnicity, age, gender, and disability characteristics. Not more than 50 percent of the voting members of a State Commission, plus one additional member, may be from the same political party.

(2) Terms

Each member of the State Commission for a State shall serve for a term of 3 years, except that the chief executive officer of a State shall initially appoint a portion of the members to terms of 1 year and 2 years.

(3) Vacancies

If a vacancy occurs on a State Commission, a new member shall be appointed by the chief executive officer of the State and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the State Commission.

(4) Compensation

A member of a State Commission or alternative administrative entity shall not receive any additional compensation by reason of service on the State Commission or alternative administrative entity, except that the State may authorize the reimbursement of travel expenses, including a per diem in lieu of subsistence, in the same manner as other employees serving intermittently in the service of the State.

(5) Chairperson

The voting members of a State Commission shall elect one of the voting members to serve as chairperson of the State Commission.

(6) Limitation on member participation

(A) General limitation

Except as provided in subparagraph (B), a voting member of the State Commission (or of an alternative administrative entity) shall not participate in the administration of the grant program (including any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity) described in subsection (e)(9) if—

(i) a grant application relating to such program is pending before the Commission (or such entity); and

(ii) the application was submitted by a program or entity of which such member is, or in the 1-year period before the submission of such application was, an officer, director, trustee, full-time volunteer, or employee.

(B) Exception

If, as a result of the operation of subparagraph (A), the number of voting members of the Commission (or of such entity) is insufficient to establish a quorum for the purpose of administering such program, then voting members excluded from participation by subparagraph (A) may participate in the administration of such program, notwithstanding the limitation in

subparagraph (A), to the extent permitted by regulations issued under section 12651d(b)(12) of this title by the Corporation.

(C) Rule of construction

Subparagraph (A) shall not be construed to limit the authority of any voting member of the Commission (or of such entity) to participate in—

(i) discussion of, and hearing and forums on—

(I) the general duties, policies, and operations of the Commission (or of such entity); or

(II) the general administration of such program; or

(ii) similar general matters relating to the Commission (or such entity).

(e) Duties of a State Commission

The State Commission or alternative administrative entity for a State shall be responsible for the following duties:

(1) Preparation of a national service plan for the State that—

(A) is developed, through an open and public process (such as through regional forums, hearings, and other means) that provides for maximum participation and input from the private sector, organizations, and public agencies, using service and volunteerism as strategies to meet critical community needs, including service through programs funded under the national service laws;

(B) covers a 3-year period, the beginning of which may be set by the State;

(C) is subject to approval by the chief executive officer of the State;

(D) includes measurable goals and outcomes for the State national service programs in the State consistent with the performance levels for national service programs as described in section 12639(k) of this title;

(E) ensures outreach to diverse community-based agencies that serve underrepresented populations, through established networks and registries at the State level, or through the development of such networks and registries;

(F) provides for effective coordination of funding applications submitted by the State and other organizations within the State under the national service laws;

(G) is updated annually, reflecting changes in practices and policies that will improve the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State;

(H) ensures outreach to, and coordination with, municipalities (including large cities) and county governments regarding the national service laws; and

(I) contains such information as the State Commission considers to be appropriate or as the Corporation may require.

(2) Preparation of the applications of the State under section 12582 of this title for financial assistance.

(3) Assistance in the preparation of the application of the State educational agency for assistance under section 12525 of this title.

(4) Preparation of the application of the State under section 12582 of this title for the approval of service positions that include the national service educational award described in division D.

(5) Make recommendations to the Corporation with respect to priorities for programs receiving assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(6) Make technical assistance available to enable applicants for assistance under section 12571 of this title—

(A) to plan and implement service programs; and

(B) to apply for assistance under the national service laws using, if appropriate, information and materials available through a clearinghouse established under section 12653a [1] of this title.

(7) Assistance in the provision of health care and child care benefits under section 12594 of this

title to participants in national service programs that receive assistance under section 12571 of this title.

(8) Development of a State system for the recruitment and placement of participants in programs that receive assistance under the national service laws and dissemination of information concerning national service programs that receive such assistance or approved national service positions.

(9) Administration of the grant program in support of national service programs that is conducted by the State using assistance provided to the State under section 12571 of this title, including selection, oversight, and evaluation of grant recipients.

(10) Development of projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation (to be made available in a case in which such a program requests such a project, method, material, or activity) or from the State using assistance provided under section 12571 of this title, for use by programs that request such projects, methods, materials, and activities.

(f) Relief from administrative requirements

Upon approval of a State plan submitted under subsection (e)(1), the Chief Executive Officer may waive for the State, or specify alternatives for the State to, administrative requirements (other than statutory provisions) otherwise applicable to grants made to States under the national service laws, including those requirements identified by the State as impeding the coordination and effectiveness of Federal, State, and local resources for service and volunteerism within the State.

(g) State service plan for adults age 55 or older

(1) In general

Notwithstanding any other provision of this section, to be eligible to receive a grant or allotment under division B or C or to receive a distribution of approved national service positions under division C, a State shall work with appropriate State agencies and private entities to develop a comprehensive State service plan for service by adults age 55 or older.

(2) Matters included

The State service plan shall include—

(A) recommendations for policies to increase service for adults age 55 or older, including how to best use such adults as sources of social capital, and how to utilize their skills and experience to address community needs;

(B) recommendations to the State agency (as defined in section 3002 of this title) on—

(i) a marketing outreach plan to businesses; and

(ii) outreach to—

(I) nonprofit organizations;

(II) the State educational agency;

(III) institutions of higher education; and

(IV) other State agencies;

(C) recommendations for civic engagement and multigenerational activities, such as—

(i) early childhood education and care, family literacy, and after school programs;

(ii) respite services for adults age 55 or older and caregivers; and

(iii) transitions for older adults age 55 or older to purposeful work in their post-career lives; and

(D) recommendations for encouraging the development of Encore service programs in the State.

(3) Knowledge base

The State service plan shall incorporate the current knowledge base (as of the time of the plan) regarding—

(A) the economic impact of the roles of workers age 55 or older in the economy;
(B) the social impact of the roles of such workers in the community; and
(C) the health and social benefits of active engagement for adults age 55 or older.

(4) Publication

The State service plan shall be made available to the public and be transmitted to the Chief Executive Officer.

(h) Activity ineligible for assistance

A State Commission or alternative administrative entity may not directly carry out any national service program that receives assistance under section 12571 of this title.

(i) Delegation

Subject to such requirements as the Corporation may prescribe, a State Commission may delegate nonpolicymaking duties to a State agency or public or private nonprofit organization.

(j) Approval of State Commission or alternative

(1) Submission to Corporation

The chief executive officer for a State shall notify the Corporation of the establishment or designation of the State Commission or use of an alternative administrative entity for the State. The notification shall include a description of—

(A) the composition and membership of the State Commission or alternative administrative entity; and

(B) the authority of the State Commission or alternative administrative entity regarding national service activities carried out by the State.

(2) Approval of alternative administrative entity

Any designation of a State Commission or use of an alternative administrative entity to carry out the duties of a State Commission shall be subject to the approval of the Corporation, which shall not be unreasonably withheld. The Corporation shall approve an alternative administrative entity if such entity provides for individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the duties described in paragraphs (1) through (4) of subsection (e).

(3) Rejection

The Corporation may reject a State Commission if the Corporation determines that the composition, membership, or duties of the State Commission do not comply with the requirements of this section. The Corporation may reject a request to use an alternative administrative entity in lieu of a State Commission if the Corporation determines that the entity does not provide for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role as described in paragraph (2). If the Corporation rejects a State Commission or alternative administrative entity under this paragraph, the Corporation shall promptly notify the State of the reasons for the rejection.

(4) Resubmission and reconsideration

The Corporation shall provide a State notified under paragraph (3) with a reasonable opportunity to revise the rejected State Commission or alternative administrative entity. At the request of the State, the Corporation shall provide technical assistance to the State as part of the revision process. The Corporation shall promptly reconsider any resubmission of a notification under paragraph (1) or application to use an alternative administrative entity under paragraph (2).

(5) Subsequent changes

This subsection shall also apply to any change in the composition or duties of a State Commission or an alternative administrative entity made after approval of the State Commission or the alternative administrative entity.

(6) Rights

An alternative administrative entity approved by the Corporation under this subsection shall have the same rights as a State Commission.

(k) Coordination

(1) Coordination with other State agencies

The State Commission or alternative administrative entity for a State shall coordinate the activities of the Commission or entity under this chapter with the activities of other State agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs.

(2) Coordination with volunteer service programs

(A) In general

The State Commission or alternative administrative entity for a State shall coordinate functions of the Commission or entity (including recruitment, public awareness, and training activities) with such functions of any division of the Corporation that carries out volunteer service programs in the State.

(B) Agreement

In coordinating functions under this paragraph, such Commission or entity, and such division, may enter into an agreement to—

(i) carry out such a function jointly;

(ii) to [2] assign responsibility for such a function to the Commission or entity; or

(iii) to [2] assign responsibility for such a function to the division.

(C) Information

The State Commission or alternative entity for a State, and the head of any such division, shall exchange information about—

(i) the programs carried out in the State by the Commission, entity, or division, as appropriate; and

(ii) opportunities to coordinate activities.

(l) Liability

(1) Liability of State

Except as provided in paragraph (2)(B), a State shall agree to assume liability with respect to any claim arising out of or resulting from any act or omission by a member of the State Commission or alternative administrative entity of the State, within the scope of the service of the member on the State Commission or alternative administrative entity.

(2) Other claims

(A) In general

A member of the State Commission or alternative administrative entity shall have no personal liability with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the State Commission or alternative administrative entity.

(B) Limitation

This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the State Commission or alternative administrative entity.

(3) Effect on other law

This subsection shall not be construed—

(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such service;

(B) to affect any other right or remedy against the State under applicable law, or against any person other than a member of the State Commission or alternative administrative entity; or

(C) to limit or alter in any way the immunities that are available under applicable law for State officials and employees not described in this subsection.

(Pub. L. 101–610, title I, §178, as added and amended Pub. L. 103–82, title II, §201(a), title IV, §405(p)(1), Sept. 21, 1993, 107 Stat. 867, 922; Pub. L. 111–13, title I, §1606, Apr. 21, 2009, 123 Stat. 1530.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (k)(1), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsecs. (c)(2)(E) and (e)(5), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 12653a of this title, referred to in subsec. (e)(6)(B), was in the original "section 198A", meaning section 198A of Pub. L. 101–610, as added by section 104(c) of Pub. L. 103–82, which was repealed, and section 198B was redesignated section 198A, by Pub. L. 111–13, title I, §1803(a)(1), (b), Apr. 21, 2009, 123 Stat. 1554. Provisions similar to section 12653a are now contained in section 12653o of this title.

The Community Services Block Grant Act, referred to in subsec. (k)(1), is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

PRIOR PROVISIONS

A prior section 12638, Pub. L. 101–610, title I, §178, Nov. 16, 1990, 104 Stat. 3164; Pub. L. 102–10, §8(1), Mar. 12, 1991, 105 Stat. 31, provided that States applying for assistance under this subchapter be encouraged to establish a State Advisory Board for National and Community Service and set out additional provisions for membership and duties of such boards, prior to repeal by Pub. L. 103–82, §201(a).

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–13, §1606(1), substituted "section 12582" for "sections 12543 and 12582".

Subsec. (c)(1)(I). Pub. L. 111–13, §1606(2)(A), substituted "subsection (a), (b), or (c) of section 12572 of this title." for "section 12572(a) of this title, such as a youth corps program described in section 12572(a)(2) of this title."

Subsec. (c)(1)(J). Pub. L. 111–13, §1606(2)(B), added subpar. (J).

Subsec. (c)(3). Pub. L. 111–13, §1606(3), struck out ", unless the State permits the representative to serve as a voting member of the State Commission or alternative administrative entity" before period at end.

Subsec. (d)(6)(B). Pub. L. 111–13, §1606(4), substituted "section 12651d(b)(12)" for "section 12651d(b)(11)".

Subsec. (e)(1). Pub. L. 111–13, §1606(5)(A), added par. (1) and struck out former par. (1) which related to preparation of a national service plan for the State.

Subsec. (e)(2). Pub. L. 111–13, §1606(5)(B), substituted "section 12582" for "sections 12543 and 12582".

Subsecs. (f) to (l). Pub. L. 111–13, §1606(6), (7), added subsecs. (f) and (g) and redesignated former subsecs. (f) to (j) as (h) to (l), respectively.

1993—Subsec. (i)(2)(A). Pub. L. 103–82, §405(p)(1), substituted "the Corporation" for "ACTION, or of the Corporation," before "that carries out".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 405(p)(1) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Pub. L. 103–82, title II, §201(c), Sept. 21, 1993, 107 Stat. 873, provided that: "The amendments made by this section [enacting this section and repealing former section 12638 of this title] shall take effect on October 1, 1993."

TRANSITIONAL PROVISIONS

Pub. L. 103–82, title II, §201(d), Sept. 21, 1993, 107 Stat. 873, provided that:

"(1) USE OF ALTERNATIVES TO STATE COMMISSION.—If a State does not have a State Commission on National and Community Service that satisfies the requirements specified in section 178 of the National and Community Service Act of 1990 [42 U.S.C. 12638], as amended by subsection (a), the Corporation for National and Community Service may authorize the chief executive officer of the State to use an existing agency of the State to perform the duties otherwise reserved to a State Commission under subsection (e) of such section.

"(2) APPLICATION OF SUBSECTION.—This subsection shall apply only during the 27-month period beginning on the date of the enactment of this Act [Sept. 21, 1993]."

[1] See References in Text note below.

[2] So in original. The word "to" probably should not appear.

§12639. Evaluation

(a) In general

The Corporation shall provide, directly or through grants or contracts, for the continuing evaluation of programs that receive assistance under the national service laws, including evaluations that measure the impact of such programs, to determine—

(1) the effectiveness of programs receiving assistance under the national service laws in achieving stated goals and the costs associated with such programs, including an evaluation of each such program's performance based on the performance levels established under subsection (k); and

(2) the effectiveness of the structure and mechanisms for delivery of services, such as the effective utilization of the participants' time, the management of the participants, and the ease with which recipients were able to receive services, to maximize the cost effectiveness and the impact of such programs.

(b) Comparisons

The Corporation shall provide for inclusion in the evaluations required under subsection (a), where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

(c) Conducting evaluations

Evaluations of programs under subsection (a) shall be conducted by individuals who are not directly involved in the administration of such program.

(d) Standards

The Corporation shall develop and publish general standards for the evaluation of program effectiveness in achieving the objectives of the national service laws.

(e) Community participation

In evaluating a program receiving assistance under the national service laws, the Corporation shall consider the opinions of participants and members of the communities where services are delivered concerning the strengths and weaknesses of such program.

(f) Comparison of program models

The Corporation shall evaluate and compare the effectiveness of different program models in meeting the program objectives described in subsection (g) including full- and part-time programs, programs involving different types of national service, programs using different recruitment methods, programs offering alternative voucher or post-service benefit options, and programs utilizing individual placements and teams.

(g) Program objectives

The Corporation shall ensure that programs that receive assistance under division C are evaluated to determine their effectiveness in—

(1) recruiting and enrolling diverse participants in such programs, consistent with the requirements of section 12575 [1] of this title, based on economic background, race, ethnicity, age, marital status, education levels, and disability;

(2) promoting the educational achievement of each participant in such programs, based on earning a high school diploma or the equivalent of such diploma and the future enrollment and completion of increasingly higher levels of education;

(3) encouraging each participant to engage in public and community service after completion of the program based on career choices and service in other service programs such as the Volunteers in Service to America Program and National Senior Service Corps programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.), the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), the military, and part-time volunteer service;

(4) promoting of positive attitudes among each participant regarding the role of such participant in solving community problems based on the view of such participant regarding the personal capacity of such participant to improve the lives of others, the responsibilities of such participant as a citizen and community member, and other factors;

(5) enabling each participant to finance a lesser portion of the higher education of such participant through student loans;

(6) providing services and projects that benefit the community;

(7) supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can effectively be utilized;

(8) providing services and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement of, employed workers or impair the existing contracts of such workers; and

(9) attracting a greater number of citizens to engage in service that benefits the community.

(h) Obtaining information

(1) In general

In conducting the evaluations required under this section, the Corporation may require each program participant and State or local applicant to provide such information as may be necessary to carry out the requirements of this section.

(2) Confidentiality

(A) In general

The Corporation shall maintain the confidentiality of information acquired under this subsection regarding individual participants.

(B) Disclosure

(i) Consent

The content of any information described in subparagraph (A) may be disclosed with the

prior written consent of the individual participant with respect to whom the information is maintained.

(ii) Aggregate information

The Corporation may disclose information about the aggregate characteristics of such participants.

(i) Independent evaluation and report of demographics of national service participants and communities

(1) Independent evaluation

(A) In general

The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under division C.

(B) Participants

(i) In general

The entity conducting such evaluation shall determine the demographic characteristics of the participants in such programs.

(ii) Characteristics

The entity shall determine, for the year covered by the evaluation, the total number of participants in the programs, and the number of participants within the programs in each State, by sex, age, economic background, education level, ethnic group, disability classification, and geographic region.

(iii) Categories

The Corporation shall determine appropriate categories for analysis of each of the characteristics referred to in clause (ii) for purposes of such an evaluation.

(C) Communities

In conducting the evaluation, the entity shall determine the amount of assistance provided under section 12571 of this title during the year that has been expended for projects conducted under the programs in areas described in section 12585(c)(6) of this title.

(2) Report

The entity conducting the evaluation shall submit a report to the President, the authorizing committees, the Corporation, and each State Commission containing the results of the evaluation—

(A) with respect to the evaluation covering the year beginning on September 21, 1993, not later than 18 months after September 21, 1993; and

(B) with respect to the evaluation covering each subsequent year, not later than 18 months after the first day of each such year.

(j) Reserved program funds for accountability

Notwithstanding any other provision of law, in addition to amounts appropriated to carry out this section, the Corporation may reserve not more than 1 percent of the total funds appropriated for a fiscal year under section 12681 of this title and sections 501 and 502 of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5081, 5082] to support program accountability activities under this section.

(k) Performance levels

The Corporation shall, in consultation with each recipient of assistance under the national service laws, establish performance levels for such recipient to meet during the term of the assistance. The performance levels may include, for each national service program carried out by the recipient, performance levels based on the following performance measures:

(1) Number of participants enrolled in the program and completing terms of service, as

compared to the stated participation and retention goals of the program.

(2) Number of volunteers recruited from the community in which the program was implemented.

(3) If applicable based on the program design, the number of individuals receiving or benefitting from the service conducted.

(4) Number of disadvantaged and underrepresented youth participants.

(5) Measures of the sustainability of the program and the projects supported by the program, including measures to ascertain the level of community support for the program or projects.

(6) Measures to ascertain the change in attitude toward civic engagement among the participants and the beneficiaries of the service.

(7) Other quantitative and qualitative measures as determined to be appropriate by the recipient of assistance and the Corporation.

(l) Corrective action plans

(1) In general

A recipient of assistance under the national service laws that fails, as determined by the Corporation, to meet or exceed the performance levels agreed upon under subsection (k) for a national service program, shall reach an agreement with the Corporation on a corrective action plan to meet such performance levels.

(2) Assistance

(A) New program

For a program that has received assistance under the national service laws for less than 3 years and for which the recipient is failing to meet or exceed the performance levels agreed upon under subsection (k), the Corporation shall—

(i) provide technical assistance to the recipient to address targeted performance problems relating to the performance levels for the program; and

(ii) require the recipient to submit quarterly reports on the program's progress toward meeting the performance levels for the program to the—

(I) appropriate State, territory, or Indian tribe; and

(II) the Corporation.

(B) Established programs

For a program that has received assistance under the national service laws for 3 years or more and for which the recipient is failing to meet or exceed the performance levels agreed upon under subsection (k), the Corporation shall require the recipient to submit quarterly reports on the program's progress toward the performance levels for the program to—

(i) the appropriate State, territory, or Indian tribe; and

(ii) the Corporation.

(m) Failure to meet performance levels

If, after a period for correction as approved by the Corporation in accordance with subsection (l), a recipient of assistance under the national service laws fails to meet or exceed the performance levels for a national service program, the Corporation shall—

(1) reduce the annual amount of the assistance received by the underperforming recipient by at least 25 percent, for each remaining year of the grant period for that program; or

(2) terminate assistance to the underperforming recipient for that program, in accordance with section 12636(a) of this title.

(n) Reports

The Corporation shall submit to the authorizing committees not later than 2 years after April 21, 2009, and annually thereafter, a report containing information on the number of—

(1) recipients of assistance under the national service laws implementing corrective action plans under subsection (l)(1);

(2) recipients for which the Corporation provides technical assistance for a program under subsection (l)(2)(A)(i);

(3) recipients for which the Corporation terminates assistance for a program under subsection (m);

(4) entities whose application for assistance under a national service law was rejected; and

(5) recipients meeting or exceeding their performance levels under subsection (k).

(Pub. L. 101–610, title I, §179, Nov. 16, 1990, 104 Stat. 3164; Pub. L. 102–384, §§4, 9, Oct. 5, 1992, 106 Stat. 1455, 1456; Pub. L. 103–82, title I, §118, title II, §203(a)(1)(A), title IV, §402(b)(1), Sept. 21, 1993, 107 Stat. 865, 891, 918; Pub. L. 103–160, div. A, title XI, §1182(d)(4), Nov. 30, 1993, 107 Stat. 1773; Pub. L. 104–106, div. A, title XV, §1501(e)(5), Feb. 10, 1996, 110 Stat. 501; Pub. L. 111–13, title I, §1607, Apr. 21, 2009, 123 Stat. 1532.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12575 of this title, referred to in subsec. (g)(1), was in the original a reference to section 145 of Pub. L. 101–610. Section 145 of Pub. L. 101–610 was omitted in the general amendment of subtitle D of title I of Pub. L. 101–610 [former part D of this subchapter] by Pub. L. 103–82, title I, §102(a), Sept. 21, 1993, 107 Stat. 816. Pub. L. 103–82 enacted a new section 125 of Pub. L. 101–610, relating to training and technical assistance, and a new section 145, relating to establishment of the National Service Trust, which are classified to sections 12575 and sections 12601, respectively, of this title. Provisions relating to the eligibility of individuals for participation in national service programs are now contained in section 12591 et seq. of this title.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (g)(3), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Peace Corps Act, referred to in subsec. (g)(3), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of that Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1607(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) directed the Corporation to provide, through grants or contracts, for continuing evaluation of programs receiving assistance under the national service laws to determine the effectiveness and costs of various program models and, with respect to programs authorized under division C, to determine the impact of those programs on the recruitment ability of VISTA and National Senior Volunteer Corps programs, each regular component of the Armed Forces, each of the reserve components of the Armed Forces, and the Peace Corps.

Subsec. (g)(3). Pub. L. 111–13, §1607(2)(A), substituted "National Senior Service Corps" for "National Senior Volunteer Corps".

Subsec. (g)(9). Pub. L. 111–13, §1607(2)(B), substituted "to engage in service that benefits the community." for "to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), and the VISTA and National Senior Volunteer Corps programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.)."

Subsec. (i)(2). Pub. L. 111–13, §1607(3), substituted "the authorizing committees" for "Congress" in introductory provisions.

Subsecs. (j) to (n). Pub. L. 111–13, §1607(4), added subsecs. (j) to (n).

1996—Subsec. (a)(2)(C). Pub. L. 104–106 substituted "section 10101 of title 10" for "section 216(a) of title 5".

1993—Subsec. (a). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission" in introductory provisions.

Pub. L. 103–82, §203(a)(1)(A), substituted "the national service laws" for "this subchapter" in introductory provisions.

Subsec. (a)(2). Pub. L. 103–82, §118(1)(A), substituted "with respect to the programs authorized under division C of this subchapter" for "for purposes of the reports required by subsection (j) of this section" in

introductory provisions.

Subsec. (a)(2)(A). Pub. L. 103–82, §118(1)(B), substituted "National Senior Volunteer Corps programs" for "older American volunteer programs".

Subsec. (a)(2)(B). Pub. L. 103–160 substituted "section 101(a)(4) of title 10" for "section 101(4) of title 10".

Subsec. (b). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Subsec. (d). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Pub. L. 103–82, §203(a)(1)(A), substituted "the national service laws" for "this subchapter".

Subsec. (e). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Pub. L. 103–82, §203(a)(1)(A), substituted "the national service laws" for "this subchapter".

Subsec. (f). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Subsec. (g). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission" in introductory provisions.

Pub. L. 103–82, §118(2)(A), substituted "division C" for "part D" in introductory provisions.

Subsec. (g)(3), (9). Pub. L. 103–82, §118(2)(B), substituted "National Senior Volunteer Corps programs" for "older American volunteer programs".

Subsec. (h)(1), (2)(A), (B)(ii). Pub. L. 103–82, §402(b)(1), substituted "Corporation" for "Commission".

Subsecs. (i), (j). Pub. L. 103–82, §118(3), (4), added subsec. (i) and struck out former subsecs. (i) and (j) which related to deadline and report, respectively.

1992—Subsec. (a)(2). Pub. L. 102–384, §9(1), substituted "subsection (j)" for "subsection (h)".

Subsec. (d). Pub. L. 102–384, §4, substituted "Commission" for "Secretary".

Subsec. (f). Pub. L. 102–384, §9(2), inserted "or post-service benefit" after "voucher".

Subsec. (h)(1). Pub. L. 102–384, §9(3)(A), substituted "this section" for "subsection (g) of this section".

Subsec. (h)(2). Pub. L. 102–384, §9(3)(B), added par. (2) and struck out former par. (2) which read as follows: "The Commission shall keep information acquired under this section confidential."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 118 of Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Amendment by section 203(a)(1)(A) of Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

Amendment by section 402(b)(1) of Pub. L. 103–82 effective Oct. 1, 1993, see section 406(a) of Pub. L. 103–82, set out as a note under section 5061 of this title.

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

§12639a. Civic Health Assessment and volunteering research and evaluation

(a) Definition of partnership

In this section, the term "partnership" means the Corporation, acting in conjunction with (consistent with the terms of an agreement entered into between the Corporation and the National Conference) the National Conference on Citizenship referred to in section 150701 of title 36 to carry out this section.

(b) In general

The partnership shall facilitate the establishment of a Civic Health Assessment by—

(1) after identifying public and private sources of civic health data, selecting a set of civic health indicators, in accordance with subsection (c), that shall comprise the Civic Health Assessment;

(2) obtaining civic health data relating to the Civic Health Assessment, in accordance with subsection (d); and

(3) conducting related analyses, and reporting the data and analyses, as described in paragraphs (4) and (5) of subsection (d) and subsections (e) and (f).

(c) Selection of indicators for Civic Health Assessment

(1) Identifying sources

The partnership shall select a set of civic health indicators that shall comprise the Civic Health Assessment. In making such selection, the partnership—

(A) shall identify public and private sources of civic health data;

(B) shall explore collaborating with other similar efforts to develop national indicators in the civic health domain; and

(C) may sponsor a panel of experts, such as one convened by the National Academy of Sciences, to recommend civic health indicators and data sources for the Civic Health Assessment.

(2) Technical advice

At the request of the partnership, the Director of the Bureau of the Census and the Commissioner of Labor Statistics shall provide technical advice to the partnership on the selection of the indicators for the Civic Health Assessment.

(3) Updates

The partnership shall periodically evaluate and update the Civic Health Assessment, and may expand or modify the indicators described in subsection (d)(1) as necessary to carry out the purposes of this section.

(d) Data on the indicators

(1) Sponsored data collection

In identifying the civic health indicators for the Civic Health Assessment, and obtaining data for the Assessment, the partnership may sponsor the collection of data for the Assessment or for the various civic health indicators being considered for inclusion in the Assessment, including indicators related to—

(A) volunteering and community service;

(B) voting and other forms of political and civic engagement;

(C) charitable giving;

(D) connecting to civic groups and faith-based organizations;

(E) interest in employment, and careers, in public service in the nonprofit sector or government;

(F) understanding and obtaining knowledge of United States history and government; and

(G) social enterprise and innovation.

(2) Data from statistical agencies

The Director of the Bureau of the Census and the Commissioner of Labor Statistics shall collect annually, to the extent practicable, data to inform the Civic Health Assessment, and shall report data from such collection to the partnership. In determining the data to be collected, the Director and the Commissioner shall examine privacy issues, response rates, and other relevant issues.

(3) Sources of data

To obtain data for the Civic Health Assessment, the partnership shall consider—

(A) data collected through public and private sources; and

(B) data collected by the Bureau of the Census, through the Current Population Survey, or by the Bureau of Labor Statistics, in accordance with paragraph (2).

(4) Demographic characteristics

The partnership shall seek to obtain data for the Civic Health Assessment that will permit the partnership to analyze the data by age group, race and ethnicity, education level, and other demographic characteristics of the individuals involved.

(5) Other issues

In obtaining data for the Civic Health Assessment, the partnership may also obtain such information as may be necessary to analyze—

(A) the role of Internet technology in strengthening and inhibiting civic activities;

(B) the role of specific programs in strengthening civic activities;

(C) the civic attitudes and activities of new citizens and immigrants; and

(D) other areas related to civic activities.

(e) Reporting of data

(1) In general

The partnership shall, not less often than once each year, prepare a report containing—

(A) detailed data obtained under subsection (d), including data on the indicators comprising the Civic Health Assessment; and

(B) the analyses described in paragraphs (4) and (5) of subsection (d), to the extent practicable based on the data the partnership is able to obtain.

(2) Aggregation and presentation

The partnership shall, to the extent practicable, aggregate the data on the civic health indicators comprising the Civic Health Assessment by community, by State, and nationally. The report described in paragraph (1) shall present the aggregated data in a form that enables communities and States to assess their civic health, as measured on each of the indicators comprising the Civic Health Assessment, and compare those measures with comparable measures of other communities and States.

(3) Submission

The partnership shall submit the report to the authorizing committees, and make the report available to the general public on the Corporation's website.

(f) Public input

The partnership shall—

(1) identify opportunities for public dialogue and input on the Civic Health Assessment; and

(2) hold conferences and forums to discuss the implications of the data and analyses reported under subsection (e).

(g) Volunteering research and evaluation

(1) Research

The partnership shall provide for baseline research and tracking of domestic and international volunteering, and baseline research and tracking related to relevant data on the indicators described in subsection (d). In providing for the research and tracking under this subsection, the partnership shall consider data from the Supplements to the Current Populations Surveys conducted by the Bureau of the Census for the Bureau of Labor Statistics, and data from other public and private sources, including other data collected by the Bureau of the Census and the Bureau of Labor Statistics.

(2) Impact research and evaluation

The partnership shall sponsor an independent evaluation of the impact of domestic and international volunteering, including an assessment of best practices for such volunteering, and methods of improving such volunteering through enhanced collaboration among—

(A) entities that recruit, manage, support, and utilize volunteers;

(B) institutions of higher education; and

(C) research institutions.

(h) Database prohibition

Nothing in this chapter shall be construed to authorize the development, implementation, or maintenance of a Federal database of personally identifiable information on individuals participating in data collection for sources of information under this section.

(Pub. L. 101–610, title I, §179A, as added Pub. L. 111–13, title I, §1608(a), Apr. 21, 2009, 123 Stat. 1534.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (h), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12640. Engagement of participants

A State shall not engage a participant to serve in any program that receives assistance under this subchapter unless and until amounts have been appropriated under section 12681 of this title for the provision of national service educational awards and for the payment of other necessary expenses and costs associated with such participant.

(Pub. L. 101–610, title I, §180, Nov. 16, 1990, 104 Stat. 3166; Pub. L. 103–82, title I, §119, Sept. 21, 1993, 107 Stat. 866.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–82 substituted "national service educational awards" for "post-service benefits".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12641. Contingent extension

Section 1226a of title 20 shall apply to this chapter.

(Pub. L. 101–610, title I, §181, Nov. 16, 1990, 104 Stat. 3166; Pub. L. 103–82, title I, §120(a), Sept. 21, 1993, 107 Stat. 866; Pub. L. 111–13, title I, §1609, Apr. 21, 2009, 123 Stat. 1537.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990,

104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

AMENDMENTS

2009—Pub. L. 111–13 made technical amendment to reference in original act which appears in text as reference to section 1226a of title 20.

1993—Pub. L. 103–82 amended section generally, reenacting subsec. (c) as entire section and striking out former subsecs. (a) and (b) which related to treatment of education and housing benefits and treatment of stipend for living expenses, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12642. Partnerships with schools

The head of each Federal agency and department shall design and implement a comprehensive strategy to involve employees of such agencies and departments in partnership programs with elementary schools and secondary schools. Such strategy shall include—

(1) a review of existing programs to identify and expand the opportunities for such employees to be adult volunteers in schools and for students and out-of-school youth;

(2) the designation of a senior official in each such agency and department who will be responsible for establishing partnership and youth service programs in each such agency and department and for developing partnership and youth service programs;

(3) the encouragement of employees of such agencies and departments to participate in partnership programs and other service projects;

(4) the annual recognition of outstanding service programs operated by Federal agencies; and

(5) the encouragement of businesses and professional firms to include community service among the factors considered in making hiring, compensation, and promotion decisions.

(Pub. L. 101–610, title I, §182, Nov. 16, 1990, 104 Stat. 3167; Pub. L. 103–82, title I, §111(b)(1), (2), Sept. 21, 1993, 107 Stat. 860; Pub. L. 111–13, title I, §1610, Apr. 21, 2009, 123 Stat. 1537; Pub. L. 113–188, title III, §301(b), Nov. 26, 2014, 128 Stat. 2018.)

EDITORIAL NOTES

AMENDMENTS

2014—Pub. L. 113–188 struck out subsec. (a) designation and heading before "The head of each Federal agency" and struck out subsec. (b) which required submission of reports to the Corporation and to Congress.

2009—Subsec. (b). Pub. L. 111–13 amended subsec. (b) generally. Prior to amendment, text read as follows: "Not later than 180 days after November 16, 1990, and on a regular basis thereafter, the head of each Federal agency and department shall prepare and submit, to the appropriate Committees of Congress, a report concerning the implementation of this section."

1993—Subsec. (a)(2), (3). Pub. L. 103–82 substituted "partnership" for "adult volunteer and partnership" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12643. Rights of access, examination, and copying

(a) Comptroller General

Consistent with otherwise applicable law, the Comptroller General, or any of the duly authorized representatives of the Comptroller General, shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, territory, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this chapter; and

(2) that the Comptroller General, or his representative, considers necessary to the performance of an evaluation, audit, or review.

(b) Chief Financial Officer

Consistent with otherwise applicable law, the Chief Financial Officer of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, territory [1] Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this chapter; and

(2) that relates to the duties of the Chief Financial Officer.

(c) Inspector General

Consistent with otherwise applicable law, the Inspector General of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, territory, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under the national service laws; and

(2) that relates to—

(A) such assistance; and

(B) the duties of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.).

(Pub. L. 101–610, title I, §183, Nov. 16, 1990, 104 Stat. 3167; Pub. L. 103–82, title I, §121(a), Sept. 21, 1993, 107 Stat. 866; Pub. L. 111–13, title I, §1611, Apr. 21, 2009, 123 Stat. 1537.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b)(1), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Inspector General Act of 1978, referred to in subsec. (c)(2)(B), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1611(1), substituted "Consistent with otherwise applicable law, the"

for "The" in introductory provisions and inserted "territory," after "local government," in par. (1).

Subsec. (b). Pub. L. 111–13, §1611(2), substituted "Consistent with otherwise applicable law, the" for "The" in introductory provisions and inserted "territory" after "local government," in par. (1).

Subsec. (c). Pub. L. 111–13, §1611(3), added subsec. (c).

1993—Pub. L. 103–82 amended section generally, substituting provision relating to rights of access, examination, and copying for provision relating to service as tutors.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

[1] *So in original. Probably should be followed by a comma.*

§12644. Drug-free workplace requirements

All programs receiving grants under this subchapter shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 8101 and 8103 to 8106 of title 41.

(Pub. L. 101–610, title I, §184, Nov. 16, 1990, 104 Stat. 3167.)

EDITORIAL NOTES

CODIFICATION

In text, "sections 8101 and 8103 to 8106 of title 41" substituted for "sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§12644a. Availability of assistance

A reference in division C, D, E, or H of this subchapter regarding an entity eligible to receive direct or indirect assistance to carry out a national service program shall include a non-profit organization promoting competitive and non-competitive sporting events involving individuals with disabilities (including the Special Olympics), which enhance the quality of life for individuals with disabilities.

(Pub. L. 101–610, title I, §184A, as added Pub. L. 111–13, title I, §1613(a), Apr. 21, 2009, 123 Stat. 1541.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12644b. Consolidated application and reporting requirements

(a) In general

To promote efficiency and eliminate duplicative requirements, the Corporation shall consolidate or modify application procedures and reporting requirements for programs, projects, and activities funded under the national service laws.

(b) Report to Congress

Not later than 18 months after the effective date of the Serve America Act, the Corporation shall submit to the authorizing committees a report containing information on the actions taken to consolidate or modify the application procedures and reporting requirements for programs, projects, and activities funded under the national service laws, including a description of the procedures for consultation with recipients of the funding.

(Pub. L. 101–610, title I, §185, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Serve America Act, referred to in subsec. (b), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PRIOR PROVISIONS

A prior section 185 of Pub. L. 101–610 amended sections 1070a–6 and 1087vv of title 20 prior to repeal by section 122(a) of Pub. L. 103–82.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12645. Sustainability

The Corporation, after consultation with State Commissions and recipients of assistance, may set sustainability goals for projects or programs under the national service laws, so that recipients of assistance under the national service laws are carrying out sustainable projects or programs. Such sustainability goals shall be in writing and shall be used—

(1) to build the capacity of the projects or programs that receive assistance under the national service laws to meet community needs;

(2) in providing technical assistance to recipients of assistance under the national service laws regarding acquiring and leveraging non-Federal funds for support of the projects or programs that receive such assistance; and

(3) to determine whether the projects or programs, receiving such assistance, are generating sufficient community support.

(Pub. L. 101–610, title I, §186, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12645, Pub. L. 101–610, title I, §186, as added Pub. L. 102–10, §8(2), Mar. 12, 1991, 105 Stat. 31, directed Commission to issue final rules or regulations necessary to implement this subchapter, prior to repeal by Pub. L. 103–82, title I, §§122(a), 123, Sept. 21, 1993, 107 Stat. 867, effective Oct. 1, 1993.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12645a. Grant periods

Unless otherwise specifically provided, the Corporation has authority to award a grant or contract, or enter into a cooperative agreement, under the national service laws for a period of 3 years.

(Pub. L. 101–610, title I, §187, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12645b. Generation of volunteers

In making decisions on applications for assistance or approved national service positions under the national service laws, the Corporation shall take into consideration the extent to which the applicant's proposal will increase the involvement of volunteers in meeting community needs. In reviewing the application for this purpose, the Corporation may take into account the mission of the applicant.

(Pub. L. 101–610, title I, §188, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1538.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12645c. Limitation on program grant costs

(a) Limitation on grant amounts

Except as otherwise provided by this section, the amount of funds approved by the Corporation for a grant to operate a program authorized under the national service laws, for supporting individuals serving in approved national service positions, may not exceed $18,000 per full-time equivalent position.

(b) Costs subject to limitation

The limitation under subsection (a), and the increased limitation under subsection (e)(1), shall apply to the Corporation's share of the member support costs, staff costs, and other costs to operate a program authorized under the national service laws incurred,[1] by the recipient of the grant.

(c) Costs not subject to limitation

The limitation under subsection (a), and the increased limitation under subsection (e)(1), shall not apply to expenses under a grant authorized under the national service laws to operate a program that are not included in the grant award for operating the program.

(d) Adjustments for inflation

The amounts specified in subsections (a) and (e)(1) shall be adjusted each year after 2008 for inflation as measured by the Consumer Price Index for All Urban Consumers published by the Secretary of Labor.

(e) Waiver authority and reporting requirement

(1) Waiver

The Chief Executive Officer may increase the limitation under subsection (a) to not more than $19,500 per full-time equivalent position if necessary to meet the compelling needs of a particular program, such as—

(A) exceptional training needs for a program serving disadvantaged youth;

(B) the need to pay for increased costs relating to the participation of individuals with disabilities;

(C) the needs of tribal programs or programs located in the territories; and

(D) the need to pay for start-up costs associated with a first-time recipient of assistance under a program of the national service laws.

(2) Reports

The Chief Executive Officer shall report to the authorizing committees annually on all limitations increased under this subsection, with an explanation of the compelling needs justifying such increases.

(Pub. L. 101–610, title I, §189, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1539.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] *So in original. The comma probably should not appear.*

§12645d. Matching funds for severely economically distressed communities

(a) In general

Notwithstanding any other provision of law, a severely economically distressed community that receives assistance from the Corporation for any program under the national service laws shall not be subject to any requirements to provide matching funds for any such program, and the Federal share of such assistance for such a community may be 100 percent.

(b) Severely economically distressed community

For the purposes of this section, the term "severely economically distressed community" means—

(1) an area that has a mortgage foreclosure rate, home price decline, and unemployment rate all of which are above the national average for such rates or level, for the most recent 12 months for which satisfactory data are available; or

(2) a residential area that lacks basic living necessities, such as water and sewer systems, electricity, paved roads, and safe, sanitary housing.

(Pub. L. 101–610, title I, §189A, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1539.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12645e. Audits and reports

The Corporation shall comply with applicable audit and reporting requirements as provided in the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note; Public Law 101–576) and chapter 91 of title 31 (commonly known as the "Government Corporation Control Act"). The Corporation shall report to the authorizing committees any failure to comply with such requirements.

(Pub. L. 101–610, title I, §189B, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1540.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in text, is Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12645f. Restrictions on Federal Government and use of Federal funds

(a) General prohibition

Nothing in the national service laws shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(b) Prohibition on endorsement of curriculum

Notwithstanding any other prohibition of Federal law, no funds provided to the Corporation under this chapter may be used by the Corporation to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(c) Prohibition on requiring Federal approval or certification standards

Notwithstanding any other provision of Federal law, not [1] State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(Pub. L. 101–610, title I, §189C, as added Pub. L. 111–13, title I, §1612, Apr. 21, 2009, 123 Stat. 1540.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] *So in original. Probably should be "no".*

§12645g. Criminal history checks

(a) In general

Each entity selecting individuals to serve in a position in which the individuals receive a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws, shall, subject to regulations and requirements established by the Corporation, conduct criminal history checks for such individuals.

(b) Requirements

A criminal history check under subsection (a) shall, except in cases approved for good cause by the Corporation, include—

(1) a name-based search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); [1] and

(2)(A) a search of the State criminal registry or repository in the State in which the program is operating and the State in which the individual resides at the time of application; or

(B) submitting fingerprints to the Federal Bureau of Investigation for a national criminal history background check.

(c) Eligibility prohibition

An individual shall be ineligible to serve in a position described under subsection (a) if such individual—

(1) refuses to consent to the criminal history check described in subsection (b);

(2) makes a false statement in connection with such criminal history check;

(3) is registered, or is required to be registered, on a State sex offender registry or the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); [1] or

(4) has been convicted of murder, as described in section 1111 of title 18.

(d) Special rule for individuals working with vulnerable populations

(1) In general

Notwithstanding subsection (b), on and after the date that is 2 years after April 21, 2009, a criminal history check under subsection (a) for each individual described in paragraph (2) shall, except for an entity described in paragraph (3), include—

(A) a name-based search of the National Sex Offender Registry established under the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16901 et seq.); [1]

(B) a search of the State criminal registry or repository in the State in which the program is operating and the State in which the individual resides at the time of application; and

(C) submitting fingerprints to the Federal Bureau of Investigation for a national criminal history background check.

(2) Individuals with access to vulnerable populations

An individual described in this paragraph is an individual age 18 or older who—

(A) serves in a position in which the individual receives a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national

service laws; and

(B) as a result of such individual's service in such position, has or will have access, on a recurring basis, to—

(i) children age 17 years or younger;

(ii) individuals age 60 years or older; or

(iii) individuals with disabilities.

(3) Exceptions

The provisions of this subsection shall not apply to an entity—

(A) where the service provided by individuals serving with the entity to a vulnerable population described in paragraph (2)(B) is episodic in nature or for a 1-day period;

(B) where the cost to the entity of complying with this subsection is prohibitive;

(C) where the entity is not authorized, or is otherwise unable, under State law, to access the national criminal history background check system of the Federal Bureau of Investigation;

(D) where the entity is not authorized, or is otherwise unable, under Federal law, to access the national criminal history background check system of the Federal Bureau of Investigation; or

(E) to which the Corporation otherwise provides an exemption from this subsection for good cause.

(Pub. L. 101–610, title I, §189D, as added and amended Pub. L. 111–13, title I, §§1612, 1614(a), Apr. 21, 2009, 123 Stat. 1540, 1541.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Adam Walsh Child Protection and Safety Act of 2006, referred to in subsecs. (b)(1), (c)(3), and (d)(1)(A), is Pub. L. 109–248, July 27, 2006, 120 Stat. 587, which was classified principally to chapter 151 (§16901 et seq.) of this title, prior to editorial reclassification and renumbering as chapter 209 (§20901 et seq.) of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 2006 Act note set out under section 10101 of Title 34 and Tables.

AMENDMENTS

2009—Pub. L. 111–13, §1614(a), added subsec. (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Enactment and amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

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

Division G—Corporation for National and Community Service

§12651. Corporation for National and Community Service

There is established a Corporation for National and Community Service that shall administer the programs established under the national service laws. The Corporation shall be a Government corporation, as defined in section 103 of title 5.

(Pub. L. 101–610, title I, §191, as added and amended Pub. L. 103–82, title II, §§202(a), 203(a)(1)(B), Sept. 21, 1993, 107 Stat. 873, 891.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12651, Pub. L. 101–610, title I, §190, Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102–10, §9, Mar. 12, 1991, 105 Stat. 31; Pub. L. 102–384, §§4, 10, Oct. 5, 1992, 106 Stat. 1455, 1456, provided for establishment of Commission on National and Community Service, prior to the general amendment of subtitle G of title I of Pub. L. 101–610 [former part G of this subchapter] by Pub. L. 103–82, §202(a).

AMENDMENTS

1993—Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 191 of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter", was executed to this section, which is section 191 of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–82, title II, §203(d), Sept. 21, 1993, 107 Stat. 895, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), this section [amending this section and sections 12639, 12651b to 12651d, 12651f, and 12651g of this title, repealing sections 5041 and 5042 of this title, and enacting provisions set out below], and the amendments made by this section, shall take effect—

"(A) 18 months after the date of enactment of this Act [Sept. 21, 1993]; or

"(B) on such earlier date as the President shall determine to be appropriate and announce by proclamation published in the Federal Register.

"(2) TRANSITION.—Subsection (c)(10) [set out below] shall take effect on the date of enactment of this Act [Sept. 21, 1993]."

[Section 203, and the amendments made by section 203, of Pub. L. 103–82 became effective Apr. 4, 1994, pursuant to Proc. No. 6662, Apr. 4, 1994, 59 F.R. 16507, set out below.]

EFFECTIVE DATE

Pub. L. 103–82, title II, §202(i), Sept. 21, 1993, 107 Stat. 891, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), or paragraph (2) or (3) of subsection (g) [amending sections 8F and 9 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 8F and 9 of such act], the amendments made by this section [enacting this division and section 8E of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, amending section 5041 of this title, sections 4, 8F, 8G, 9, and 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, sections 9101 and 9105 of Title 31, Money and Finance, section 410 of Title 39, Postal Service, and section 484 of former Title 40, Public Buildings, Property, and Works] shall take effect on October 1, 1993.

"(2) ESTABLISHMENT AND APPOINTMENT AUTHORITIES.—Sections 191, 192, and 193 of the National and Community Service Act of 1990 [42 U.S.C. 12651, 12651a, 12651c], as added by subsection (a), shall take effect on the date of enactment of this Act [Sept. 21, 1993]."

TRANSFER OF FUNCTIONS OF COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Pub. L. 103–82, title II, §202(c), Sept. 21, 1993, 107 Stat. 888, provided that:

"(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context, each term specified in section 203(c)(1) [set out below] shall have the meaning given the term in such section.

"(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation the functions that the Board of Directors or Executive Director of the Commission on National and Community Service exercised before the effective date of this subsection (including all related functions of any officer or employee of the Commission).

"(3) APPLICATION.—The provisions of paragraphs (3) through (10) of section 203(c) [set out below] shall apply with respect to the transfer described in paragraph (2), except that—

"(A) for purposes of such application, references to the term 'ACTION Agency' shall be deemed to be references to the Commission on National and Community Service; and

"(B) paragraph (10) of such section shall not preclude the transfer of the members of the Board of

Directors of the Commission to the Corporation if, on the effective date of this subsection, the Board of Directors of the Corporation has not been confirmed."

TRANSFER OF FUNCTIONS FROM ACTION AGENCY

Pub. L. 103–82, title II, §203(c), Sept. 21, 1993, 107 Stat. 892, provided that:

"(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context—

"(A) the term 'Chief Executive Officer' means the Chief Executive Officer of the Corporation;

"(B) the term 'Corporation' means the Corporation for National and Community Service, established under section 191 of the National and Community Service Act of 1990 [42 U.S.C. 12651];

"(C) the term 'Federal agency' has the meaning given to the term 'agency' by section 551(1) of title 5, United States Code;

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

"(E) the term 'office' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

"(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation the functions that the Director of the ACTION Agency exercised before the effective date of this subsection [see Effective Date of 1993 Amendment note above] (including all related functions of any officer or employee of the ACTION Agency).

"(3) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under paragraph (2).

"(4) REORGANIZATION.—The Chief Executive Officer is authorized to allocate or reallocate any function transferred under paragraph (2) among the officers of the Corporation.

"(5) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this subsection, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this subsection, subject to section 1531 of title 31, United States Code, shall be transferred to the Corporation. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

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

"(7) EFFECT ON PERSONNEL.—

"(A) IN GENERAL.—Except as otherwise provided by this subsection, the transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall be to positions in the Corporation subject to section 195(a) of the National and Community Service Act of 1990 [42 U.S.C. 12651f(a)], as added by section 202(a) of this Act, and shall not cause any such employee to be separated or reduced in grade or compensation, or to have the benefits of the employee reduced, for 1 year after the date of transfer of such employee under this subsection, and such transfer shall be deemed to be a transfer of functions for purposes of section 3503 of title 5, United States Code.

"(B) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this subsection, any person who, on the day preceding the effective date of this subsection [see Effective Date of 1993 Amendment note above], held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Corporation to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

"(C) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by

the President, by and with the advice and consent of the Senate, the functions of which are transferred by this subsection, shall terminate on the effective date of this subsection.

"(8) SAVINGS PROVISIONS.—

"(A) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

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

"(ii) that are in effect at the time this subsection takes effect [see Effective Date of 1993 Amendment note above], or were final before the effective date of this subsection and are to become effective on or after the effective date of this subsection,

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

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

"(C) SUITS NOT AFFECTED.—The provisions of this subsection shall not affect suits commenced before the effective date of this subsection, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

"(D) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the ACTION Agency, or by or against any individual in the official capacity of such individual as an officer of the ACTION Agency, shall abate by reason of the enactment of this subsection.

"(E) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS .—Any administrative action relating to the preparation or promulgation of a regulation by the ACTION Agency relating to a function transferred under this subsection may be continued by the Corporation with the same effect as if this subsection had not been enacted.

"(9) SEVERABILITY.—If a provision of this subsection or its application to any person or circumstance is held invalid, neither the remainder of this subsection nor the application of the provision to other persons or circumstances shall be affected.

"(10) TRANSITION.—Prior to, or after, any transfer of a function under this subsection, the Chief Executive Officer is authorized to utilize—

"(A) the services of such officers, employees, and other personnel of the ACTION Agency with respect to functions that will be or have been transferred to the Corporation by this subsection; and

"(B) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subsection."

STUDY TO EXAMINE AND INCREASE SERVICE PROGRAMS FOR DISPLACED WORKERS IN SERVICES CORPS AND COMMUNITY SERVICE AND TO DEVELOP PILOT PROGRAM PLANNING STUDY

Pub. L. 111–13, title I, §1710, Apr. 21, 2009, 123 Stat. 1549, provided that:

"(a) PLANNING STUDY.—The Corporation shall conduct a study to identify—

"(1) specific areas of need for displaced workers;

"(2) how existing programs and activities (as of the time of the study) carried out under the national service laws could better serve displaced workers and communities that have been adversely affected by plant closings and job losses;

"(3) prospects for better utilization of displaced workers as resources and volunteers; and

"(4) methods for ensuring the efficient financial organization of services directed towards displaced

workers.

"(b) CONSULTATION.—The study shall be carried out in consultation with the Secretary of Labor, State labor agencies, and other individuals and entities the Corporation considers appropriate.

"(c) REPORT.—Not later than 1 year after the effective date of this Act [for general effective date of Pub. L. 111–13 as Oct. 1, 2009, see Effective Date of 2009 Amendment note under section 4950 of this title], the Corporation shall submit to the authorizing committees a report on the results of the planning study required by subsection (a), together with a plan for implementation of a pilot program using promising strategies and approaches for better targeting and serving displaced workers.

"(d) PILOT PROGRAM.—From amounts made available to carry out this section, the Corporation shall develop and carry out a pilot program based on the findings and plan in the report submitted under subsection (c).

"(e) DEFINITIONS.—In this section, the terms 'Corporation', 'authorizing committees', and 'national service laws' have the meanings given the terms in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2010 through 2014."

CONTINUING PERFORMANCE OF CERTAIN FUNCTIONS BY COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Pub. L. 103–82, title II, §202(d), Sept. 21, 1993, 107 Stat. 888, provided that: "The individuals who, on the day before the date of enactment of this Act [Sept. 21, 1993], are performing any of the functions required by section 190 of the National and Community Service Act of 1990 (42 U.S.C. 12651), as in effect on such date, to be performed by the members of the Board of Directors of the Commission on National and Community Service may, subject to section 193A of the National and Community Service Act of 1990 [42 U.S.C. 12651d], as added by subsection (a) of this section, continue to perform such functions until the date on which the Board of Directors of the Corporation for National and Community Service conducts the first meeting of the Board. The service of such individuals as members of the Board of Directors of such Commission, and the employment of such individuals as special Government employees, shall terminate on such date."

BUSINESS PLAN FOR CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Pub. L. 103–82, title II, §204, Sept. 21, 1993, 107 Stat. 895, provided that:

"(a) BUSINESS PLAN REQUIRED.—

"(1) IN GENERAL.—The Corporation for National and Community Service (referred to in this section as the 'Corporation') shall prepare and submit to Congress a business plan. The Corporation may not provide assistance under section 121 of the National and Community Service Act of 1990 [42 U.S.C. 12571] before the twentieth day of continuous session of Congress after the date on which the Corporation submits the business plan to Congress.

"(2) COMPUTATION.—For purposes of the computation of the 20-day period referred to in paragraph (1), continuity of a session of the Congress shall be considered to be broken only by—

"(A) an adjournment of the Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a date certain.

"(b) REQUIRED ELEMENTS OF BUSINESS PLAN.—

"(1) ALLOCATION OF FUNDS.—The business plan shall contain—

"(A) a description of the manner in which the Corporation will allocate funds for programs carried out by the Corporation after October 1, 1993;

"(B) information on the principal offices and officers of the Corporation that will allocate such funds; and

"(C) information that indicates how accountability for such funds can be determined, in terms of the office or officer responsible for such funds.

"(2) INVESTIGATIVE AND AUDIT FUNCTIONS.—The business plan shall include a description of the plans of the Corporation—

"(A) to ensure continuity, during the transition period, and after the transition period, in the investigative and audit functions carried out by the Inspector General of ACTION prior to such period, consistent with the Inspector General Act of 1978 (5 U.S.C. App.); and

"(B) to carry out investigative and audit functions and implement financial management controls regarding programs carried out by the Corporation after October 1, 1993, consistent with the Inspector General Act of 1978, including a specific description of—

"(i) the manner in which the Office of Inspector General shall be established in the

Corporation, in accordance with section 194(b) of the National Community Service Act of 1990 [42 U.S.C. 12651e(b)], as added by section 202 of this Act; and

"(ii) the manner in which grants made by the Corporation shall be audited by such Office and the financial management controls that shall apply with regard to such grants and programs.

"(3) ACCOUNTABILITY MEASURES.—The business plan shall include a detailed description of the accountability measures to be established by the Corporation to ensure effective control of all funds for programs carried out by the Corporation after October 1, 1993.

"(4) INFORMATION RESOURCES.—The business plan shall include a description of an information resource management program that will support the program and financial management needs of the Corporation.

"(5) CORPORATION STAFFING AND INTEGRATION OF ACTION.—

"(A) TRANSFERS.—The business plan shall include a report on the progress and plans of the President for transferring the functions, programs, and related personnel of ACTION to the Corporation, and shall include a timetable for the transfer.

"(B) DETAILS AND ASSIGNMENTS.—The report shall specify the number of ACTION employees detailed or assigned to the Corporation, and describe the hiring activity of the Corporation, during the transition period.

"(C) STRUCTURE.—The business plan shall include a description of the organizational structure of the Corporation during the transition period.

"(D) STAFFING.—The business plan shall include a description of—

"(i) measures to ensure adequate staffing during the transition period with respect to programs carried out by the Corporation after October 1, 1993; and

"(ii) the responsibilities and authorities of the Managing Directors and other key personnel of the Corporation.

"(E) SENIOR EXECUTIVE SERVICE.—The business plan shall include—

"(i) an explanation of the number of the employees of the Corporation who will be paid at or above the rate of pay for level 1 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code; and

"(ii) information justifying such pay for such employees.

"(6) DUPLICATION OF FUNCTIONS.—The business plan shall include a description of the measures that the Corporation is taking or will take to minimize duplication of functions in the Corporation caused by the transfer of the functions of the Commission on National and Community Service, and the transfer of the functions of ACTION, to the Corporation. This description shall address functions at both the national and State levels.

"(c) DEFINITION.—The term 'transition period' means the period beginning on October 1, 1993 and ending on the day before the effective date of section 203(c)(2) [see Effective Date of 1993 Amendment note above]."

EXECUTIVE DOCUMENTS

PROC. NO. 6662. TRANSFER OF FUNCTIONS OF ACTION AGENCY TO CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proc. No. 6662, Apr. 4, 1994, 59 F.R. 16507, provided:

On September 21, 1993, I had the honor of signing into law the National and Community Service Trust Act of 1993 [Pub. L. 103–82, see Tables for classification], which created the Corporation for National and Community Service. The Corporation was designed to involve Americans of all ages and backgrounds in community projects to address many of our Nation's most important needs—from educating our children to ensuring public safety to protecting our environment. It was chartered to foster civic responsibility, strengthening the ties that bind us together as a people, while providing educational opportunity for those who make the commitment to serve.

In the few short months since the Corporation's establishment, enormous progress has been made toward the achievement of these invaluable goals. Final regulations have been published governing the Corporation's new grant programs, grant application packages have been developed, and a national recruitment effort has begun. As a result of intensive outreach efforts, most states have already established State Commissions on National and Community Service, and many local programs, national nonprofit organizations, institutions of higher education, and Federal agencies are eager to participate. Grant competitions have begun for a summer program that will focus on our Nation's public safety concerns, and all community service grant competitions will be completed by this summer. Finally, the Corporation has established the National Civilian Community

Corps, which will take advantage of closed and down-sized military bases to launch environmental clean-up and preservation efforts.

The ACTION Agency, provided for by the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], has worked closely with the Corporation, sharing its many years of experience in engaging Americans in service to their communities. Because the Corporation's initiatives and those programs operated by the ACTION Agency involve similar goals, the National and Community Service Trust Act calls for the merger of ACTION with the Corporation no later than March 22, 1995. To build upon the tremendous accomplishments already achieved by the Corporation, and to facilitate the further development of community service programs across the country, I am pleased to order that the functions of the Director of the ACTION Agency be transferred to the Corporation for National and Community Service.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 203(c)(2) and (d)(1)(B) of the National and Community Service Trust Act of 1993 [set out above], proclaim that all functions of the Director of the ACTION Agency are hereby transferred to the Corporation for National and Community Service, effective April 4, 1994.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

WILLIAM J. CLINTON.

EX. ORD. NO. 12819. ESTABLISHING PRESIDENTIAL YOUTH AWARD FOR COMMUNITY SERVICE

Ex. Ord. No. 12819, Oct. 28, 1992, 57 F.R. 49369, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 12651 of title 42 of the United States Code [see 42 U.S.C. 12653a], it is hereby ordered as follows:

SECTION 1. A youth award for community service is hereby established. The award shall recognize outstanding voluntary community service contributions made by individuals between the ages of 5 and 22.

SEC. 2. The Director of the White House Office of National Service shall establish the criteria for the award. The criteria shall be based upon participation in voluntary community service activity. The award may be bestowed upon any eligible individual who meets the established criteria.

SEC. 3. The selection process for the award shall be administered by the Commission on National and Community Service and the White House Office of National Service. Such other individuals and entities as the Director of the White House Office of National Service deems appropriate may participate in the selection process.

SEC. 4. The award shall be presented by the President, his designee or designees, or individuals designated by the Director of the White House Office of National Service.

SEC. 5. The name and design of the award shall be approved by the President upon the recommendation of the Director of the White House Office of National Service.

GEORGE BUSH.

EX. ORD. NO. 13285. PRESIDENT'S COUNCIL ON SERVICE AND CIVIC PARTICIPATION

Ex. Ord. No. 13285, Jan. 29, 2003, 68 F.R. 5203, as amended by Ex. Ord. No. 13371, Jan. 27, 2005, 70 F.R. 5041; Ex. Ord. No. 13424, Jan. 26, 2007, 72 F.R. 4409; Ex. Ord. No. 13471, Aug. 28, 2008, 73 F.R. 51209, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to encourage the recognition of volunteer service and civic participation by all Americans, and especially America's youth, it is hereby ordered as follows:

SECTION 1. *The President's Council on Service and Civic Participation*. (a) There is hereby established within the Corporation for National and Community Services [Service] (CNCS) the President's Council on Service and Civic Participation (Council).

(b) The Council shall be composed of up to 25 members, including representatives of America's youth, appointed by the President. Each member shall serve for a term of 2 years and may continue to serve after the expiration of their term until a successor is appointed. The President shall designate one member to serve as Chair and one member to serve as Vice Chair. Subject to the direction of the Chief Executive Officer of the CNCS, the Chair, and in the Chair's absence the Vice Chair, shall convene and preside at the meetings of the Council, determine its agenda, and direct its work.

(c) To conduct and vote on official business during meetings, the Council must convene a quorum of at

least 10 Council members.

SEC. 2. *Mission and Functions of the Council.*

(a) The mission and functions of the Council shall be to:

(i) promote volunteer service and civic participation in American society;

(ii) encourage the recognition of outstanding volunteer service through the presentation of the President's Volunteer Service Award by Council members and Certifying Organizations, thereby encouraging more such activity;

(iii) promote the efforts and needs of local non-profits and volunteer organizations, including volunteer centers;

(iv) promote greater public access to information about existing volunteer opportunities, including via the Internet;

(v) assist with the promotion of Federally administered volunteer programs and the link that they have to increasing and strengthening community volunteer service; and

(vi) promote increased and sustained private sector sponsorship of and engagement in volunteer service.

(b) In carrying out its mission, the Council shall:

(i) encourage broad participation in the President's Volunteer Service Award program by qualified individuals and groups, especially students in primary schools, secondary schools, and institutions of higher learning;

(ii) exchange information and ideas with interested individuals and organizations on ways to expand and improve volunteer service and civic participation;

(iii) advise the Chief Executive Officer of the CNCS on broad dissemination, especially among schools and youth organizations, of information regarding recommended practices for the promotion of volunteer service and civic participation, and other relevant educational and promotional materials;

(iv) monitor and advise the Chief Executive Officer of the CNCS on the need for the enhancement of materials disseminated pursuant to subsection 2(b)(iii) of this order; and

(v) make recommendations from time to time to the President, through the Director of the USA Freedom Corps, on ways to encourage greater levels of volunteer service and civic participation by individuals, schools, and organizations.

SEC. 3. *Administration*. (a) Each Federal agency, to the extent permitted by law and subject to the availability of appropriations, shall furnish such information and assistance to the Council as the Council may, with the approval of the Director of the USA Freedom Corps, request.

(b) The members of the Council shall serve without compensation for their work on the Council. Members of the Council who are not officers or employees of the United States may receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government (5 U.S.C. 5701–5707).

(c) To the extent permitted by law, the Chief Executive Officer of the CNCS shall furnish the Council with necessary staff, supplies, facilities, and other administrative services and shall pay the expenses of the Council.

(d) The Chief Executive Officer of the CNCS shall appoint an Executive Director to head the staff of the Council.

(e) The Council, with the approval of the Chief Executive Officer of the CNCS, may establish subcommittees of the Council, consisting exclusively of members of the Council, as appropriate to aid the Council in carrying out its mission under this order.

SEC. 4. *General Provisions*. (a) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (Act), may apply to the administration of any portion of this order, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Chief Executive Officer of CNCS in accordance with the guidelines and procedures issued by the Administrator of General Services.

(b) Unless further extended by the President, this order shall expire on June 30, 2009.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§12651a. Board of Directors

(a) Composition

(1) In general

There shall be in the Corporation a Board of Directors (referred to in this division as the "Board") that shall be composed of—

(A) 15 members, including an individual between the ages of 16 and 25 who—

(i) has served in a school-based or community-based service-learning program; or

(ii) is or was a participant or a supervisor in a program;

to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the ex officio nonvoting members described in paragraph (3).

(2) Qualifications

To the maximum extent practicable, the President shall appoint members—

(A) who have extensive experience in volunteer or service activities, which may include programs funded under one of the national service laws, and in State government;

(B) who represent a broad range of viewpoints;

(C) who are experts in the delivery of human, educational, environmental, or public safety services;

(D) so that the Board shall be diverse according to race, ethnicity, age, gender, and disability characteristics; and

(E) so that no more than 50 percent of the appointed members of the Board, plus 1 additional appointed member, are from a single political party.

(3) Ex officio members

The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, the Administrator of the Environmental Protection Agency, and the Chief Executive Officer shall serve as ex officio nonvoting members of the Board.

(b) Officers

(1) Chairperson

The President shall appoint a member of the Board to serve as the initial Chairperson of the Board. Each subsequent Chairperson shall be elected by the Board from among its members.

(2) Vice Chairperson

The Board shall elect a Vice Chairperson from among its membership.

(3) Other officers

The Board may elect from among its membership such additional officers of the Board as the Board determines to be appropriate.

(c) Terms

Subject to subsection (e), each appointed member shall serve for a term of 5 years.

(d) Vacancies

If a vacancy occurs on the Board, a new member shall be appointed by the President, by and with the advice and consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(e) Service until appointment of successor

A voting member of the Board whose term has expired may continue to serve on the Board until the date on which the member's successor takes office, which period shall not exceed 1 year.

(Pub. L. 101–610, title I, §192, as added Pub. L. 103–82, title II, §202(a), Sept. 21, 1993, 107 Stat. 873; amended Pub. L. 111–13, title I, §1701, Apr. 21, 2009, 123 Stat. 1544.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–13, §1701(1), added subsec. (c) and struck out former subsec. (c), which provided term lengths for members first appointed to the Board.

Subsec. (e). Pub. L. 111–13, §1701(2), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Sept. 21, 1993, see section 202(i)(2) of Pub. L. 103–82, set out as a note under section 12651 of this title.

§12651b. Authorities and duties of the Board of Directors

(a) Meetings

The Board shall meet not less often than 3 times each year. The Board shall hold additional meetings at the call of the Chairperson of the Board, or if 6 members of the Board request such meetings in writing.

(b) Quorum

A majority of the appointed members of the Board shall constitute a quorum.

(c) Authorities of officers

(1) Chairperson

The Chairperson of the Board may call and conduct meetings of the Board.

(2) Vice Chairperson

The Vice Chairperson of the Board may conduct meetings of the Board in the absence of the Chairperson.

(d) Expenses

While away from their homes or regular places of business on the business of the Board, members of such Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 for persons employed intermittently in the Government service.

(e) Special Government employees

For purposes of the provisions of chapter 11 of part I of title 18, and any other provision of Federal law, a member of the Board (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

(f) Status of members

(1) Tort claims

For the purposes of the tort claims provisions of chapter 171 of title 28, a member of the Board shall be considered to be a Federal employee.

(2) Other claims

A member of the Board shall have no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Board, in connection with any transaction involving the provision of

financial assistance by the Corporation. This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

(3) Effect on other law

This subsection shall not be construed—

(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

(B) to affect any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a member of the Board participating in such transactions; or

(C) to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

(g) Duties

The Board shall have responsibility for setting overall policy for the Corporation and shall—

(1) review and approve the strategic plan described in section 12651d(b)(1) of this title, and annual updates of the plan, and review the budget proposal in advance of submission to the Office of Management and Budget;

(2) review and approve the proposal described in section 12651d(b)(2)(A) of this title, with respect to the grants, allotments, contracts, financial assistance, payment, and positions referred to in such section;

(3) review and approve the proposal described in section 12651d(b)(3)(A) of this title, regarding the regulations, standards, policies, procedures, programs, and initiatives referred to in such section;

(4) review and approve the evaluation plan described in section 12651d(b)(4)(A) of this title;

(5)(A) review, and advise the Chief Executive Officer regarding, the actions of the Chief Executive Officer with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out the national service laws;

(B) inform the Chief Executive Officer of any aspects of the actions of the Chief Executive Officer that are not in compliance with the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3), or the plan referred to in paragraph (4), or are not consistent with the objectives of the national service laws; and

(C) review the performance of the Chief Executive Officer annually and forward a report on that review to the President;

(6) receive any report as provided under subsection (b), (c), or (d) of section 8E [1] of the Inspector General Act of 1978;

(7) make recommendations relating to a program of research for the Corporation with respect to national and community service programs, including service-learning programs;

(8) advise the President and the authorizing committees concerning developments in national and community service that merit the attention of the President and the authorizing committees;

(9) ensure effective dissemination of information regarding the programs and initiatives of the Corporation;

(10) notwithstanding any other provision of law—

(A) make grants to or contracts with Federal and other public departments or agencies, and private nonprofit organizations, for the assignment or referral of volunteers under the provisions of title I of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.] (except as provided in section 108 of such Act [42 U.S.C. 4958]), which may provide that the agency or organization shall pay all or a part of the costs of the program; and

(B) enter into agreements with other Federal agencies or private nonprofit organizations for the support of programs under the national service laws, which—

(i) may provide that the agency or organization shall pay all or a part of the costs of the

program, except as is provided in section 12571(b) of this title; and

(ii) shall provide that the program (including any program operated by another Federal agency) will comply with all requirements related to evaluation, performance, and other goals applicable to similar programs under the national service laws, as determined by the Corporation,

(11) prepare and make recommendations to the authorizing committees and the President for changes in the national service laws resulting from the studies and demonstrations the Chief Executive Officer is required to carry out under section 12651d(b)(11) of this title, which recommendations shall be submitted to the authorizing committees and President not later than January 1, 2012.

(h) Administration

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

(i) Limitation on participation

All employees and officers of the Corporation shall recuse themselves from decisions that would constitute conflicts of interest.

(j) Coordination with other Federal activities

As part of the agenda of meetings of the Board under subsection (a), the Board shall review projects and programs conducted or funded by the Corporation under the national service laws to improve the coordination between such projects and programs, and the activities of other Federal agencies that deal with the individuals and communities participating in or benefiting from such projects and programs. The ex officio members of the Board specified in section 12651a(a)(3) of this title shall jointly plan, implement, and fund activities in connection with projects and programs conducted under the national service laws to ensure that Federal efforts attempt to address the total needs of participants in such programs and projects, their communities, and the persons and communities the participants serve.

(Pub. L. 101–610, title I, §192A, as added and amended Pub. L. 103–82, title II, §§202(a), 203(a)(1)(B), (2), Sept. 21, 1993, 107 Stat. 875, 891; Pub. L. 111–13, title I, §1702, Apr. 21, 2009, 123 Stat. 1544.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 8E of the Inspector General Act of 1978, referred to in subsec. (g)(6), is section 8E of Pub. L. 95–452, as added by Pub. L. 103–82, title II, §202(g)(1), Sept. 21, 1993, 107 Stat. 889, which was renumbered section 8F of the Act by Pub. L. 103–204, §23(a)(3), Dec. 17, 1993, 107 Stat. 2408, and is set out in the Appendix to Title 5, Government Organization and Employees.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (g)(10)(A), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–13, §1702(1), substituted "shall have responsibility for setting overall policy for the Corporation and shall—" for "shall—" in introductory provisions.

Subsec. (g)(1). Pub. L. 111–13, §1702(2), inserted ", and review the budget proposal in advance of submission to the Office of Management and Budget" before semicolon at end.

Subsec. (g)(5)(C). Pub. L. 111–13, §1702(3), added subpar. (C).

Subsec. (g)(8). Pub. L. 111–13, §1702(4), substituted "the authorizing committees" for "the Congress" in two places.

Subsec. (g)(10). Pub. L. 111–13, §1702(5), added par. (10) and struck out former par. (10) which read as

follows: "notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under the provisions of the Domestic Volunteer Service Act of 1973 (except as provided in section 108 of the Domestic Volunteer Service Act of 1973), which may provide that the agency or organization shall pay all or a part of the costs of the program; and".

Subsec. (g)(11). Pub. L. 111–13, §1702(6), substituted "authorizing committees" for "Congress" in two places, "section 12651d(b)(11)" for "section 12651d(b)(10)", and "January 1, 2012" for "September 30, 1995".

1993—Subsec. (g)(5)(A), (B). Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 192A(g)(5) of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter", was executed to subsec. (g)(5) of this section, which is section 192A of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

Subsec. (g)(9). Pub. L. 103–82, §203(a)(2)(A), struck out "and" at end.

Subsec. (g)(10). Pub. L. 103–82, §203(a)(2)(C), added par. (10). Former par. (10) redesignated (11).

Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 192A(g)(10) of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter", was executed to subsec. (g)(10) of this section, which is section 192A of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

Subsec. (g)(11). Pub. L. 103–82, §203(a)(2)(B), redesignated par. (10) as (11).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(a)(1)(B), (2) of Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as a note under section 12651 of this title.

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

§12651c. Chief Executive Officer

(a) Appointment

The Corporation shall be headed by an individual who shall serve as Chief Executive Officer of the Corporation, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Compensation

The Chief Executive Officer shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, plus 3 percent.

(c) Regulations

The Chief Executive Officer shall prescribe such rules and regulations as are necessary or appropriate to carry out the national service laws.

(Pub. L. 101–610, title I, §193, as added and amended Pub. L. 103–82, title II, §§202(a), 203(a)(1)(B), Sept. 21, 1993, 107 Stat. 877, 891; Pub. L. 111–13, title I, §1703, Apr. 21, 2009, 123 Stat. 1545.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–13 inserted ", plus 3 percent" before period at end.

1993—Subsec. (c). Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 193(c) of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter", was executed to subsec. (c) of this section, which is section 193 of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(a)(1)(B) of Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

EFFECTIVE DATE

Section effective Sept. 21, 1993, see section 202(i)(2) of Pub. L. 103–82, set out as a note under section 12651 of this title.

REGULATIONS

Pub. L. 111–13, title VI, §6101(b), Apr. 21, 2009, 123 Stat. 1600, provided that: "Effective on the date of enactment of this Act [Apr. 21, 2009], the Chief Executive Officer of the Corporation for National and Community Service may issue such regulations as may be necessary to carry out this Act [see Short Title of 2009 Amendment note set out under section 12501 of this title] and the amendments made by this Act."

§12651d. Authorities and duties of the Chief Executive Officer

(a) General powers and duties

The Chief Executive Officer shall be responsible for the exercise of the powers and the discharge of the duties of the Corporation that are not reserved to the Board, and shall have authority and control over all personnel of the Corporation, except as provided in section 8E [1] of the Inspector General Act of 1978.

(b) Duties

In addition to the duties conferred on the Chief Executive Officer under any other provision of the national service laws, the Chief Executive Officer, in collaboration with the State Commissions, shall—

(1) prepare and submit to the Board a strategic plan, including a plan for having 50 percent of all approved national service positions be full-time positions by 2012, every 3 years, and annual updates of the plan, for the Corporation with respect to the major functions and operations of the Corporation;

(2)(A) prepare and submit to the Board a proposal with respect to such grants and allotments, contracts, other financial assistance, and designation of positions as approved national service positions, as are necessary or appropriate to carry out the national service laws; and

(B) after receiving and reviewing an approved proposal under section 12651b(g)(2) of this title, make such grants and allotments, enter into such contracts, award such other financial assistance, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under the national service laws, with necessary adjustments on account of overpayments and underpayments), and designate such positions as approved national service positions, approved summer of service positions, and approved silver scholar positions as are necessary or appropriate to carry out the national service laws;

(3)(A) prepare and submit to the Board a proposal regarding, the regulations established under section 12651f(b)(3)(A) of this title, and such other standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out the national service laws; and

(B) after receiving and reviewing an approved proposal under section 12651b(g)(3) of this title—

(i) establish such standards, policies, and procedures as are necessary or appropriate to carry out the national service laws; and

(ii) establish and administer such programs and initiatives as are necessary or appropriate to carry out the national service laws;

(4)(A) prepare and submit to the Board a plan for the evaluation of programs established under the national service laws, in accordance with section 12639 of this title; and

(B) after receiving an approved proposal under section 12651b(g)(4) of this title—

(i) establish measurable performance goals and objectives for such programs, in accordance with section 12639 of this title; and

(ii) provide for periodic evaluation of such programs to assess the manner and extent to which the programs achieve the goals and objectives, in accordance with such section;

(5) consult with appropriate Federal agencies in administering the programs and initiatives;

(6) suspend or terminate payments and positions described in paragraph (2)(B), in accordance with section 12636 of this title;

(7) prepare and submit to the authorizing committees and the Board an annual report on actions taken to achieve the goal of having 50 percent of all approved national service positions be full-time positions by 2012 as described in paragraph (1), including an assessment of the progress made toward achieving that goal and the actions to be taken in the coming year toward achieving that goal;

(8) prepare and submit to the Board an annual report, and such interim reports as may be necessary, describing the major actions of the Chief Executive Officer with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives;

(9) inform the Board of, and provide an explanation to the Board regarding, any substantial differences regarding the implementation of the national service laws between—

(A) the actions of the Chief Executive Officer; and

(B)(i) the strategic plan approved by the Board under section 12651b(g)(1) of this title;

(ii) the proposals approved by the Board under paragraph (2) or (3) of section 12651b(g) of this title; or

(iii) the evaluation plan approved by the Board under section 12651b(g)(4) of this title;

(10) prepare and submit to the authorizing committees an annual report, and such interim reports as may be necessary, describing—

(A) the services referred to in paragraph (1), and the money and property referred to in paragraph (2), of section 12651g(a) of this title that have been accepted by the Corporation;

(B) the manner in which the Corporation used or disposed of such services, money, and property; and

(C) information on the results achieved by the programs funded under the national service laws during the year preceding the year in which the report is prepared;

(11) provide for studies (including the evaluations described in subsection (f)) and demonstrations that evaluate, and prepare and submit to the Board periodically, a report containing recommendations regarding, issues related to—

(A) the administration and organization of programs authorized under the national service laws or under Public Law 91–378 [16 U.S.C. 1701 et seq.] (referred to in this subparagraph as "service programs"), including—

(i) whether the State and national priorities, as described in section 12572(f)(1) of this title, designed to meet unmet human, education, environmental, or public safety needs are being addressed by this chapter;

(ii) the manner in which—

(I) educational and other outcomes of both stipended and nonstipended service and service-learning are defined and measured in such service programs; and

(II) such outcomes should be defined and measured in such service programs;

(iii) whether stipended service programs, and service programs providing educational benefits in return for service, should focus on economically disadvantaged individuals or at-risk youth or whether such programs should include a mix of individuals, including individuals from middle- and upper-income families;

(iv) the role and importance of stipends and educational benefits in achieving desired outcomes in the service programs;

(v) the potential for cost savings and coordination of support and oversight services from combining functions performed by ACTION State offices and State Commissions;

(vi) the implications of the results from such studies and demonstrations for authorized funding levels for the service programs; and

(vii) other issues that the Director determines to be relevant to the administration and organization of the service programs; and

(B) the number, potential consolidation, and future organization of national service or domestic volunteer service programs that are authorized under Federal law, including VISTA, service corps assisted under division C and other programs authorized by this chapter, programs administered by the Public Health Service, the Department of Defense, or other Federal agencies, programs regarding teacher corps, and programs regarding work-study and higher education loan forgiveness or forbearance programs authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) related to community service;

(12) for purposes of section 12638(d)(6)(B) of this title, issue regulations to waive the disqualification of members of the Board and members of the State Commissions selectively in a random, nondiscretionary manner and only to the extent necessary to establish the quorum involved, including rules that forbid each member of the Board and each voting member of a State Commission to participate in any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity of which such member of the Board or such member of the State Commission is, or in the 1-year period before the submission of the application referred to in such section was, an officer, director, trustee, full-time volunteer, or employee;

(13) bolster the public awareness of and recruitment efforts for the wide range of service opportunities for citizens of all ages, regardless of socioeconomic status or geographic location, through a variety of methods, including—

(A) print media;

(B) the Internet and related emerging technologies;

(C) television;

(D) radio;

(E) presentations at public or private forums;

(F) other innovative methods of communication; and

(G) outreach to offices of economic development, State employment security agencies, labor organizations and trade associations, local educational agencies, institutions of higher education, agencies and organizations serving veterans and individuals with disabilities, and other institutions or organizations from which participants for programs receiving assistance from the national service laws can be recruited;

(14) identify and implement methods of recruitment to—

(A) increase the diversity of participants in the programs receiving assistance under the national service laws; and

(B) increase the diversity of service sponsors of programs desiring to receive assistance under the national service laws;

(15) coordinate with organizations of former participants of national service programs for service opportunities that may include capacity building, outreach, and recruitment for programs receiving assistance under the national service laws;

(16) collaborate with organizations with demonstrated expertise in supporting and accommodating individuals with disabilities, including institutions of higher education, to identify and implement methods of recruitment to increase the number of participants who are individuals with disabilities in the programs receiving assistance under the national service laws;

(17) identify and implement recruitment strategies and training programs for bilingual volunteers in the National Senior Service Corps under title II of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5000 et seq.];

(18) collaborate with organizations that have established volunteer recruitment programs to increase the recruitment capacity of the Corporation;

(19) where practicable, provide application materials in languages other than English for individuals with limited English proficiency who wish to participate in a national service program;

(20) collaborate with the training and technical assistance programs described in division K with respect to the activities described in section 12657(b) of this title); [2]

(21) coordinate the clearinghouses described in section 12653o of this title;

(22) coordinate with entities receiving funds under division C in establishing the National Service Reserve Corps under section 12653h of this title, through which alumni of the national service programs and veterans can serve in disasters and emergencies (as such terms are defined in section 12653h(a) of this title); [1]

(23) identify and implement strategies to increase awareness among Indian tribes of the types and availability of assistance under the national service laws, increase Native American participation in programs under the national service laws, collect information on challenges facing Native American communities, and designate a Strategic Advisor for Native American Affairs to be responsible for the execution of those activities under the national service laws;

(24) conduct outreach to ensure the inclusion of economically disadvantaged individuals in national service programs and activities authorized under the national service laws; and

(25) ensure that outreach, awareness, and recruitment efforts are consistent with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 794 of title 29.

(c) Powers

In addition to the authority conferred on the Chief Executive Officer under any other provision of the national service laws, the Chief Executive Officer may—

(1) establish, alter, consolidate, or discontinue such organizational units or components within the Corporation as the Chief Executive Officer considers necessary or appropriate, consistent with Federal law, and shall, to the maximum extent practicable, consolidate such units or components of the divisions of the Corporation described in section 12651e(a)(3) of this title as may be appropriate to enable the two divisions to coordinate common support functions;

(2) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of the national service laws;

(3) with their consent, utilize the services and facilities of Federal agencies with or without reimbursement, and, with the consent of any State, or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

(4) allocate and expend funds made available under the national service laws;

(5) disseminate, without regard to the provisions of section 3204 of title 39, data and information, in such form as the Chief Executive Officer shall determine to be appropriate to public agencies, private organizations, and the general public;

(6) collect or compromise all obligations to or held by the Chief Executive Officer and all legal or equitable rights accruing to the Chief Executive Officer in connection with the payment of obligations in accordance with chapter 37 of title 31 (commonly known as the "Federal Claims Collection Act of 1966");

(7) file a civil action in any court of record of a State having general jurisdiction or in any district court of the United States, with respect to a claim arising under this chapter;

(8) exercise the authorities of the Corporation under section 12651g of this title;

(9) consolidate the reports to the authorizing committees required under the national service laws, and the report required under section 9106 of title 31, into a single report, and submit the report to the authorizing committees on an annual basis;

(10) obtain the opinions of peer reviewers in evaluating applications to the Corporation for assistance under this subchapter; and

(11) generally perform such functions and take such steps consistent with the objectives and provisions of the national service laws, as the Chief Executive Officer determines to be necessary or appropriate to carry out such provisions.

(d) Delegation

(1) "Function" defined

As used in this subsection, the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(2) In general

Except as otherwise prohibited by law or provided in the national service laws, the Chief Executive Officer may delegate any function under the national service laws, and authorize such successive redelegations of such function as may be necessary or appropriate. No delegation of a function by the Chief Executive Officer under this subsection or under any other provision of the national service laws shall relieve such Chief Executive Officer of responsibility for the administration of such function.

(3) Function of Board

The Chief Executive Officer may not delegate a function of the Board without the permission of the Board.

(e) Actions

In an action described in subsection (c)(7)—

(1) a district court referred to in such subsection shall have jurisdiction of such a civil action without regard to the amount in controversy;

(2) such an action brought by the Chief Executive Officer shall survive notwithstanding any change in the person occupying the office of Chief Executive Officer or any vacancy in that office;

(3) no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Chief Executive Officer or the Board or property under the control of the Chief Executive Officer or the Board; and

(4) nothing in this section shall be construed to except litigation arising out of activities under this chapter from the application of sections 509, 517, 547, and 2679 of title 28.

(f) Evaluations

(1) Evaluation of living allowance

The Corporation shall arrange for an independent evaluation to determine the levels of living allowances paid in all programs under divisions C and I, individually, by State, and by region. Such evaluation shall determine the effects that such living allowances have had on the ability of

individuals to participate in such programs.

(2) Evaluation of success of investment in national service

(A) Evaluation required

The Corporation shall arrange for the independent evaluation of the operation of division C to determine the levels of participation of economically disadvantaged individuals in national service programs carried out or supported using assistance provided under section 12571 of this title.

(B) Period covered by evaluation

The evaluation required by this paragraph shall cover the period beginning on the date the Corporation first makes a grant under section 12571 of this title, and ending on a date that is as close as is practicable to the the [3] first date that a report is submitted under subsection (b)(11) after the effective date of the Serve America Act.

(C) Income levels of participants

The evaluating entity shall determine the total income of each participant who serves, during the period covered by the evaluation, in a national service program carried out or supported using assistance provided under section 12571 of this title or in an approved national service position. The total income of the participant shall be determined as of the date the participant was first selected to participate in such a program and shall include family total income unless the evaluating entity determines that the participant was independent at the time of selection.

(D) Assistance for distressed areas

The evaluating entity shall also determine the amount of assistance provided under section 12571 of this title during the period covered by the report that has been expended for projects conducted in areas of economic distress described in section 12585(c)(6) of this title.

(E) Definitions

As used in this paragraph:

(i) Independent

The term "independent" has the meaning given the term in section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)).

(ii) Total income

The term "total income" has the meaning given the term in section 480(a) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(a)).

(g) Recruitment and public awareness functions

(1) Effort

The Chief Executive Officer shall ensure that the Corporation, in carrying out the recruiting and public awareness functions of the Corporation, shall expend at least the level of effort on recruitment and public awareness activities related to the programs carried out under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) as ACTION expended on recruitment and public awareness activities related to programs under the Domestic Volunteer Service Act of 1973 during fiscal year 1993.

(2) Personnel

The Chief Executive Officer shall assign or hire, as necessary, such additional national, regional, and State personnel to carry out such recruiting and public awareness functions as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Chief Executive Officer shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers in the programs carried out under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] or similar programs, and to individuals who have specialized experience in the recruitment of volunteers.

(3) Funds

For the first fiscal year after the effective date of this subsection, and for each fiscal year thereafter, for the purpose of carrying out such recruiting and public awareness functions, the Chief Executive Officer shall obligate not less than 1.5 percent of the amounts appropriated for the fiscal year under section 501(a) of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5081(a)].

(h) Authority to contract with businesses

The Chief Executive Officer may, through contracts or cooperative agreements, carry out the marketing duties described in subsection (b)(13), with priority given to those entities that have established expertise in the recruitment of disadvantaged youth, members of Indian tribes, and older adults.

(i) Campaign to solicit funds

The Chief Executive Officer may conduct a campaign to solicit funds to conduct outreach and recruitment campaigns to recruit a diverse population of service sponsors of, and participants in, programs and projects receiving assistance under the national service laws.

(Pub. L. 101–610, title I, §193A, as added and amended Pub. L. 103–82, title II, §§202(a), 203(a)(1)(B), (3), Sept. 21, 1993, 107 Stat. 877, 891; Pub. L. 103–304, §3(b)(2), Aug. 23, 1994, 108 Stat. 1567; Pub. L. 111–13, title I, §1704, Apr. 21, 2009, 123 Stat. 1545.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 8E of the Inspector General Act of 1978, referred to in subsec. (a), is section 8E of Pub. L. 95–452, as added by Pub. L. 103–82, title II, §202(g)(1), Sept. 21, 1993, 107 Stat. 889, which was renumbered section 8F of the Act by Pub. L. 103–204, §23(a)(3), Dec. 17, 1993, 107 Stat. 2408, and is set out in the Appendix to Title 5, Government Organization and Employees.

Public Law 91–378, referred to in subsec. (b)(11)(A), is Pub. L. 91–378, Aug. 13, 1970, 84 Stat. 794, popularly known as the Youth Conservation Corps Act of 1970, which is classified generally to chapter 37 (§1701 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 16 and Tables.

This chapter, referred to in subsecs. (b)(11)(A)(i), (B), (c)(7), and (e)(4), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(11)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsecs. (b)(17) and (g)(1), (2), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, which is classified principally to chapter 66 (§4950 et seq.) of this title. Title II of the Act is classified generally to subchapter II (§5000 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 12653h(a) of this title, referred to in subsec. (b)(22), does not contain definitions of disasters and emergencies.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(25), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

For the effective date of the Serve America Act, referred to in subsec. (f)(2)(B), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

For the effective date of this subsection, referred to in subsec. (g)(3), see Effective Date of 1993 Amendment note below.

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–13, §1704(1)(A), substituted ", in collaboration with the State Commissions, shall" for "shall" in introductory provisions.

Subsec. (b)(1). Pub. L. 111–13, §1704(1)(B), inserted ", including a plan for having 50 percent of all approved national service positions be full-time positions by 2012," after "a strategic plan".

Subsec. (b)(2)(B). Pub. L. 111–13, §1704(1)(C), inserted ", approved summer of service positions, and approved silver scholar positions" after "approved national service positions".

Subsec. (b)(7) to (9). Pub. L. 111–13, §1704(1)(D), (E), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively. Former par. (9) redesignated (10).

Subsec. (b)(10). Pub. L. 111–13, §1704(1)(D), (F), redesignated par. (9) as (10) and substituted "authorizing committees" for "appropriate committees of Congress" in introductory provisions. Former par. (10) redesignated (11).

Subsec. (b)(11). Pub. L. 111–13, §1704(1)(D), (G)(i), redesignated par. (10) as (11) and substituted "periodically," for "by June 30, 1995," in introductory provisions. Former par. (11) redesignated (12).

Subsec. (b)(11)(A)(i). Pub. L. 111–13, §1704(1)(G)(ii), substituted "national priorities, as described in section 12572(f)(1) of this title, designed to meet" for "national priorities designed to meet the" and struck out "described in section 12572(c)(1) of this title" after "public safety needs".

Subsec. (b)(12) to (25). Pub. L. 111–13, §1704(1)(D), (G)(iii)–(I), redesignated par. (11) as (12) and added pars. (13) to (25).

Subsec. (c)(9). Pub. L. 111–13, §1704(2)(A)(i), substituted "the authorizing committees" for "Congress" in two places.

Subsec. (c)(10), (11). Pub. L. 111–13, §1704(2)(A)(ii)–(C), added par. (10) and redesignated former par. (10) as (11).

Subsec. (f)(2)(B). Pub. L. 111–13, §1704(3), substituted "the first date that a report is submitted under subsection (b)(11) after the effective date of the Serve America Act" for "date specified in subsection (b)(10) of this section".

Subsecs. (h), (i). Pub. L. 111–13, §1704(4), added subsecs. (h) and (i).

1994—Subsec. (g). Pub. L. 103–304 made technical amendment to directory language of Pub. L. 103–82, §203(a)(3). See 1993 Amendment note below.

1993—Subsecs. (b) to (d). Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 193A of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter" was executed wherever appearing in the following provisions of this section, which is section 193A of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress: introductory provisions and pars. (2) to (4)(A), (8), and (9)(C) of subsec. (b), introductory provisions and pars. (2), (4), (9), and (10) of subsec. (c), and subsec. (d)(2).

Subsec. (g). Pub. L. 103–82, §203(a)(3), as amended by Pub. L. 103–304, added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–304 effective as of Oct. 1, 1993, see section 3(b)(10)(B) of Pub. L. 103–304, set out as a note under section 4953 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(a)(1)(B), (3) of Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as a note under section 12651 of this title.

[1] See References in Text note below.

[2] So in original. The closing parenthesis probably should not appear.

[3] *So in original.*

§12651e. Officers

(a) Managing Directors

(1) In general

There shall be in the Corporation 2 Managing Directors, who shall be appointed by the President, and who shall report to the Chief Executive Officer.

(2) Compensation

The Managing Directors shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(3) Duties

The Corporation shall determine the programs for which the Managing Directors shall have primary responsibility and shall establish the divisions of the Corporation to be headed by the Managing Directors.

(b) Inspector General

(1) Office

There shall be in the Corporation an Office of the Inspector General.

(2) Appointment

The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978 [5 U.S.C. App.].

(c) Chief Financial Officer

(1) In general

There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the Chief Executive Officer pursuant to subsections (a) and (b) of section 12651f of this title.

(2) Duties

The Chief Financial Officer shall—

(A) report directly to the Chief Executive Officer regarding financial management matters;

(B) oversee all financial management activities relating to the programs and operations of the Corporation;

(C) develop and maintain an integrated accounting and financial management system for the Corporation, including financial reporting and internal controls;

(D) develop and maintain any joint financial management systems with the Department of Education necessary to carry out the programs of the Corporation; and

(E) direct, manage, and provide policy guidance and oversight of the financial management personnel, activities, and operations of the Corporation.

(d) Assistant Directors for VISTA and National Senior Service Corps

(1) Appointment

One of the Managing Directors appointed under subsection (a) shall, in accordance with applicable provisions of title 5, appoint 4 Assistant Directors who shall report directly to such Managing Director, of which—

(A) 1 Assistant Director shall be responsible for programs carried out under parts A [42 U.S.C. 4951 et seq.] and B [1] of title I of the Domestic Volunteer Service Act of 1973 (the Volunteers in Service to America (VISTA) program) and other antipoverty programs under title I of that Act [42 U.S.C. 4951 et seq.];

(B) 1 Assistant Director shall be responsible for programs carried out under part A of title II

of that Act [42 U.S.C. 5001 et seq.] (relating to the Retired Senior Volunteer Program);

(C) 1 Assistant Director shall be responsible for programs carried out under part B of title II of that Act [42 U.S.C. 5011 et seq.] (relating to the Foster Grandparent Program); and

(D) 1 Assistant Director shall be responsible for programs carried out under part C of title II of that Act [42 U.S.C. 5013] (relating to the Senior Companion Program).

(2) Effective date for exercise of authority

Each Assistant Director appointed pursuant to paragraph (1) may exercise the authority assigned to each such Director only after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993.

(Pub. L. 101–610, title I, §194, as added Pub. L. 103–82, title II, §202(a), Sept. 21, 1993, 107 Stat. 882; amended Pub. L. 110–409, §4(a)(4), Oct. 14, 2008, 122 Stat. 4304; Pub. L. 111–13, title I, §1705, Apr. 21, 2009, 123 Stat. 1547; Pub. L. 112–166, §2(p), Aug. 10, 2012, 126 Stat. 1288.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(2), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (d)(1), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. Part A of title I of the Act is classified generally to part A (§4951 et seq.) of subchapter I of chapter 66 of this title. Part B of title I of the Act, which was classified generally to part B (§4971 et seq.) of subchapter I of chapter 66 of this title, was repealed by Pub. L. 111–13, title II, §2121, Apr. 21, 2009, 123 Stat. 1584. Parts A, B, and C of title II of the Act are classified generally to parts A (§5001 et seq.), B (§5011 et seq.), and C (§5013 et seq.), respectively, of subchapter II of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Section 203(c)(2) of the National and Community Service Trust Act of 1993, referred to in subsec. (d)(2), is section 203(c)(2) of Pub. L. 103–82, which is set out as a note under section 12651 of this title. For the effective date of section 203(c)(2) of this Act, see section 203(d) of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 12651 of this title.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–166 struck out ", by and with the advice and consent of the Senate" after "President".

2009—Subsec. (c). Pub. L. 111–13 added par. (1), redesignated par. (3) as (2), and struck out former pars. (1) and (2) which read as follows:

"(1) OFFICE.—There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Chief Financial Officer shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5."

2008—Subsec. (b)(3). Pub. L. 110–409 struck out par. (3). Text read as follows: "The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as a note under section 12651 of this title.

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

§12651f. Employees, consultants, and other personnel

(a) Employees

Except as provided in subsection (b), section 12651e(d) of this title, and section 8E [1] of the Inspector General Act of 1978, the Chief Executive Officer shall, in accordance with applicable provisions of title 5, appoint and determine the compensation of such employees as the Chief Executive Officer determines to be necessary to carry out the duties of the Corporation.

(b) Alternative personnel system

(1) Authority

The Chief Executive Officer may designate positions in the Corporation as positions to which the Chief Executive Officer may make appointments, and for which the Chief Executive Officer may determine compensation, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to the extent the Chief Executive Officer determines that such a designation is appropriate and desirable to further the effective operation of the Corporation. The Chief Executive Officer may provide for appointments to such positions to be made on a limited term basis.

(2) Appointment in the competitive service after employment under alternative personnel system

The Director of the Office of Personnel Management may grant competitive status for appointment to the competitive service, under such conditions as the Director may prescribe, to an employee who is appointed under this subsection and who is separated from the Corporation (other than by removal for cause).

(3) Selection and compensation system

(A) Establishment of system

The Chief Executive Officer, after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing a selection and compensation system for employees of the Corporation appointed under paragraph (1). In issuing such regulations, the Chief Executive Officer shall take into consideration the need for flexibility in such a system.

(B) Application

The Chief Executive Officer shall appoint and determine the compensation of employees in accordance with the selection and compensation system established under subparagraph (A).

(C) Selection

The system established under subparagraph (A) shall provide for the selection of employees—

(i) through a competitive process; and

(ii) on the basis of the qualifications of applicants and the requirements of the positions.

(D) Compensation

The system established under subparagraph (A) shall include a scheme for the classification of positions in the Corporation. The system shall require that the compensation of an employee be determined in part on the basis of the job performance of the employee, and in a manner

consistent with the principles described in section 5301 of title 5. The rate of compensation for each employee compensated under the system shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(c) Corporation representative in each State

(1) Designation of representative

The Corporation shall designate 1 employee of the Corporation for each State or group of States to serve as the representative of the Corporation in the State or States and to assist the Corporation in carrying out the activities described in the national service laws in the State or States.

(2) Duties

The representative designated under this subsection for a State or group of States shall serve as the liaison between—

(A) the Corporation and the State Commission that is established in the State or States;

(B) the Corporation and any subdivision of a State, territory, Indian tribe, public or private nonprofit organization, or institution of higher education, in the State or States, that is awarded a grant under section 12571 of this title directly from the Corporation; and

(C) after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993, the State Commission and the Corporation employee responsible for programs under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] in the State, if the employee is not the representative described in paragraph (1) for the State.

(3) Nonvoting member of State Commission

The representative designated under this subsection for a State or group of States shall also serve as a nonvoting member of the State Commission established in the State or States, as described in section 12638(c)(3) of this title.

(4) Compensation

If the employee designated under paragraph (1) is an employee whose appointment was made pursuant to subsection (b), the rate of compensation for such employee may not exceed the maximum rate of basic pay payable for GS–13 of the General Schedule under section 5332 of title 5.

(d) Consultants

The Chief Executive Officer may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5.

(e) Details of personnel

The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Chief Executive Officer and the head of the Federal agency, any of the personnel of that department or agency to the Corporation to assist the Corporation in carrying out the duties of the Corporation under the national service laws. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(f) Advisory committees

(1) Establishment

The Chief Executive Officer, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.

(2) Composition

Such an advisory committee shall be composed of members appointed by the Chief Executive Officer, with such qualifications as the Chief Executive Officer may specify.

(3) Expenses

Members of such an advisory committee may be allowed travel expenses as described in section 12651b(d) of this title.

(4) Staff

(A) In general

Except as provided in subparagraph (B), the Chief Executive Officer is authorized to appoint and fix the compensation of such staff as the Chief Executive Officer determines to be necessary to carry out the functions of the advisory committee, without regard to—

(i) the provisions of title 5 governing appointments in the competitive service; and

(ii) the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(B) Compensation

If a member of the staff appointed under subparagraph (A) was appointed without regard to the provisions described in clauses (i) and (ii) of subparagraph (A), the rate of compensation for such member may not exceed the maximum rate of basic pay payable for GS–13 of the General Schedule under section 5332 of title 5.

(g) Personal services contracts

The Corporation may enter into personal services contracts to carry out research, evaluation, and public awareness related to the national service laws.

(Pub. L. 101–610, title I, §195, as added and amended Pub. L. 103–82, title II, §§202(a), 203(a)(1)(B), Sept. 21, 1993, 107 Stat. 883, 891; Pub. L. 111–13, title I, §1706, Apr. 21, 2009, 123 Stat. 1547.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 8E of the Inspector General Act of 1978, referred to in subsec. (a), is section 8E of Pub. L. 95–452, as added by Pub. L. 103–82, title II, §202(g)(1), Sept. 21, 1993, 107 Stat. 889, which was renumbered section 8F of the Act by Pub. L. 103–204, §23(a)(3), Dec. 17, 1993, 107 Stat. 2408, and is set out in the Appendix to Title 5, Government Organization and Employees.

Section 203(c)(2) of the National and Community Service Trust Act of 1993, referred to in subsec. (c)(2)(C), is section 203(c)(2) of Pub. L. 103–82, which is set out as a note under section 12651 of this title. For the effective date of section 203(c)(2) of this Act, see section 203(d) of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 12651 of this title.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (c)(2)(C), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, which is classified generally to chapter 66 (§4950 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 195 of Pub. L. 101–610 was renumbered section 151 by Pub. L. 103–82 and is classified to section 12611 of this title.

AMENDMENTS

2009—Subsec. (c)(2)(B). Pub. L. 111–13, §1706(1)(A), inserted "territory," after "subdivision of a State,".

Subsec. (c)(3). Pub. L. 111–13, §1706(1)(B), substituted "Nonvoting member" for "Member" in heading and inserted "nonvoting" before "member" in text.

Subsec. (g). Pub. L. 111–13, §1706(2), added subsec. (g).

1993—Subsecs. (c)(1), (e). Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 195(c) and (e) of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter", was executed to subsecs. (c)(1) and (e) of this section, which is section 195 of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(a)(1)(B) of Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as a note under section 12651 of this title.

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

§12651g. Administration

(a) Donations

(1) Services

(A) Organizations and individuals

Notwithstanding section 1342 of title 31, the Corporation may solicit and accept the services of organizations and individuals (other than participants) to assist the Corporation in carrying out the duties of the Corporation under the national service laws, and may provide to such individuals the travel expenses described in section 12651b(d) of this title.

(B) Limitation

A person who provides assistance, either individually or as a member of an organization, in accordance with subparagraph (A) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

(i) for the purposes of the tort claims provisions of chapter 171 of title 28, such a person shall be considered to be a Federal employee;

(ii) for the purposes of subchapter I of chapter 81 of title 5 relating to compensation to Federal employees for work injuries, such persons shall be considered to be employees, as defined in section 8101(1)(B) of title 5 and the provisions of such subchapter shall apply; and

(iii) for purposes of the provisions of chapter 11 of part I of title 18, such a person (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

(C) Inherently governmental function

(i) In general

Such a person shall not carry out an inherently governmental function.

(ii) Regulations

The Chief Executive Officer shall promulgate regulations to carry out this subparagraph.

(iii) "Inherently governmental function" defined

As used in this subparagraph, the term "inherently governmental function" means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

(2) Property

(A) In general

The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of the national service laws, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Donations accepted under this subparagraph shall be used as nearly as possible in accordance with the terms, if any, of such donation.

(B) Status of contribution

Any donation accepted under subparagraph (A) shall be considered to be a gift, devise, or bequest to, or for the use of, the United States.

(C) Rules

The Chief Executive Officer shall establish written rules to ensure that the solicitation, acceptance, holding, administration, and use of property described in subparagraph (A)—

(i) will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and

(ii) will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs.

(D) Disposition

Upon completion of the use by the Corporation of any property accepted pursuant to subparagraph (A) (other than money or monetary proceeds from sales of property so accepted), such completion shall be reported to the General Services Administration and such property shall be disposed of in accordance with title II of the Federal Property and Administrative Services Act of 1949.[1]

(b) Contracts

Subject to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Corporation may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to assist the Corporation in carrying out the duties of the Corporation under the national service laws.

(c) Office of Management and Budget

Appropriate circulars of the Office of Management and Budget shall apply to the Corporation.

(Pub. L. 101–610, title I, §196, as added Pub. L. 103–82, title II, §§202(a), 203(a)(1)(B), Sept. 21, 1993, 107 Stat. 885, 891; amended Pub. L. 111–13, title I, §1707, Apr. 21, 2009, 123 Stat. 1548.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(2)(D), is act June 30, 1949, ch. 288, 63 Stat. 377. Title II of the Act, which was classified principally to subchapter II (§§481, 483, 484, 485, 486, 487 to 490, 491, 492) of chapter 10 and section 758 of former Title 40, Public Buildings, Property, and Works, was repealed by Pub. L. 107–217, §6(b), Aug. 21, 2002, 116 Stat. 1304, which Act enacted Title 40, Public Buildings, Property, and Works. For disposition of sections of former Title 40 to revised Title 40, see Table preceding section 101 of Title 40. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (b), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act

enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2009—Subsec. (a)(1)(A). Pub. L. 111–13, §1707(1)(A), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "Notwithstanding section 1342 of title 31, the Corporation may solicit and accept the voluntary services of individuals to assist the Corporation in carrying out the duties of the Corporation under the national service laws, and may provide to such individuals the travel expenses described in section 12651b(d) of this title."

Subsec. (a)(1)(B). Pub. L. 111–13, §1707(1)(B)(i), substituted "A person who provides assistance, either individually or as a member of an organization, in accordance with subparagraph (A)" for "Such a volunteer" in introductory provisions.

Subsec. (a)(1)(B)(i). Pub. L. 111–13, §1707(1)(B)(ii), substituted "such a person" for "a volunteer under this division".

Subsec. (a)(1)(B)(ii). Pub. L. 111–13, §1707(1)(B)(iii), substituted "such persons" for "volunteers under this division".

Subsec. (a)(1)(B)(iii). Pub. L. 111–13, §1707(1)(B)(iv), substituted "such a person" for "such a volunteer".

Subsec. (a)(1)(C)(i). Pub. L. 111–13, §1707(1)(C), substituted "Such a person" for "Such a volunteer".

Subsec. (a)(3). Pub. L. 111–13, §1707(2), struck out par. (3). Text read as follows: "As used in this subsection, the term 'volunteer' does not include a participant."

1993—Subsecs. (a)(1)(A), (2)(A), (b). Pub. L. 103–82, §203(a)(1)(B), which directed amendment of section 196(a) and (b) of subtitle I of the National and Community Service Act of 1990 by substituting "the national service laws" for "this chapter", was executed to subsecs. (a)(1)(A), (2)(A) and (b) of this section, which is section 196 of subtitle G of title I of the National Community Service Act of 1990, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(a)(1)(B) of Pub. L. 103–82 effective Apr. 4, 1994, see section 203(d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as a note under section 12651 of this title.

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

§12651h. Corporation State offices

(a) In general

The Chief Executive Officer shall establish and maintain a decentralized field structure that provides for an office of the Corporation for each State. The office for a State shall be located in, or in reasonable proximity to, such State. Only one such office may carry out the duties described in subsection (b) with respect to a State at any particular time. Such State office may be directed by the representative designated under section 12651f(c) of this title.

(b) Duties

Each State office established pursuant to subsection (a) shall—

(1) provide to the State Commissions established under section 12638 of this title technical and other assistance for the development and implementation of national service plans under section 12638(e)(1) of this title;

(2) provide to community-based agencies and other entities within the State technical assistance for the preparation of applications for assistance under the national service laws, utilizing, as appropriate, information and materials provided by the clearinghouses established pursuant to section 12653a [1] of this title;

(3) provide to the State Commission and other entities within the State support and technical assistance necessary to assure the existence of an effective system of recruitment, placement, and training of volunteers within the State;

(4) monitor and evaluate the performance of all programs and projects within the State that receive assistance under the national service laws; and

(5) perform such other duties and functions as may be assigned or delegated by the Chief Executive Officer.

(Pub. L. 101–610, title I, §196A, as added Pub. L. 103–82, title II, §202(a), Sept. 21, 1993, 107 Stat. 887.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12653a of this title, referred to in subsec. (b)(2), was in the original "section 198A", meaning section 198A of Pub. L. 101–610, as added by section 104(c) of Pub. L. 103–82, which was repealed, and section 198B was redesignated section 198A, by Pub. L. 111–13, title I, §1803(a)(1), (b), Apr. 21, 2009, 123 Stat. 1554. Provisions similar to section 12653a are now contained in section 12653o of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 202(i) of Pub. L. 103–82, set out as a note under section 12651 of this title.

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

§12651i. VISTA Advance Payments Revolving Fund

Notwithstanding section 101,[1] the level for "Corporation for National and Community Service, Domestic Volunteer Service Programs, Operating Expenses" shall be $316,550,000, of which $3,500,000 shall be for establishment in the Treasury of a VISTA Advance Payments Revolving Fund (in this section referred to as the "Fund") for the Corporation for National and Community Service which, in addition to reimbursements collected from eligible public agencies and private nonprofit organizations pursuant to cost-share agreements, shall be available until expended to make advance payments in furtherance of title I of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.]: *Provided*, That up to 10 percent of funds appropriated to carry out title I of such Act may be transferred to the Fund if the Chief Executive Officer of the Corporation for National and Community Service determines that the amounts in the Fund are not sufficient to cover expenses of the Fund: *Provided further*, That the Corporation for National and Community Service shall provide detailed information on the activities and financial status of the Fund during the preceding fiscal year in the annual congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate.

(Pub. L. 109–289, div. B, title II, §20638, as added Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 36.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 101, referred to in text, is section 101 of title I of div. B of Pub. L. 109–289, as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 8. Subsec. (b) of section 101 is classified as a note under this section. Subsecs. (a) and (c) of section 101 are not classified to the Code.

The Domestic Volunteer Service Act of 1973, referred to in text, is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

CODIFICATION

Section was enacted as part of the Continuing Appropriations Resolution, 2007, and not as part of the National and Community Service Act of 1990 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 109–289, div. B, title I, §101(b), as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 9, provided that: "For purposes of this division [see Tables for classification], the term 'level' means an amount."

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

§12651j. Assignment to State Commissions

(a) Assignment

In accordance with section 12651d(c)(1) of this title, the Chief Executive Officer may assign to State Commissions specific programmatic functions upon a determination that such an assignment will increase efficiency in the operation or oversight of a program under the national service laws. In carrying out this section, and before executing any assignment of authority, the Corporation shall seek input from and consult Corporation employees, State Commissions, State educational agencies, and other interested stakeholders.

(b) Report

Not later than 2 years after the effective date of the Serve America Act, the Corporation shall submit a report to the authorizing committees describing the consultation process described in subsection (a), including the stakeholders consulted, the recommendation of stakeholders, and any actions taken by the Corporation under this section.

(Pub. L. 101–610, title I, §196B, as added Pub. L. 111–13, title I, §1708, Apr. 21, 2009, 123 Stat. 1548.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Serve America Act, referred to in subsec. (b), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12651k. Study of involvement of veterans

(a) Study and report

The Corporation shall conduct a study and submit a report to the authorizing committees, not later than 3 years after the effective date of the Serve America Act, on—

(1) the number of veterans serving in national service programs historically by year;

(2) strategies being undertaken to identify the specific areas of need of veterans, including any goals set by the Corporation for veterans participating in the service programs;

(3) the impact of the strategies described in paragraph (2) and the Veterans Corps on enabling greater participation by veterans in the national service programs carried out under the national service laws;

(4) how existing programs and activities carried out under the national service laws could be improved to serve veterans, veterans service organizations, families of active-duty military, including gaps in services to veterans;

(5) the extent to which existing programs and activities carried out under the national service laws are coordinated and recommendations to improve such coordination including the methods for ensuring the efficient financial organization of services directed towards veterans; and

(6) how to improve utilization of veterans as resources and volunteers.

(b) Consultation

In conducting the studies and preparing the reports required under this subsection, the Corporation shall consult with veterans' service organizations, the Secretary of Veterans Affairs, State veterans agencies, the Secretary of Defense, as appropriate, and other individuals and entities the Corporation considers appropriate.

(Pub. L. 101–610, title I, §196C, as added Pub. L. 111–13, title I, §1709, Apr. 21, 2009, 123 Stat. 1549.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of the Serve America Act, referred to in subsec. (a), as Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

Division H—Investment for Quality and Innovation

EDITORIAL NOTES

PRIOR PROVISIONS

This division is comprised of subtitle H, §§198–198C, 198H, 198K, 198O, 198P, and 198S, of title I of Pub. L. 101–610. A prior part H (§12653 et seq.), comprised of subtitle H, §§195–195O, of title I of Pub. L. 101–610, was renumbered subtitle E, §§151–166, of title I of Pub. L. 101–610 by Pub. L. 103–82, §104(b), and transferred to division E (§12611 et seq.) of this subchapter.

PART I—ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT

§12653. Additional Corporation activities to support national service

(a) Methods of conducting activities

The Corporation may carry out this section directly (except as provided in subsection (g)) or through grants, contracts, and cooperative agreements with other entities.

(b) Innovation and quality improvement

The Corporation may undertake activities to address emergent needs through summer programs and other activities, and to support service-learning programs and national service programs, including—

(1) programs, including programs for rural youth, under division B or C;
(2) employer-based retiree programs;
(3) intergenerational programs;
(4) programs involving individuals with disabilities as participants providing service; and
(5) programs sponsored by Governors.

(c) Conferences and materials

The Corporation may organize and hold conferences, and prepare and publish materials, to disseminate information and promote the sharing of information among programs for the purpose of improving the quality of programs and projects.

(d) Research

The Corporation may support research on national service, including service-learning.

(e) Youth leadership

The Corporation may support activities to enhance the ability of youth and young adults to play leadership roles in national service.

(f) National program identity

The Corporation may support the development and dissemination of materials, including training materials, and arrange for uniforms and insignia, designed to promote unity and shared features among programs that receive assistance under the national service laws.

(g) Global Youth Service Day

(1) Designation

April 24, 2009, and April 23, 2010, are each designated as "Global Youth Service Days". The President is authorized and directed to issue a proclamation calling on the people of the United States to observe the day with appropriate youth-led community improvement and service-learning activities.

(2) Federal activities

In order to observe Global Youth Service Day at the Federal level, the Corporation and other Federal departments and agencies may organize and carry out appropriate youth-led community improvement and service-learning activities.

(3) Activities

The Corporation and other Federal departments and agencies may make grants to public or private nonprofit organizations with demonstrated ability to carry out appropriate activities, in order to support such activities on Global Youth Service Day.

(h) Assistance for Head Start

The Corporation may make grants to, and enter into contracts and cooperative agreements with, public or nonprofit private agencies and organizations that receive grants or contracts under the

Foster Grandparent Program (part B of title II of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5011 et seq.]), for projects of the type described in section 211(a) of such Act [42 U.S.C. 5011] operating under memoranda of agreement with the Corporation, for the purpose of increasing the number of low-income individuals who provide services under such program to children who participate in Head Start programs under the Head Start Act (42 U.S.C 9831 et seq).

(i) Martin Luther King, Jr., Service Day

(1) Assistance

The Corporation may make grants to eligible entities described in paragraph (2) to pay for the Federal share of the cost of planning and carrying out service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr. Such service opportunities shall consist of activities reflecting the life and teachings of Martin Luther King, Jr., such as cooperation and understanding among racial and ethnic groups, nonviolent conflict resolution, equal economic and educational opportunities, and social justice.

(2) Eligible entities

Any entity otherwise eligible for assistance under the national services laws shall be eligible to receive a grant under this subsection.

(3) Repealed. Pub. L. 105–354, §2(b), Nov. 3, 1998, 112 Stat. 3244

(4) Federal share

Grants provided under this subsection to an eligible entity to support the planning and carrying out of a service opportunity in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr., together with all other Federal funds used to plan or carry out the service opportunity, may not exceed 30 percent of the cost of planning and carrying out the service opportunity.

(5) Calculation of entity contributions

In determining the non-Federal share of the costs of planning and carrying out a service opportunity supported by a grant under this subsection, the Corporation shall consider in-kind contributions (including facilities, equipment, and services) made to plan or carry out the service opportunity.

(j) Call to Service Campaign

Not later than 180 days after April 21, 2009, the Corporation shall conduct a nationwide "Call To Service" campaign, to encourage all people of the United States, regardless of age, race, ethnicity, religion, or economic status, to engage in full- or part-time national service, long- or short-term public service in the nonprofit sector or government, or volunteering. In conducting the campaign, the Corporation may collaborate with other Federal agencies and entities, State Commissions, Governors, nonprofit and faith-based organizations, businesses, institutions of higher education, elementary schools, and secondary schools.

(k) September 11th Day of Service

(1) Federal activities

The Corporation may organize and carry out appropriate ceremonies and activities, which may include activities that are part of the broader Call to Service Campaign under subsection (j), in order to observe the September 11th National Day of Service and Remembrance at the Federal level.

(2) Activities

The Corporation may make grants and provide other support to community-based organizations to assist in planning and carrying out appropriate service, charity, and remembrance opportunities in conjunction with the September 11th National Day of Service and Remembrance.

(3) Consultation

The Corporation may consult with and make grants or provide other forms of support to nonprofit organizations with expertise in representing families of victims of the September 11, 2001 terrorist attacks and other impacted constituencies, and in promoting the establishment of September 11 as an annually recognized National Day of Service and Remembrance.

(Pub. L. 101–610, title I, §198, as added and amended Pub. L. 103–82, title I, §104(c), title IV, §405(p)(2), Sept. 21, 1993, 107 Stat. 840, 922; Pub. L. 103–304, §3(a), (b)(6), Aug. 23, 1994, 108 Stat. 1566, 1568; Pub. L. 105–354, §2(b), Nov. 3, 1998, 112 Stat. 3244; Pub. L. 111–13, title I, §1802, Apr. 21, 2009, 123 Stat. 1552.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (h), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I and part B of title II of the Act are classified generally to subchapter I (§4951 et seq.) and part B (§5011 et seq.) of subchapter II, respectively, of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

The Head Start Act, referred to in subsec. (h), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

PRIOR PROVISIONS

A prior section 12653, Pub. L. 101–610, title I, §195, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2522, which stated purpose of Civilian Community Corps, was renumbered section 151 of Pub. L. 101–610 by Pub. L. 103–82, §104(b), and transferred to section 12611 of this title.

AMENDMENTS

2009—Pub. L. 111–13, §1802(a)(3), redesignated subsecs. (g), (k), (n), (o), (q), (r), and (s) as (c) to (i), respectively, and struck out former subsecs. (c) to (f), (h) to (j), (l), (m), and (p), which related to summer programs, community-based agencies, improving ability to apply for assistance, national service fellowships, Peace Corps and VISTA training, promotion and recruitment, training, intergenerational support, planning coordination, and service-learning, respectively.

Subsec. (a). Pub. L. 111–13, §1802(a)(1), substituted "subsection (g)" for "subsection (r) of this section".

Subsec. (b). Pub. L. 111–13, §1802(a)(2), substituted "to address emergent needs through summer programs and other activities, and to support service-learning programs and national service programs, including—" for "to improve the quality of national service programs, including service-learning programs, and to support innovative and model programs, including—" in introductory provisions.

Subsec. (g). Pub. L. 111–13, §1802(b)(1)(A), substituted "Global" for "National" in heading.

Subsec. (g)(1). Pub. L. 111–13, §1802(b)(1)(B), (C), substituted "April 24, 2009, and April 23, 2010, are each designated as 'Global Youth Service Days'." for "April 19, 1994, and April 18, 1995, are each designated as 'National Youth Service Day'." and "appropriate youth-led community improvement and service-learning activities" for "appropriate ceremonies and activities".

Subsec. (g)(2). Pub. L. 111–13, §1802(b)(1)(B), (D), substituted "Global Youth" for "National Youth", inserted "and other Federal departments and agencies" after "Corporation", and substituted "youth-led community improvement and service-learning activities" for "ceremonies and activities".

Subsec. (g)(3). Pub. L. 111–13, §1802(b)(1)(B), (E), inserted "and other Federal departments and agencies" after "Corporation" and substituted "Global Youth" for "National Youth".

Subsecs. (j), (k). Pub. L. 111–13, §1802(c), added subsecs. (j) and (k).

1998—Subsec. (s)(3). Pub. L. 105–354 struck out heading and text of par. (3). Text read as follows: "In making grants under this subsection, the Corporation shall consult with the Martin Luther King, Jr. Federal Holiday Commission established under section 169j–1 of title 36."

1994—Subsec. (q)(1). Pub. L. 103–304, §3(b)(6), substituted "1995," for "1995".

Subsec. (s). Pub. L. 103–304, §3(a), added subsec. (s).

1993—Subsec. (r). Pub. L. 103–82, §405(p)(2), substituted "Corporation" for "ACTION Agency".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 405(p)(2) of Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 13560

Ex. Ord. No. 13560, Dec. 14, 2010, 75 F.R. 78875, which established the White House Council for Community Solutions, was superseded and revoked by Ex. Ord. No. 13748, §5, Nov. 16, 2016, 81 F.R. 83621, set out as a note under section 601 of Title 5, Government Organization and Employees.

§12653a. Presidential awards for service

(a) Presidential awards

(1) In general

The President, acting through the Corporation, may make Presidential awards for service to individuals providing significant service, and to outstanding service programs.

(2) Individuals and programs

Notwithstanding section 12511 of this title—

(A) an individual receiving an award under this subsection need not be a participant in a program authorized under this chapter; and

(B) a program receiving an award under this subsection need not be a program authorized under this chapter.

(3) Nature of award

In making an award under this section to an individual or program, the President, acting through the Corporation—

(A) is authorized to incur necessary expenses for the honorary recognition of the individual or program; and

(B) is not authorized to make a cash award to such individual or program.

(b) Information

The President, acting through the Corporation, shall ensure that information concerning individuals and programs receiving awards under this section is widely disseminated.

(Pub. L. 101–610, title I, §198A, formerly §198B, as added Pub. L. 103–82, title I, §104(c), Sept. 21, 1993, 107 Stat. 843; renumbered §198A and amended Pub. L. 111–13, title I, §§1803(b), 1804, Apr. 21, 2009, 123 Stat. 1554.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 12653b of this title.

PRIOR PROVISIONS

A prior section 12653a, Pub. L. 101–610, title I, §198A, as added Pub. L. 103–82, title I, §104(c), Sept. 21, 1993, 107 Stat. 842, related to clearinghouses, prior to repeal by Pub. L. 111–13, title I, §1803(a)(1), Apr. 21, 2009, 123 Stat. 1554, effective Oct. 1, 2009.

Another prior section 12653a, Pub. L. 101–610, title I, §195A, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2523, which provided for establishment of Civilian Community Corps Demonstration Program, was renumbered section 152 of Pub. L. 101–610 by Pub. L. 103–82, §104(b), and transferred to section 12612 of this title.

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–13, §1804, substituted "section 12511" for "section 12511(19)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12653b. ServeAmerica Fellowships

(a) Definitions

In this section:

(1) Area of national need

The term "area of national need" means an area involved in efforts to—

(A) improve education in schools for economically disadvantaged students;

(B) expand and improve access to health care;

(C) improve energy efficiency and conserve natural resources;

(D) improve economic opportunities for economically disadvantaged individuals; or

(E) improve disaster preparedness and response.

(2) Eligible fellowship recipient

The term "eligible fellowship recipient" means an individual who is selected by a State Commission under subsection (c) and, as a result of such selection, is eligible for a ServeAmerica Fellowship.

(3) Fellow

The term "fellow" means an eligible fellowship recipient who is awarded a ServeAmerica Fellowship and is designated a fellow under subsection (e)(2).

(4) Small service sponsor organization

The term "small service sponsor organization" means a service sponsor organization described in subsection (d)(1) that has not more than 10 full-time employees and 10 part-time employees.

(b) Grants

(1) In general

From the amounts appropriated under section 12681(a)(4)(B) of this title and allotted under paragraph (2)(A), the Corporation shall make grants (including financial assistance and a

corresponding allotment of approved national service positions), to the State Commission of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico with an application approved under this section, to enable such State Commissions to award ServeAmerica Fellowships under subsection (e).

(2) Allotment; administrative costs

(A) Allotment

The amount allotted to a State Commission for a fiscal year shall be equal to an amount that bears the same ratio to the amount appropriated under section 12681(a)(4)(B) of this title, as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(B) Reallotment

If a State Commission does not apply for an allotment under this subsection for any fiscal year, or if the State Commission's application is not approved, the Corporation shall reallot the amount of the State Commission's allotment to the remaining State Commissions in accordance with subparagraph (A).

(C) Administrative costs

Of the amount allotted to a State Commission under subparagraph (A), not more than 1.5 percent of such amount may be used for administrative costs.

(3) Number of positions

The Corporation shall—

(A) establish or increase the number of approved national service positions under this subsection during each of fiscal years 2010 through 2014;

(B) establish the number of approved positions at 500 for fiscal year 2010; and

(C) increase the number of the approved positions to—

(i) 750 for fiscal year 2011;

(ii) 1,000 for fiscal year 2012;

(iii) 1,250 for fiscal year 2013; and

(iv) 1,500 for fiscal year 2014.

(4) Uses of grant funds

(A) Required uses

A grant awarded under this subsection shall be used to enable fellows to carry out service projects in areas of national need.

(B) Permitted uses

A grant awarded under this subsection may be used for—

(i) oversight activities and mechanisms for the service sites of the fellows, as determined necessary by the State Commission or the Corporation, which may include site visits;

(ii) activities to augment the experience of fellows, including activities to engage the fellows in networking opportunities with other national service participants; and

(iii) recruitment or training activities for fellows.

(5) Applications

To be eligible to receive a grant under this subsection, a State Commission shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require, including information on the criteria and procedures that the State Commission will use for overseeing ServeAmerica Fellowship placements for service projects, under subsection (e).

(c) Eligible fellowship recipients

(1) Application

(A) In general

An applicant desiring to become an eligible fellowship recipient shall submit an application to a State Commission that has elected to participate in the program authorized under this section, at such time and in such manner as the Commission may require, and containing the information described in subparagraph (B) and such additional information as the Commission may require. An applicant may submit such application to only 1 State Commission for a fiscal year.

(B) Contents

The Corporation shall specify information to be provided in an application submitted under this subsection, which—

(i) shall include—

(I) a description of the area of national need that the applicant intends to address in the service project;

(II) a description of the skills and experience the applicant has to address the area of national need;

(III) a description of the type of service the applicant plans to provide as a fellow; and

(IV) information identifying the local area within the State served by the Commission in which the applicant plans to serve for the service project; and

(ii) may include, if the applicant chooses, the size of the registered service sponsor organization with which the applicant hopes to serve.

(2) Selection

Each State Commission shall—

(A) select, from the applications received by the State Commission for a fiscal year, the number of eligible fellowship recipients that may be supported for that fiscal year based on the amount of the grant received by the State Commission under subsection (b); and

(B) make an effort to award one-third of the fellowships available to the State Commission for a fiscal year, based on the amount of the grant received under subsection (b), to applicants who propose to serve the fellowship with small service sponsor organizations registered under subsection (d).

(d) Service sponsor organizations

(1) In general

Each service sponsor organization shall—

(A) be a nonprofit organization;

(B) satisfy qualification criteria established by the Corporation or the State Commission, including standards relating to organizational capacity, financial management, and programmatic oversight;

(C) not be a recipient of other assistance, approved national service positions, or approved summer of service positions under the national service laws; and

(D) at the time of registration with a State Commission, enter into an agreement providing that the service sponsor organization shall—

(i) abide by all program requirements;

(ii) provide an amount described in subsection (e)(3)(b) [1] for each fellow serving with the organization through the ServeAmerica Fellowship;

(iii) be responsible for certifying whether each fellow serving with the organization successfully completed the ServeAmerica Fellowship, and record and certify in a manner specified by the Corporation the number of hours served by a fellow for purposes of determining the fellow's eligibility for benefits; and

(iv) provide timely access to records relating to the ServeAmerica Fellowship to the State Commission, the Corporation, and the Inspector General of the Corporation.

(2) Registration

(A) Requirement

No service sponsor organization may receive a fellow under this section until the organization registers with the State Commission.

(B) Clearinghouse

The State Commission shall maintain a list of registered service sponsor organizations on a public website.

(C) Revocation

If a State Commission determines that a service sponsor organization is in violation of any of the applicable provisions of this section—

(i) the State Commission shall revoke the registration of the organization;

(ii) the organization shall not be eligible to receive assistance, approved national service positions, or approved summer of service positions under this subchapter for not less than 5 years; and

(iii) the State Commission shall have the right to remove a fellow from the organization and relocate the fellow to another site.

(e) Fellows

(1) In general

To be eligible to participate in a service project as a fellow and receive a ServeAmerica Fellowship, an eligible fellowship recipient shall—

(A) within 3 months after being selected as an eligible fellowship recipient by a State Commission, select a registered service sponsor organization described in subsection (d)—

(i) with which the recipient is interested in serving under this section; and

(ii) that is located in the State served by the State Commission;

(B) enter into an agreement with the organization—

(i) that specifies the service the recipient will provide if the placement is approved; and

(ii) in which the recipient agrees to serve for 1 year on a full-time or part-time basis (as determined by the Corporation); and

(C) submit such agreement to the State Commission.

(2) Award

Upon receiving the eligible fellowship recipient's agreement under paragraph (1), the State Commission shall award a ServeAmerica Fellowship to the recipient and designate the recipient as a fellow.

(3) Fellowship amount

(A) In general

From amounts received under subsection (b), each State Commission shall award each of the State's fellows a ServeAmerica Fellowship amount that is equal to 50 percent of the amount of the average annual VISTA subsistence allowance.

(B) Amount from service sponsor organization

(i) In general

Except as provided in clause (ii) and subparagraph (E), the service sponsor organization shall award to the fellow serving such organization an amount that will ensure that the total award received by the fellow for service in the service project (consisting of such amount and the ServeAmerica Fellowship amount the fellow receives under subparagraph (A)) is equal to or greater than 70 percent of the average annual VISTA subsistence allowance.

(ii) Small service sponsor organizations

In the case of a small service sponsor organization, the small service sponsor organization may decrease the amount of the service sponsor organization award required under clause (i) to not less than an amount that will ensure that the total award received by the fellow for service in the service project (as calculated in clause (i)) is equal to or greater than 60 percent of the average annual VISTA subsistence allowance.

(C) Maximum living allowance

The total amount that may be provided to a fellow under this subparagraph shall not exceed 100 percent of the average annual VISTA subsistence allowance.

(D) Proration of amount

In the case of a fellow who is authorized to serve a part-time term of service under the agreement described in paragraph (1)(B)(ii), the amount provided to a fellow under this paragraph shall be prorated accordingly.

(E) Waiver

The Corporation may allow a State Commission to waive the amount required under subparagraph (B) from the service sponsor organization for a fellow serving the organization if—

(i) such requirement is inconsistent with the objectives of the ServeAmerica Fellowship program; and

(ii) the amount provided to the fellow under subparagraph (A) is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the ServeAmerica Fellowship program is located.

(F) Definition

In this paragraph, the term "average annual VISTA subsistence allowance" means the total average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(f) Compliance with ineligible service categories

Service under a ServeAmerica Fellowship shall comply with section 12584(a) of this title. For purposes of applying that section to this subsection, a reference to assistance shall be considered to be a reference to assistance provided under this section.

(g) Reports

Each service sponsor organization that receives a fellow under this section shall, on a biweekly basis, report to the Corporation on the number of hours served and the services provided by that fellow. The Corporation shall establish a web portal for the organizations to use in reporting the information.

(h) Educational awards

A fellow who serves in a service project under this section shall be considered to have served in an approved national service position and, upon meeting the requirements of section 12603 of this title for full-time or part-time national service, shall be eligible for a national service educational award described in such section. The Corporation shall transfer an appropriate amount of funds to the National Service Trust to provide for the national service educational award for such fellow.

(Pub. L. 101–610, title I, §198B, as added Pub. L. 111–13, title I, §1805, Apr. 21, 2009, 123 Stat. 1554.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12653b, Pub. L. 101–610, title I, §198B, as added Pub. L. 103–82, title I, §104(c), Sept. 21, 1993, 107 Stat. 843, which related to Presidential awards for service to individuals providing significant

service and to outstanding service programs, was renumbered section 198A of Pub. L. 101–610 by Pub. L. 111–13, title I, §1803(b), Apr. 21, 2009, 123 Stat. 1554, and transferred to section 12653a of this title.

Another prior section 12653b, Pub. L. 101–610, title I, §195B, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2523, which related to national service program component of Civilian Community Corps Demonstration Program, was renumbered section 153 of Pub. L. 101–610 by Pub. L. 103–82, title I, §104(b), Sept. 21, 1993, 107 Stat. 840, and transferred to section 12613 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] *So in original. Probably should be "(e)(3)(B)".*

§12653c. Silver Scholarships and Encore Fellowships

(a) Silver Scholarship Grant Program

(1) Establishment

The Corporation may award fixed-amount grants (in accordance with section 12581(l) of this title) to community-based entities to carry out a Silver Scholarship Grant Program for individuals age 55 or older, in which such individuals complete not less than 350 hours of service in a year carrying out projects of national need and receive a Silver Scholarship in the form of a $1,000 national service educational award. Under such a program, the Corporation shall establish criteria for the types of the [1] service required to be performed to receive such award.

(2) Term

Each program funded under this subsection shall be carried out over a period of 3 years (which may include 1 planning year), with a 1-year extension possible, if the program meets performance levels developed in accordance with section 12639(k) of this title and any other criteria determined by the Corporation.

(3) Applications

To be eligible for a grant under this subsection, a community-based entity shall—

(A) submit to the Corporation an application at such time and in such manner as the Chief Executive Officer may reasonably require; and

(B) be a listed organization as described in subsection (b)(4).

(4) Collaboration encouraged

A community-based entity awarded a grant under this subsection is encouraged to collaborate with programs funded under title II of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 5001 et seq.] in carrying out this program.

(5) Eligibility for fellowship

An individual is eligible to receive a Silver Scholarship if the community-based entity certifies to the Corporation that the individual has completed not less than 350 hours of service under this section in a 1-year period.

(6) Transfer to trust

The Corporation shall transfer an appropriate amount of funds to the National Service Trust to provide for the national service educational award for each silver scholar under this subsection.

(7) Support services

A community-based entity receiving a fixed-amount grant under this subsection may use a

portion of the grant to provide transportation services to an eligible individual to allow such individual to participate in a service project.

(b) Encore Fellowships

(1) Establishment

The Corporation may award 1-year Encore Fellowships to enable individuals age 55 or older to—

(A) carry out service projects in areas of national need; and

(B) receive training and development in order to transition to full- or part-time public service in the nonprofit sector or government.

(2) Program

In carrying out the program, the Corporation shall—

(A) maintain a list of eligible organizations for which Encore Fellows may be placed to carry out service projects through the program and shall provide the list to all Fellowship recipients; and

(B) at the request of a Fellowship recipient—

(i) determine whether the requesting recipient is able to meet the service needs of a listed organization, or another organization that the recipient requests in accordance with paragraph (5)(B), for a service project; and

(ii) upon making a favorable determination under clause (i), award the recipient with an Encore Fellowship, and place the recipient with the organization as an Encore Fellow under paragraph (5)(C).

(3) Eligible recipients

(A) In general

An individual desiring to be selected as a Fellowship recipient shall—

(i) be an individual who—

(I) is age 55 or older as of the time the individual applies for the program; and

(II) is not engaged in, but who wishes to engage in, full- or part-time public service in the nonprofit sector or government; and

(ii) submit an application to the Corporation, at such time, in such manner, and containing such information as the Corporation may require, including—

(I) a description of the area of national need that the applicant hopes to address through the service project;

(II) a description of the skills and experience the applicant has to address an area of national need; and

(III) information identifying the region of the United States in which the applicant wishes to serve.

(B) Selection basis

In determining which individuals to select as Fellowship recipients, the Corporation shall—

(i) select not more than 10 individuals from each State; and

(ii) give priority to individuals with skills and experience for which there is an ongoing high demand in the nonprofit sector and government.

(4) Listed organizations

To be listed under paragraph (2)(A), an organization shall—

(A) be a nonprofit organization; and

(B) submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require, including—

(i) a description of—

(I) the services and activities the organization carries out generally;

(II) the area of national need that the organization seeks to address through a service project; and

(III) the services and activities the organization seeks to carry out through the proposed service project;

(ii) a description of the skills and experience that an eligible Encore Fellowship recipient needs to be placed with the organization as an Encore Fellow for the service project;

(iii) a description of the training and leadership development the organization shall provide an Encore Fellow placed with the organization to assist the Encore Fellow in obtaining a public service job in the nonprofit sector or government after the period of the Encore Fellowship; and

(iv) evidence of the organization's financial stability.

(5) Placement

(A) Request for placement with listed organizations

To be placed with a listed organization in accordance with paragraph (2)(B) for a service project, an eligible Encore Fellowship recipient shall submit an application for such placement to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(B) Request for placement with other organization

An eligible Encore Fellowship recipient may apply to the Corporation to serve the recipient's Encore Fellowship year with a nonprofit organization that is not a listed organization. Such application shall be submitted to the Corporation at such time, in such manner, and containing such information as the Corporation shall require, and shall include—

(i) an identification and description of—

(I) the organization;

(II) the area of national need the organization seeks to address; and

(III) the services or activities the organization carries out to address such area of national need;

(ii) a description of the services the eligible Encore Fellowship recipient shall provide for the organization as an Encore Fellow; and

(iii) a letter of support from the leader of the organization, including—

(I) a description of the organization's need for the eligible Encore Fellowship recipient's services;

(II) evidence that the organization is financially sound;

(III) an assurance that the organization will provide training and leadership development to the eligible Encore Fellowship recipient if placed with the organization as an Encore Fellow, to assist the Encore Fellow in obtaining a public service job in the nonprofit sector or government after the period of the Encore Fellowship; and

(IV) a description of the training and leadership development to be provided to the Encore Fellowship recipient if so placed.

(C) Placement and award of Fellowship

If the Corporation determines that the eligible Encore Fellowship recipient is able to meet the service needs (including skills and experience to address an area of national need) of the organization that the eligible fellowship recipient requests under subparagraph (A) or (B), the Corporation shall—

(i) approve the placement of the eligible Encore Fellowship recipient with the organization;

(ii) award the eligible Encore Fellowship recipient an Encore Fellowship for a period of 1 year and designate the eligible Encore Fellowship recipient as an Encore Fellow; and

(iii) in awarding the Encore Fellowship, make a payment, in the amount of $11,000, to the

organization to enable the organization to provide living expenses to the Encore Fellow for the year in which the Encore Fellow agrees to serve.

(6) Matching funds

An organization that receives an Encore Fellow under this subsection shall agree to provide, for the living expenses of the Encore Fellow during the year of service, non-Federal contributions in an amount equal to not less than $1 for every $1 of Federal funds provided to the organization for the Encore Fellow through the Encore Fellowship.

(7) Training and assistance

Each organization that receives an Encore Fellow under this subsection shall provide training, leadership development, and assistance to the Encore Fellow, and conduct oversight of the service provided by the Encore Fellow.

(8) Leadership development

Each year, the Corporation shall convene current and former Encore Fellows to discuss the Encore Fellows' experiences related to service under this subsection and discuss strategies for increasing leadership and careers in public service in the nonprofit sector or government.

(c) Evaluations

The Corporation shall conduct an independent evaluation of the programs authorized under subsections (a) and (b) and widely disseminate the results, including recommendations for improvement, to the service community through multiple channels, including the Corporation's Resource Center or a clearinghouse of effective strategies.

(Pub. L. 101–610, title I, §198C, as added Pub. L. 111–13, title I, §1805, Apr. 21, 2009, 123 Stat. 1559.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(4), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title II of the Act is classified generally to subchapter II (§5000 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 12653c, Pub. L. 101–610, title I, §198C, as added Pub. L. 103–82, title I, §104(c), Sept. 21, 1993, 107 Stat. 843; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(42)(B), (f)(33)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–428, 2681–434, which related to military installation conversion demonstration programs, was repealed by Pub. L. 111–13, title I, §1803(a)(2), title VI, §6101(a), Apr. 21, 2009, 123 Stat. 1554, 1600, effective Oct. 1, 2009.

Another prior section 12653c, Pub. L. 101–610, title I, §195C, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2524, which related to summer national service program of Civilian Community Corps Demonstration Program, was renumbered section 154 of Pub. L. 101–610 by Pub. L. 103–82, §104(b), and transferred to section 12614 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] *So in original.*

§12653d. Repealed. Pub. L. 111–13, title I, §1803(a)(3), Apr. 21, 2009, 123 Stat. 1554

Section, Pub. L. 101–610, title I, §198D, as added Pub. L. 103–82, title I, §104(c), Sept. 21, 1993, 107 Stat. 845, related to special demonstration projects for the Yukon-Kuskokwim delta of Alaska.

Prior sections 12653d to 12653g were renumbered by Pub. L. 103–82, §104(b), and transferred as follows:

Section 12653d, Pub. L. 101–610, title I, §195D, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2524, which related to organization and membership of the Corps, was renumbered section 155 of Pub. L. 101–610 and transferred to section 12615 of this title.

Section 12653e, Pub. L. 101–610, title I, §195E, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2525, which provided for training of Corps members, was renumbered section 156 of Pub. L. 101–610 and transferred to section 12616 of this title.

Section 12653f, Pub. L. 101–610, title I, §195F, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2526, which related to service projects carried out by the Corps, was renumbered section 157 of Pub. L. 101–610 and transferred to section 12617 of this title.

Section 12653g, Pub. L. 101–610, title I, §195G, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2526, which related to authorized benefits for Corps members, was renumbered section 158 of Pub. L. 101–610 and transferred to section 12618 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PART II—NATIONAL SERVICE RESERVE CORPS

§12653h. National Service Reserve Corps

(a) Definitions

In this section—

(1) the term "National Service Reserve Corps member" means an individual who—

(A) has completed a term of national service or is a veteran;

(B) has successfully completed training described in subsection (c) within the previous 2 years;

(C) completes not less than 10 hours of volunteering each year (which may include the training session described in subparagraph (B)); and

(D) has indicated interest to the Corporation in responding to disasters and emergencies in a timely manner through the National Service Reserve Corps; and

(2) the term "term of national service" means a term or period of service under section 12573 of this title.

(b) Establishment of National Service Reserve Corps

(1) In general

In consultation with the Federal Emergency Management Agency, the Corporation shall establish a National Service Reserve Corps to prepare and deploy National Service Reserve Corps members to respond to disasters and emergencies in support of national service programs and other requesting programs and agencies.

(2) Grants or contracts

In carrying out this section, the Corporation may enter into a grant or contract with an

organization experienced in responding to disasters or in coordinating individuals who have completed a term of national service or are veterans, or may directly deploy National Service Reserve Corps members, as the Corporation determines necessary.

(c) Annual training

The Corporation shall conduct or coordinate annual training sessions, consistent with the training requirements of the Federal Emergency Management Agency, for individuals who have completed a term of national service or are veterans, and who wish to join the National Service Reserve Corps.

(d) Designation of organizations

(1) In general

The Corporation shall designate organizations with demonstrated experience in responding to disasters or emergencies, including through using volunteers, for participation in the program under this section.

(2) Requirements

The Corporation shall ensure that every designated organization is—

(A) prepared to respond to disasters or emergencies;

(B) prepared and able to utilize National Service Reserve Corps members in responding to disasters or emergencies; and

(C) willing to respond in a timely manner when notified by the Corporation of a disaster or emergency.

(e) Databases

The Corporation shall develop or contract with an outside organization to develop—

(1) a database of all National Service Reserve Corps members; and

(2) a database of all nonprofit organizations that have been designated by the Corporation under subsection (d).

(f) Deployment of National Service Reserve Corps

(1) Major disasters or emergencies

If a major disaster or emergency is declared by the President pursuant to section 102 of the Robert T. Stafford Disaster Relief and Assistance Act [1] (42 U.S.C. 5122), the Administrator of the Federal Emergency Management Agency, in consultation with the Corporation, may task the National Service Reserve Corps to assist in response.

(2) Other disasters or emergencies

For a disaster or emergency that is not declared a major disaster or emergency under section 102 of the Robert T. Stafford Disaster Relief and Assistance Act [1] (42 U.S.C. 5122), the Corporation may directly, or through a grant or contract, deploy the National Service Reserve Corps.

(3) Deployment

Under paragraph (1) or (2), the Corporation may—

(A) deploy interested National Service Reserve Corps members on assignments of not more than 30 days to assist with local needs related to preparing or recovering from the incident in the affected area, either directly or through organizations designated under subsection (d);

(B) make travel arrangements for the deployed National Service Reserve Corps members to the site of the incident; and

(C) provide funds to those organizations that are responding to the incident with deployed National Service Reserve Corps members, to enable the organizations to coordinate and provide housing, living stipends, and insurance for those deployed members.

(4) Allowance

Any amounts that are utilized by the Corporation from funds appropriated under section 12681(a)(4)(D) of this title to carry out paragraph (1) for a fiscal year shall be kept in a separate

fund. Any amounts in such fund that are not used during a fiscal year shall remain available to use to pay National Service Reserve Corps members an allowance, determined by the Corporation, for out-of-pocket expenses.

(5) Information

(A) National service participants

The Corporation, the State Commissions, and entities receiving financial assistance for programs under division C of this subchapter,[1] or under part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), shall inform participants about the National Service Reserve Corps upon the participants' completion of their term of national service.

(B) Veterans

The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall inform veterans who are recently discharged, released, or separated from the Armed Forces about the National Service Reserve Corps.

(6) Coordination

In deploying National Service Reserve Corps members under this subsection, the Corporation shall—

(A) avoid duplication of activities directed by the Federal Emergency Management Agency; and

(B) consult and, as appropriate, partner with Citizen Corps programs and other local disaster agencies, including State and local emergency management agencies, voluntary organizations active in disaster, State Commissions, and similar organizations, in the affected area.

(Pub. L. 101–610, title I, §198H, as added Pub. L. 111–13, title I, §1806, Apr. 21, 2009, 123 Stat. 1562.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 102 of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5122), referred to in subsec. (f)(1), (2), probably means section 102 of Pub. L. 93–288, May 22, 1974, 88 Stat. 143, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified to section 5122 of this title.

Division C of this subchapter, referred to in subsec. (f)(5)(A), was in the original "subtitle C of this Act" which was translated as meaning subtitle C of title I of Pub. L. 101–610, to reflect the probable intent of Congress.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (f)(5)(A), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Part A of title I of the Act is classified generally to part A of subchapter I (§4951 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

PRIOR PROVISIONS

A prior section 12653h, Pub. L. 101–610, title I, §195H, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2528, which related to administration of the Corps, was renumbered section 159 of Pub. L. 101–610 and transferred to section 12619 of this title.

Prior sections 12653i and 12653j were renumbered by section 104(b) of Pub. L. 103–82 and transferred as follows:

Section 12653i, Pub. L. 101–610, title I, §195I, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2530, which related to status of Corps members and Corps personnel under Federal law, was renumbered section 160 of Pub. L. 101–610 and transferred to section 12620 of this title.

Section 12653j, Pub. L. 101–610, title I, §195J, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2530, which provided for contract and grant authority of Corps Director, was renumbered section 161 of Pub. L. 101–610 and transferred to section 12621 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

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

PART III—SOCIAL INNOVATION FUNDS PILOT PROGRAM

§12653k. Funds

(a) Findings

Congress finds the following:

(1) Social entrepreneurs and other nonprofit community organizations are developing innovative and effective solutions to national and local challenges.

(2) Increased public and private investment in replicating and expanding proven effective solutions, and supporting new solutions, developed by social entrepreneurs and other nonprofit community organizations could allow those entrepreneurs and organizations to replicate and expand proven initiatives, and support new initiatives, in communities.

(3) A network of Social Innovation Funds could leverage Federal investments to increase State, local, business, and philanthropic resources to replicate and expand proven solutions and invest in supporting new innovations to tackle specific identified community challenges.

(b) Purposes

The purposes of this section are—

(1) to recognize and increase the impact of social entrepreneurs and other nonprofit community organizations in tackling national and local challenges;

(2) to stimulate the development of a network of Social Innovation Funds that will increase private and public investment in nonprofit community organizations that are effectively addressing national and local challenges to allow such organizations to replicate and expand proven initiatives or support new initiatives;

(3) to assess the effectiveness of such Funds in—

(A) leveraging Federal investments to increase State, local, business, and philanthropic resources to address national and local challenges;

(B) providing resources to replicate and expand effective initiatives; and

(C) seeding experimental initiatives focused on improving outcomes in the areas described in subsection (f)(3); and

(4) to strengthen the infrastructure to identify, invest in, replicate, and expand initiatives with effective solutions to national and local challenges.

(c) Definitions

In this section:

(1) Community organization

The term "community organization" means a nonprofit organization that carries out innovative, effective initiatives to address community challenges.

(2) Covered entity

The term "covered entity" means—

(A) an existing grantmaking institution (existing as of the date on which the institution

applies for a grant under this section); or

(B) a partnership between—

(i) such an existing grantmaking institution; and

(ii) an additional grantmaking institution, a State Commission, or a chief executive officer of a unit of general local government.

(3) Issue area

The term "issue area" means an area described in subsection (f)(3).

(d) Program

From the amounts appropriated to carry out this section that are not reserved under subsections (l) and (m), the Corporation shall establish a Social Innovation Funds grant program to make grants on a competitive basis to eligible entities for Social Innovation Funds.

(e) Periods; amounts

The Corporation shall make such grants for periods of 5 years, and may renew the grants for additional periods of 5 years, in amounts of not less than $1,000,000 and not more than $10,000,000 per year.

(f) Eligibility

To be eligible to receive a grant under subsection (d), an entity shall—

(1) be a covered entity;

(2) propose to focus on—

(A) serving a specific local geographical area; or

(B) addressing a specific issue area;

(3) propose to focus on improving measurable outcomes relating to—

(A) education for economically disadvantaged elementary or secondary school students;

(B) child and youth development;

(C) reductions in poverty or increases in economic opportunity for economically disadvantaged individuals;

(D) health, including access to health services and health education;

(E) resource conservation and local environmental quality;

(F) individual or community energy efficiency;

(G) civic engagement; or

(H) reductions in crime;

(4) have an evidence-based decisionmaking strategy, including—

(A) use of evidence produced by prior rigorous evaluations of program effectiveness including, where available, well-implemented randomized controlled trials; and

(B) a well-articulated plan to—

(i)(I) replicate and expand research-proven initiatives that have been shown to produce sizeable, sustained benefits to participants or society; or

(II) support new initiatives with a substantial likelihood of significant impact; or

(ii) partner with a research organization to carry out rigorous evaluations to assess the effectiveness of such initiatives; and

(5) have appropriate policies, as determined by the Corporation, that protect against conflict of interest, self-dealing, and other improper practices.

(g) Application

To be eligible to receive a grant under subsection (d) for national leveraging capital, an eligible entity shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may specify, including, at a minimum—

(1) an assurance that the eligible entity will—

(A) use the funds received through that capital in order to make subgrants to community organizations that will use the funds to replicate or expand proven initiatives, or support new initiatives, in low-income communities;

(B) in making decisions about subgrants for communities, consult with a diverse cross section of community representatives in the decisions, including individuals from the public, nonprofit private, and for-profit private sectors; and

(C) make subgrants of a sufficient size and scope to enable the community organizations to build their capacity to manage initiatives, and sustain replication or expansion of the initiatives;

(2) an assurance that the eligible entity will not make any subgrants to the parent organizations of the eligible entity, a subsidiary organization of the parent organization, or, if the eligible entity applied for funds under this section as a partnership, any member of the partnership;

(3) an identification of, as appropriate—

(A) the specific local geographical area referred to in subsection (f)(2)(A) that the eligible entity is proposing to serve; or

(B) the issue area referred to in subsection (f)(2)(B) that the eligible entity will address, and the geographical areas that the eligible entity is likely to serve in addressing such issue area;

(4)(A) information identifying the issue areas in which the eligible entity will work to improve measurable outcomes;

(B) statistics on the needs related to those issue areas in, as appropriate—

(i) the specific local geographical area described in paragraph (3)(A); or

(ii) the geographical areas described in paragraph (3)(B), including statistics demonstrating that those geographical areas have high need in the specific issue area that the eligible entity is proposing to address; and

(C) information on the specific measurable outcomes related to the issue areas involved that the eligible entity will seek to improve;

(5) information describing the process by which the eligible entity selected, or will select, community organizations to receive the subgrants, to ensure that the community organizations—

(A) are institutions—

(i) with proven initiatives and a demonstrated track record of achieving specific outcomes related to the measurable outcomes for the eligible entity; or

(ii) that articulate a new solution with a significant likelihood for substantial impact;

(B) articulate measurable outcomes for the use of the subgrant funds that are connected to the measurable outcomes for the eligible entity;

(C) will use the funds to replicate, expand, or support their initiatives;

(D) provide a well-defined plan for replicating, expanding, or supporting the initiatives funded;

(E) can sustain the initiatives after the subgrant period concludes through reliable public revenues, earned income, or private sector funding;

(F) have strong leadership and financial and management systems;

(G) are committed to the use of data collection and evaluation for improvement of the initiatives;

(H) will implement and evaluate innovative initiatives, to be important contributors to knowledge in their fields; and

(I) will meet the requirements for providing matching funds specified in subsection (k);

(6) information about the eligible entity, including its experience managing collaborative initiatives, or assessing applicants for grants and evaluating the performance of grant recipients for outcome-focused initiatives, and any other relevant information;

(7) a commitment to meet the requirements of subsection (i) and a plan for meeting the

requirements, including information on any funding that the eligible entity has secured to provide the matching funds required under that subsection;

(8) a description of the eligible entity's plan for providing technical assistance and support, other than financial support, to the community organizations that will increase the ability of the community organizations to achieve their measurable outcomes;

(9) information on the commitment, institutional capacity, and expertise of the eligible entity concerning—

(A) collecting and analyzing data required for evaluations, compliance efforts, and other purposes;

(B) supporting relevant research; and

(C) submitting regular reports to the Corporation, including information on the initiatives of the community organizations, and the replication or expansion of such initiatives;

(10) a commitment to use data and evaluations to improve the eligible entity's own model and to improve the initiatives funded by the eligible entity; and

(11) a commitment to cooperate with any evaluation activities undertaken by the Corporation.

(h) Selection criteria

In selecting eligible entities to receive grants under subsection (d), the Corporation shall—

(1) select eligible entities on a competitive basis;

(2) select eligible entities on the basis of the quality of their selection process, as described in subsection (g)(5), the capacity of the eligible entities to manage Social Innovation Funds, and the potential of the eligible entities to sustain the Funds after the conclusion of the grant period;

(3) include among the grant recipients eligible entities that propose to provide subgrants to serve communities (such as rural low-income communities) that the eligible entities can demonstrate are significantly philanthropically underserved;

(4) select a geographically diverse set of eligible entities; and

(5) take into account broad community perspectives and support.

(i) Matching funds for grants

(1) In general

The Corporation may not make a grant to an eligible entity under subsection (d) for a Social Innovation Fund unless the entity agrees that, with respect to the cost described in subsection (d) for that Fund, the entity will make available matching funds in an amount equal to not less than $1 for every $1 of funds provided under the grant.

(2) Additional requirements

(A) Type and sources

The eligible entity shall provide the matching funds in cash. The eligible entity shall provide the matching funds from State, local, or private sources, which may include State or local agencies, businesses, private philanthropic organizations, or individuals.

(B) Eligible entities including State Commissions or local government offices

(i) In general

In a case in which a State Commission, a local government office, or both entities are a part of the eligible entity, the State involved, the local government involved, or both entities, respectively, shall contribute not less than 30 percent and not more than 50 percent of the matching funds.

(ii) Local government office

In this subparagraph, the term "local government office" means the office of the chief executive officer of a unit of general local government.

(3) Reduction

The Corporation may reduce by 50 percent the matching funds required by paragraph (1) for an eligible entity serving a community (such as a rural low-income community) that the eligible entity can demonstrate is significantly philanthropically underserved.

(j) Subgrants

(1) Subgrants authorized

An eligible entity receiving a grant under subsection (d) is authorized to use the funds made available through the grant to award, on a competitive basis, subgrants to expand or replicate proven initiatives, or support new initiatives with a substantial likelihood of success, to—

(A) community organizations serving low-income communities within the specific local geographical area described in the eligible entity's application in accordance with subsection (g)(3)(A); or

(B) community organizations addressing a specific issue area described in the eligible entity's application in accordance with subsection (g)(3)(B), in low-income communities in the geographical areas described in the application.

(2) Periods; amounts

The eligible entity shall make such subgrants for periods of not less than 3 and not more than 5 years, and may renew the subgrants for such periods, in amounts of not less than $100,000 per year.

(3) Applications

To be eligible to receive a subgrant from an eligible entity under this section, including receiving a payment for that subgrant each year, a community organization shall submit an application to an eligible entity that serves the specific local geographical area, or geographical areas, that the community organization proposes to serve, at such time, in such manner, and containing such information as the eligible entity may require, including—

(A) a description of the initiative the community organization carries out and plans to replicate or expand, or of the new initiative the community organization intends to support, using funds received from the eligible entity, and how the initiative relates to the issue areas in which the eligible entity has committed to work in the eligible entity's application, in accordance with subsection (g)(4)(A);

(B) data on the measurable outcomes the community organization has improved, and information on the measurable outcomes the community organization seeks to improve by replicating or expanding a proven initiative or supporting a new initiative, which shall be among the measurable outcomes that the eligible entity identified in the eligible entity's application, in accordance with subsection (g)(4)(C);

(C) an identification of the community in which the community organization proposes to carry out an initiative, which shall be within a local geographical area described in the eligible entity's application in accordance with subparagraph (A) or (B) of subsection (g)(3), as applicable;

(D) a description of the evidence-based decisionmaking strategies the community organization uses to improve the measurable outcomes, including—

(i) use of evidence produced by prior rigorous evaluations of program effectiveness including, where available, well-implemented randomized controlled trials; or

(ii) a well-articulated plan to conduct, or partner with a research organization to conduct, rigorous evaluations to assess the effectiveness of initiatives addressing national or local challenges;

(E) a description of how the community organization uses data to analyze and improve its initiatives;

(F) specific evidence of how the community organization will meet the requirements for providing matching funds specified in subsection (k);

(G) a description of how the community organization will sustain the replicated or expanded

initiative after the conclusion of the subgrant period; and

(H) any other information the eligible entity may require, including information necessary for the eligible entity to fulfill the requirements of subsection (g)(5).

(k) Matching funds for subgrants

(1) In general

An eligible entity may not make a subgrant to a community organization under this section for an initiative described in subsection (j)(3)(A) unless the organization agrees that, with respect to the cost of carrying out that initiative, the organization will make available, on an annual basis, matching funds in an amount equal to not less than $1 for every $1 of funds provided under the subgrant. If the community organization fails to make such matching funds available for a fiscal year, the eligible entity shall not make payments for the remaining fiscal years of the subgrant period, notwithstanding any other provision of this part.

(2) Types and sources

The community organization shall provide the matching funds in cash. The community organization shall provide the matching funds from State, local, or private sources, which may include funds from State or local agencies or private sector funding.

(l) Direct support

(1) Program authorized

The Corporation may use not more than 10 percent of the funds appropriated for this section to award grants to community organizations serving low-income communities or addressing a specific issue area in geographical areas that have the highest need in that issue area, to enable such community organizations to replicate or expand proven initiatives or support new initiatives.

(2) Terms and conditions

A grant awarded under this subsection shall be subject to the same terms and conditions as a subgrant awarded under subsection (j).

(3) Application; matching funds

Paragraphs (2) and (3) of subsection (j) and subsection (k) shall apply to a community organization receiving or applying for a grant under this subsection in the same manner as such subsections apply to a community organization receiving or applying for a subgrant under subsection (j), except that references to a subgrant shall mean a grant and references to an eligible entity shall mean the Corporation.

(m) Research and evaluation

(1) In general

The Corporation may reserve not more than 5 percent of the funds appropriated for this section for a fiscal year to support, directly or through contract with an independent entity, research and evaluation activities to evaluate the eligible entities and community organizations receiving grants under subsections (d) and (l) and the initiatives supported by the grants.

(2) Research and evaluation activities

(A) Research and reports

(i) In general

The entity carrying out this subsection shall collect data and conduct or support research with respect to the eligible entities and community organizations receiving grants under subsections (d) and (l), and the initiatives supported by such eligible entities and community organizations, to determine the success of the program carried out under this section in replicating, expanding, and supporting initiatives, including—

(I) the success of the initiatives in improving measurable outcomes; and

(II) the success of the program in increasing philanthropic investments in

philanthropically underserved communities.

(ii) Reports

The Corporation shall submit periodic reports to the authorizing committees including—

(I) the data collected and the results of the research under this subsection;

(II) information on lessons learned about best practices from the activities carried out under this section, to improve those activities; and

(III) a list of all eligible entities and community organizations receiving funds under this section.

(iii) Public information

The Corporation shall annually post the list described in clause (ii)(III) on the Corporation's website.

(B) Technical assistance

The Corporation shall, directly or through contract, provide technical assistance to the eligible entities and community organizations that receive grants under subsections (d) and (l).

(C) Knowledge management

The Corporation shall, directly or through contract, maintain a clearinghouse for information on best practices resulting from initiatives supported by the eligible entities and community organizations.

(D) Reservation

Of the funds appropriated under section 12681(a)(4)(E) of this title for a fiscal year, not more than 5 percent may be used to carry out this subsection.

(Pub. L. 101–610, title I, §198K, as added Pub. L. 111–13, title I, §1807, Apr. 21, 2009, 123 Stat. 1564.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12653k, Pub. L. 101–610, title I, §195K, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2531, which set out other departments' responsibilities to the Corps, was renumbered section 162 of Pub. L. 101–610 and transferred to section 12622 of this title.

Prior sections 12653l to 12653n were renumbered by section 104(b) of Pub. L. 103–82 and transferred as follows:

Section 12653l, Pub. L. 101–610, title I, §195L, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532, which related to Advisory Board for the Corps, was renumbered section 163 of Pub. L. 101–610 and transferred to section 12623 of this title.

Section 12653m, Pub. L. 101–610, title I, §195M, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532, which provided for annual evaluations of Corps programs, was renumbered section 164 of Pub. L. 101–610 and transferred to section 12624 of this title.

Section 12653n, Pub. L. 101–610, title I, §195N, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532, which limited funding for Corps programs, was renumbered section 165 of Pub. L. 101–610 and transferred to section 12625 of this title, prior to repeal by Pub. L. 111–13, title I, §1515, Apr. 21, 2009, 123 Stat. 1528.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

PART IV—NATIONAL SERVICE PROGRAMS CLEARINGHOUSES; VOLUNTEER GENERATION FUND

§12653*o*. National service programs clearinghouses

(a) In general

The Corporation shall provide assistance, by grant, contract, or cooperative agreement, to entities with expertise in the dissemination of information through clearinghouses to establish 1 or more clearinghouses for information regarding the national service laws, which shall include information on service-learning and on service through other programs receiving assistance under the national service laws.

(b) Function of clearinghouse

Such a clearinghouse may—

(1) assist entities carrying out State or local service-learning and national service programs with needs assessments and planning;

(2) conduct research and evaluations concerning service-learning or programs receiving assistance under the national service laws, except that such clearinghouse may not conduct such research and evaluations if the recipient of the grant, contract, or cooperative agreement establishing the clearinghouse under this section is receiving funds for such purpose under part III of division B or under this division (not including this section);

(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

(4) facilitate communication among—

(A) entities carrying out service-learning programs and programs offered under the national service laws; and

(B) participants in such programs;

(5) provide and disseminate information and curriculum materials relating to planning and operating service-learning programs and programs offered under the national service laws, to States, territories, Indian tribes, and local entities eligible to receive financial assistance under the national service laws;

(6) provide and disseminate information regarding methods to make service-learning programs and programs offered under the national service laws accessible to individuals with disabilities;

(7) disseminate applications in languages other than English;

(8)(A) gather and disseminate information on successful service-learning programs and programs offered under the national service laws, components of such successful programs, innovative curricula related to service-learning, and service-learning projects; and

(B) coordinate the activities of the clearinghouse with appropriate entities to avoid duplication of effort;

(9) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs and programs offered under the national service laws;

(10) assist organizations in recruiting, screening, and placing a diverse population of service-learning coordinators and program sponsors;

(11) disseminate effective strategies for working with disadvantaged youth in national service programs, as determined by organizations with an established expertise in working with such youth; and

(12) carry out such other activities as the Chief Executive Officer determines to be appropriate.

(Pub. L. 101–610, title I, §198O, as added Pub. L. 111–13, title I, §1808, Apr. 21, 2009, 123 Stat. 1572.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12653o, Pub. L. 101–610, title I, §195O, as added Pub. L. 102–484, div. A, title X, §1092(a)(1), Oct. 23, 1992, 106 Stat. 2532, which defined terms used in former part H of this subchapter, was renumbered section 166 of Pub. L. 101–610 and transferred to section 12626 of this title and subsequently renumbered section 165 of Pub. L. 101–610 by section 1516(1) of Pub. L. 111–13.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

§12653p. Volunteer generation fund

(a) Grants authorized

Subject to the availability of appropriations for this section, the Corporation may make grants to State Commissions and nonprofit organizations for the purpose of assisting the State Commissions and nonprofit organizations to—

(1) develop and carry out volunteer programs described in subsection (c); and

(2) make subgrants to support and create new local community-based entities that recruit, manage, or support volunteers as described in such subsection.

(b) Application

(1) In general

Each State Commission or nonprofit organization desiring a grant under this section shall submit an application to the Corporation at such time, in such manner, and accompanied by such information as the Corporation may reasonably require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall contain—

(A)(i) [1] a description of the program that the applicant will provide;

(B) an assurance that the applicant will annually collect information on—

(i) the number of volunteers recruited for activities carried out under this section, using funds received under this section, and the type and amount of activities carried out by such volunteers; and

(ii) the number of volunteers managed or supported using funds received under this section, and the type and amount of activities carried out by such volunteers;

(C) a description of the outcomes the applicant will use to annually measure and track performance with regard to—

(i) activities carried out by volunteers; and

(ii) volunteers recruited, managed, or supported; and

(D) such additional assurances as the Corporation determines to be essential to ensure compliance with the requirements of this section.

(c) Eligible volunteer programs

A State Commission or nonprofit organization receiving a grant under this section shall use the assistance—

(1) directly to carry out volunteer programs or to develop and support community-based entities

that recruit, manage, or support volunteers, by carrying out activities consistent with the goals of the subgrants described in paragraph (2); or

(2) through subgrants to community-based entities to carry out volunteer programs or develop and support such entities that recruit, manage, or support volunteers, through 1 or more of the following types of subgrants:

(A) A subgrant to a community-based entity for activities that are consistent with the priorities set by the State's national service plan as described in section 12638(e) of this title, or by the Corporation.

(B) A subgrant to recruit, manage, or support volunteers to a community-based entity such as a volunteer coordinating agency, a nonprofit resource center, a volunteer training clearinghouse, an institution of higher education, or a collaborative partnership of faith-based and community-based organizations.

(C) A subgrant to a community-based entity that provides technical assistance and support to—

(i) strengthen the capacity of local volunteer infrastructure organizations;

(ii) address areas of national need (as defined in section 12653b(a) of this title); and

(iii) expand the number of volunteers nationally.

(d) Allocation of funds

(1) In general

Of the funds allocated by the Corporation for provision of assistance under this section for a fiscal year—

(A) the Corporation shall use 50 percent of such funds to award grants, on a competitive basis, to State Commissions and nonprofit organizations for such fiscal year; and

(B) the Corporation shall use 50 percent of such funds make [2] an allotment to the State Commissions of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico based on the formula described in subsections (e) and (f) of section 12581 of this title, subject to paragraph (2).

(2) Minimum grant amount

In order to ensure that each State Commission is able to improve efforts to recruit, manage, or support volunteers, the Corporation may determine a minimum grant amount for allotments under paragraph (1)(B).

(e) Limitation on administrative costs

Not more than 5 percent of the amount of any grant provided under this section for a fiscal year may be used to pay for administrative costs incurred by either the recipient of the grant or any community-based entity receiving assistance or a subgrant under such grant.

(f) Matching fund requirements

The Corporation share of the cost of carrying out a program that receives assistance under this section, whether the assistance is provided directly or as a subgrant from the original recipient of the assistance, may not exceed—

(1) 80 percent of such cost for the first year in which the recipient receives such assistance;

(2) 70 percent of such cost for the second year in which the recipient receives such assistance;

(3) 60 percent of such cost for the third year in which the recipient receives such assistance; and

(4) 50 percent of such cost for the fourth year in which the recipient receives such assistance and each year thereafter.

(Pub. L. 101–610, title I, §198P, as added Pub. L. 111–13, title I, §1808, Apr. 21, 2009, 123 Stat. 1573.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

[1] *So in original. No cl. (ii) has been enacted.*

[2] *So in original. Probably should be preceded by "to".*

PART V—NONPROFIT CAPACITY BUILDING PROGRAM

§12653s. Nonprofit capacity building

(a) Definitions

In this section:

(1) Intermediary nonprofit grantee

The term "intermediary nonprofit grantee" means an intermediary nonprofit organization that receives a grant under subsection (b).

(2) Intermediary nonprofit organization

The term "intermediary nonprofit organization" means an experienced and capable nonprofit entity with meaningful prior experience in providing organizational development assistance, or capacity building assistance, focused on small and midsize nonprofit organizations.

(3) Nonprofit

The term "nonprofit", used with respect to an entity or organization, means—

(A) an entity or organization described in section 501(c)(3) of title 26 and exempt from taxation under section 501(a) of such title; and

(B) an entity or organization described in paragraph (1) or (2) of section 170(c) of such title.

(4) State

The term "State" means each of the several States, and the District of Columbia.

(b) Grants

The Corporation shall establish a Nonprofit Capacity Building Program to make grants to intermediary nonprofit organizations to serve as intermediary nonprofit grantees. The Corporation shall make the grants to enable the intermediary nonprofit grantees to pay for the Federal share of the cost of delivering organizational development assistance, including training on best practices, financial planning, grantwriting, and compliance with the applicable tax laws, for small and midsize nonprofit organizations, especially those nonprofit organizations facing resource hardship challenges. Each of the grantees shall match the grant funds by providing a non-Federal share as described in subsection (f).

(c) Amount

To the extent practicable, the Corporation shall make such a grant to an intermediary nonprofit organization in each State, and shall make such grant in an amount of not less than $200,000.

(d) Application

To be eligible to receive a grant under this section, an intermediary nonprofit organization shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require. The intermediary nonprofit organization shall submit in the application information demonstrating that the organization has secured sufficient resources to meet the requirements of subsection (f).

(e) Preference and considerations

(1) Preference

In making such grants, the Corporation shall give preference to intermediary nonprofit organizations seeking to become intermediary nonprofit grantees in areas where nonprofit organizations face significant resource hardship challenges.

(2) Considerations

In determining whether to make a grant the Corporation shall consider—

(A) the number of small and midsize nonprofit organizations that will be served by the grant;

(B) the degree to which the activities proposed to be provided through the grant will assist a wide number of nonprofit organizations within a State, relative to the proposed amount of the grant; and

(C) the quality of the organizational development assistance to be delivered by the intermediary nonprofit grantee, including the qualifications of its administrators and representatives, and its record in providing services to small and midsize nonprofit organizations.

(f) Federal share

(1) In general

The Federal share of the cost as referenced in subsection (b) shall be 50 percent.

(2) Non-Federal share

(A) In general

The non-Federal share of the cost as referenced in subsection (b) shall be 50 percent and shall be provided in cash.

(B) Third party contributions

(i) In general

Except as provided in clause (ii), an intermediary nonprofit grantee shall provide the non-Federal share of the cost through contributions from third parties. The third parties may include charitable grantmaking entities and grantmaking vehicles within existing organizations, entities of corporate philanthropy, corporations, individual donors, and regional, State, or local government agencies, or other non-Federal sources.

(ii) Exception

If the intermediary nonprofit grantee is a private foundation (as defined in section 509(a) of title 26), a donor advised fund (as defined in section 4966(d)(2) of such title), an organization which is described in section 4966(d)(4)(A)(i) of such title, or an organization which is described in section 4966(d)(4)(B) of such title, the grantee shall provide the non-Federal share from within that grantee's own funds.

(iii) Maintenance of effort, prior year third-party funding levels

For purposes of maintaining private sector support levels for the activities specified by this program, a non-Federal share that includes donations by third parties shall be composed in a way that does not decrease prior levels of funding from the same third parties granted to the nonprofit intermediary grantee in the preceding year.

(g) Reservation

Of the amount authorized to provide financial assistance under this division, there shall be made available to carry out this section $5,000,000 for each of fiscal years 2010 through 2014.

(Pub. L. 101–610, title I, §198S, as added Pub. L. 111–13, title I, §1809, Apr. 21, 2009, 123 Stat. 1575.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

Division I—American Conservation and Youth Service Corps

EDITORIAL NOTES

CODIFICATION

Subtitle I of title I of Pub. L. 101–610, comprising this division, was formerly classified to part C (§12541 et seq.) of this subchapter prior to the general amendment by Pub. L. 103–82, §101(a).

§12655. General authority

The Corporation may make grants to States or local applicants and may transfer funds to the Secretary of Agriculture or to the Secretary of the Interior for the creation or expansion of full-time, part-time, year-round, or summer, youth corps programs [1] To the extent practicable, the Corporation shall apply the provisions of division C in making grants under this section.

(Pub. L. 101–610, title I, §199A, formerly §121, Nov. 16, 1990, 104 Stat. 3140; Pub. L. 102–384, §5, Oct. 5, 1992, 106 Stat. 1455; renumbered §199A and amended Pub. L. 103–82, title I, §101(a), (e)(1), (2), Sept. 21, 1993, 107 Stat. 788, 815.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12541 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1993—Pub. L. 103–82, §101(e)(1), (2), substituted "Corporation" for "Commission", substituted "or to the Secretary of the Interior" for ", to the Secretary of the Interior, or to the Director of ACTION", struck out "under section 12512 of this title" after "may make grants", and inserted at end "To the extent practicable, the Corporation shall apply the provisions of division C in making grants under this section."

1992—Pub. L. 102–384 amended section generally. Prior to amendment, section read as follows: "The Commission may make grants under section 12512 of this title to States or local applicants, to the Secretary of Agriculture, to the Secretary of the Interior, or to the Director of ACTION for the creation or expansion of full-time or summer youth corps programs."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

SHORT TITLE

For short title of subtitle I of title I of Pub. L. 101–610 which enacted this division, as the American Conservation and Youth Service Corps Act of 1990, see section 199 of Pub. L. 101–610, set out as a note under section 12501 of this title.

[1] So in original. Probably should be followed by a period.

§12655a. Limitation on purchase of capital equipment

Not to exceed 10 percent of the amount of assistance made available to a program agency under this division shall be used for the purchase of major capital equipment.

(Pub. L. 101–610, title I, §199B, formerly §122, Nov. 16, 1990, 104 Stat. 3140; Pub. L. 102–10, §5(2), Mar. 12, 1991, 105 Stat. 30; renumbered §199B and amended Pub. L. 103–82, title I, §101(a), (e)(3), Sept. 21, 1993, 107 Stat. 788, 815.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12542 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1993—Pub. L. 103–82, §101(e)(3), amended section generally, substituting provisions relating to limitation on purchase of capital equipment for provisions relating to allocation of funds.

1991—Subsec. (e). Pub. L. 102–10 inserted "service" after "youth".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12655b. State application

(a) Submission

To be eligible to receive a grant under this division, a State or Indian tribe (or a local applicant if section 12655 of this title applies) shall prepare and submit to the Corporation, an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

(b) General content

An application submitted under subsection (a) shall describe—

(1) any youth corps program proposed to be conducted directly by such applicant with assistance provided under this division; and

(2) any grant program proposed to be conducted by such State with assistance provided under this division for the benefit of entities within such State.

(Pub. L. 101–610, title I, §199C, formerly §123, Nov. 16, 1990, 104 Stat. 3141; Pub. L. 102–10, §5(3), Mar. 12, 1991, 105 Stat. 30; renumbered §199C and amended Pub. L. 103–82, title I, §101(a), (e)(1), (4), Sept. 21, 1993, 107 Stat. 788, 815.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12543 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, §101(e)(1), (4)(A), substituted "Corporation" for "Commission" in two places and "section 12655 of this title" for "section 12542(b) of this title" and struck out before period at end ", including the information required under subsection (b) of this section".

Subsecs. (c), (d). Pub. L. 103–82, §101(e)(4)(B), struck out subsec. (c) which specified required contents of State applications and subsec. (d) which required State applicants to establish and implement programs to

make grants to applicants within the State.

1991—Subsec. (c)(14), (15). Pub. L. 102–10 added par. (14) and redesignated former par. (14) as (15).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12655c. Focus of programs

(a) In general

Programs that receive assistance under this division may carry out activities that—

(1) in the case of conservation corps programs, focus on—

(A) conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

(B) urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(C) fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(D) road and trail maintenance and improvement;

(E) erosion, flood, drought, and storm damage assistance and controls;

(F) stream, lake, waterfront harbor, and port improvement;

(G) wetlands protection and pollution control;

(H) insect, disease, rodent, and fire prevention and control;

(I) the improvement of abandoned railroad beds and rights-of-way;

(J) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(K) reclamation and improvement of strip-mined land;

(L) forestry, nursery, and cultural operations; and

(M) making public facilities accessible to individuals with disabilities.

(2) in the case of youth service corps programs, include participant service in—

(A) State, local, and regional governmental agencies;

(B) nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

(C) law enforcement agencies,[1] and penal and probation systems;

(D) private nonprofit organizations that primarily focus on social service such as community action agencies;

(E) activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

(F) any other nonpartisan civic activities and services that the Corporation determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs related to poverty) or in the community where volunteer service is to be performed; or

(3) encompass the focuses and services described in both paragraphs (1) and (2).

(b) Limitation on service

No participant shall perform any specific activity for more than a 6-month period. No participant shall remain enrolled in programs assisted under this division for more than 24 months.

(Pub. L. 101–610, title I, §199D, formerly §124, Nov. 16, 1990, 104 Stat. 3143; Pub. L. 102–10, §5(4), Mar. 12, 1991, 105 Stat. 30; renumbered §199D and amended Pub. L. 103–82, title I, §101(a), (e)(1), (5), Sept. 21, 1993, 107 Stat. 788, 815, 816.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12544 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1993—Subsec. (a)(2)(F). Pub. L. 103–82, §101(e)(1), substituted "Corporation" for "Commission".

Subsecs. (b), (c). Pub. L. 103–82, §101(e)(5), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to ineligible service categories.

1991—Subsec. (a)(2). Pub. L. 102–10, §5(4)(A), substituted "youth service" for "human services" in introductory provisions.

Subsec. (c). Pub. L. 102–10, §5(4)(B), substituted "any specific activity for more than a 6-month period. No participant shall remain enrolled in programs" for "services in any project for more than a 6-month period. No participant shall remain enrolled in projects".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

[1] *So in original. The comma probably should not appear.*

§12655d. Related programs

An activity administered under the authority of the Secretary of Health and Human Services, that is operated for the same purpose as a program eligible to be carried out under this division, is encouraged to use services available under this division.

(Pub. L. 101–610, title I, §199E, formerly §125, Nov. 16, 1990, 104 Stat. 3144; renumbered §199E, Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12545 of this title prior to renumbering by Pub. L. 103–82, §101(a).

§12655e. Public lands or Indian lands

(a) Limitation

To be eligible to receive assistance through a grant provided under this division, a program shall carry out activities on public lands or Indian lands, or result in a public benefit.

(b) Review of applications

In reviewing applications submitted under section 12655b of this title that propose programs or

projects to be carried out on public lands or Indian lands, the Corporation shall consult with the Secretary of the Interior.

(c) Consistency

A program carried out with assistance provided under this division for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with—

(1) the provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law; and

(2) all management, operational, and other plans and documents that govern the administration of such lands.

(d) Participation by other conservation programs

Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program is encouraged to use services available under this part [1] to carry out its program.

(Pub. L. 101–610, title I, §199F, formerly §126, Nov. 16, 1990, 104 Stat. 3144; renumbered §199F and amended Pub. L. 103–82, title I, §101(a), (e)(1), (6), Sept. 21, 1993, 107 Stat. 788, 815, 816.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (d), is unidentifiable in the original because subtitle I (§§199 to 199O) of title I of Pub. L. 101–610 does not contain parts.

CODIFICATION

Section was formerly classified to section 12546 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–82, §101(e)(1), (6), substituted "Corporation" for "Commission" and "section 12655b of this title" for "section 12543 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

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

§12655f. Training and education services

(a) Assessment of skills

Each program agency shall assess the educational level of participants at the time of their entrance into the program, using any available records or simplified assessment means or methodology and shall, where appropriate, refer such participants for testing for specific learning disabilities.

(b) Enhancement of skills

Each program agency shall, through the programs and activities administered under this division, enhance the educational skills of participants.

(c) Provision of pre-service and in-service training and education

(1) Requirement

Each program agency shall use not less than 10 percent of the assistance made available to such

agency under this division in each fiscal year to provide pre-service and in-service training and educational materials and services for participants in such a program. Program participants shall be provided with information concerning the benefits to the community that result from the activities undertaken by such participants.

(2) Agreements for academic study

A program agency may enter into arrangements with academic institutions or education providers, including—

(A) local education agencies;
(B) community colleges;
(C) 4-year colleges;
(D) area vocational-technical schools; and
(E) community based organizations;

to evaluate the basic skills of participants and to make academic study available to participants to enable such participants to upgrade literacy skills, to obtain high school diplomas or the equivalent of such diplomas, to obtain college degrees, or to enhance employable skills.

(3) Counseling

Career and educational guidance and counseling shall be provided to a participant during a period of in-service training as described in this subsection. Each graduating participant shall be provided with counseling with respect to additional study, job skills training or employment and shall be provided job placement assistance where appropriate.

(4) Priority for participants without high school diplomas

A program agency shall give priority to participants who have not obtained a high school diploma or the equivalent of such diploma, in providing services under this subsection.

(d) Standards and procedures

(1) Consistency with State and local requirements

Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under subsection (c) are consistent with the requirements of applicable State and local law and regulations.

(2) Academic standards

The standards and procedures described in paragraph (1) shall provide that an individual serving in a program that receives assistance under this division—

(A) who is not a high school graduate, participate in an educational curriculum so that such individual can earn a high school diploma or the equivalent of such diploma; and

(B) may arrange to receive academic credit in recognition of the education and skills obtained from service satisfactorily completed.

(Pub. L. 101–610, title I, §199G, formerly §127, Nov. 16, 1990, 104 Stat. 3145; renumbered §199G, Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12547 of this title prior to renumbering by Pub. L. 103–82, §101(a).

§12655g. Repealed. Pub. L. 103–82, title I, §101(e)(8)(A), Sept. 21, 1993, 107 Stat. 816

Section, Pub. L. 101–610, title I, §199H, formerly §128, Nov. 16, 1990, 104 Stat. 3146; Pub. L. 102–10, §5(5), Mar. 12, 1991, 105 Stat. 30; renumbered §199H, Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788, related to amount of award and matching requirement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12655h. Preference for certain projects

(a) In general

In the consideration of applications submitted under section 12655b of this title, the Corporation shall give preference to programs that—

(1) will provide long-term benefits to the public;
(2) will instill a work ethic and a sense of public service in the participants;
(3) will be labor intensive, and involve youth operating in crews;
(4) can be planned and initiated promptly; and
(5) will enhance skills development and educational level and opportunities for the participants.

(b) Special rule

In the consideration of applications under this division the Corporation shall ensure the equitable treatment of both urban and rural areas.

(Pub. L. 101–610, title I, §199H, formerly §129, Nov. 16, 1990, 104 Stat. 3146; renumbered §199I, renumbered §199H, and amended Pub. L. 103–82, title I, §101(a), (e)(1), (7), (8)(B), Sept. 21, 1993, 107 Stat. 788, 815, 816.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12549 of this title prior to renumbering by Pub. L. 103–82, §101(a).

PRIOR PROVISIONS

A prior section 199H of Pub. L. 101–610 was classified to section 12655g of this title prior to repeal by Pub. L. 103–82, §101(e)(8)(A).

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, §101(e)(1), (7), in introductory provisions, substituted "Corporation" for "Commission" and "section 12655b" for "section 12543".

Subsec. (b). Pub. L. 103–82, §101(e)(1), substituted "Corporation" for "Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12655i. Age and citizenship criteria for enrollment

(a) Age and citizenship

Enrollment in programs that receive assistance under this division shall be limited to individuals

who, at the time of enrollment, are—

(1) not less than 16 years nor more than 25 years of age, except that summer programs may include individuals not less than 14 years nor more than 21 years of age at the time of the enrollment of such individuals; and

(2) citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(b) Participation of disadvantaged youth

Programs that receive assistance under this division shall ensure that educationally and economically disadvantaged youth, including youth in foster care who are becoming too old for foster care, youth with disabilities, youth with limited English proficiency, youth with limited basic skills or learning disabilities and homeless youth, are offered opportunities to enroll.

(c) Special corps members

Notwithstanding subsection (a)(1), program agencies may enroll a limited number of special corps members over age 25 so that the corps may draw on their special skills to fulfill the purposes of this chapter. Programs are encouraged to consider senior citizens as special corps members.

(d) Joint projects with senior citizens organizations

Program agencies shall use not more than 2 percent of amounts received under this division to conduct joint projects with senior citizens organizations to enable senior citizens to serve as mentors for youth participants.

(e) Construction

Nothing in subsection (a) shall be construed to prohibit any program agency from limiting enrollment to any age subgroup within the range specified in subsection (a)(1).

(Pub. L. 101–610, title I, §199I, formerly §130, Nov. 16, 1990, 104 Stat. 3146; Pub. L. 102–384, §6, Oct. 5, 1992, 106 Stat. 1456; renumbered §199J, renumbered §199I, Pub. L. 103–82, title I, §101(a), (e)(8)(B), Sept. 21, 1993, 107 Stat. 788, 816.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, known as the National and Community Service Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

CODIFICATION

Section was formerly classified to section 12550 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–384 substituted "14" for "15".

§12655j. Use of volunteers

Program agencies may use volunteer services for purposes of assisting projects carried out under this division and may expend funds made available for those purposes to the agency, including funds made available under this division, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services under this section shall be subject to the condition that such use does not result in the displacement of any participant.

(Pub. L. 101–610, title I, §199J, formerly §131, Nov. 16, 1990, 104 Stat. 3147; renumbered §199K, renumbered §199J, Pub. L. 103–82, title I, §101(a), (e)(8)(B), Sept. 21, 1993, 107 Stat. 788, 816.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12551 of this title prior to renumbering by Pub. L. 103–82, §101(a).

§12655k. Repealed. Pub. L. 103–82, title I, §101(e)(8)(A), Sept. 21, 1993, 107 Stat. 816

Section, Pub. L. 101–610, title I, §199L, formerly §132, Nov. 16, 1990, 104 Stat. 3147; renumbered §199L, Pub. L. 103–82, title I, §101(a), Sept. 21, 1993, 107 Stat. 788, related to post-service benefits.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

§12655*l*. Living allowance

(a) Full-time service

(1) Living allowance required

Subject to paragraph (3), each participant in a full-time youth corps program that receives assistance under this division shall receive a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(2) Limitation on Federal share

The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under this division, section 12571 of this title, and any other Federal funds shall not exceed 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(3) Maximum living allowance

The total amount of an annual living allowance that may be provided to a participant in a full-time youth corps program that receives assistance under this division shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 4955 of this title.

(4) Waiver or reduction of living allowance

The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

(A) such requirement is inconsistent with the objectives of the program; and

(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

(5) Exemption

The requirement of paragraph (1) shall not apply to any program that was in existence on September 21, 1993.

(b) Reduction in existing program benefits

(1) In general

Nothing in this section shall be construed to require a program in existence on November 16, 1990, to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipends, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

(2) Fair Labor Standards Act of 1938

For purposes of the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.], residential youth corps programs under this division will be considered an organized camp.

(c) Health insurance

In addition to the living allowance provided under subsection (a), program agencies are encouraged to provide health insurance to each participant in a full-time youth corps program who does not otherwise have access to health insurance.

(d) Facilities, services, and supplies

(1) In general

The program agency may deduct, from amounts provided under subsection (a) to a participant, a reasonable portion of the costs of the rates for any room and board that is provided for such participant at a residential facility. Such deducted funds shall be deposited into rollover accounts that shall be used solely to defray the costs of room and board for participants.

(2) Evaluation

The program agency shall establish the amount of the deductions and rates under paragraph (1) after evaluating the costs of providing such room and board to the participant.

(3) Duties of program agency

A program agency may provide facilities, quarters, and board and shall provide limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment to each participant.

(4) Other Federal agencies

(A) In general

The Corporation may provide services, facilities, supplies, and equipment, including any surplus food and equipment available from other Federal programs, to any program agency carrying out projects under this division.

(B) Secretary of Defense

Whenever possible, the Corporation shall make arrangements with the Secretary of Defense to have logistical support provided by a military installation near the work site, including the provision of temporary tent centers where needed, and other supplies and equipment.

(5) Health and safety standards

The Corporation and program agencies shall establish standards and enforcement procedures concerning the health and safety of participants for all projects, consistent with Federal, State, and local health and safety standards.

(Pub. L. 101–610, title I, §199K, formerly §133, Nov. 16, 1990, 104 Stat. 3147; Pub. L. 102–10, §5(6), Mar. 12, 1991, 105 Stat. 30; renumbered §199M, renumbered §199K, and amended Pub. L. 103–82, title I, §101(a), (d), (e)(1), (8)(B), Sept. 21, 1993, 107 Stat. 788, 814–816.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (b)(2), is act June 25, 1938, ch. 676, 52 Stat.

1060, as amended, which is classified principally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

CODIFICATION

Section was formerly classified to section 12553 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–82, §101(d), added pars. (1) to (5) and struck out former pars. (1) and (2) which read as follows:

"(1) IN GENERAL.—From assistance provided under this part, each participant in a full-time youth corps program that receives assistance under this part shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 9902(2) of this title).

"(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources."

Subsec. (d)(4)(A), (B), (5). Pub. L. 103–82, §101(e)(1), substituted "Corporation" for "Commission".

1991—Subsec. (d)(1). Pub. L. 102–10 substituted "subsection (a)" for "subsections (a) and (c)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12655m. Joint programs

(a) Development

The Corporation may develop, in cooperation with the heads of other Federal agencies, regulations designed to permit, where appropriate, joint programs in which activities supported with assistance made available under this division are coordinated with activities supported with assistance made available under programs administered by the heads of such agencies (including title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.]).

(b) Standards

Regulations promulgated under subsection (a) shall establish standards for the approval of joint programs that meet both the purposes of this subchapter and the purposes of such statutes under which assistance is made available to support such projects.

(c) Operation of management agreements

Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(d) Coordination

The Corporation and program agencies carrying out programs under this division shall coordinate the programs with related Federal, State, local, and private activities.

(Pub. L. 101–610, title I, §199L, formerly §134, Nov. 16, 1990, 104 Stat. 3148; renumbered §199N, renumbered §199L, and amended Pub. L. 103–82, title I, §101(a), (e)(1), (8)(B), Sept. 21, 1993, 107 Stat. 788, 815, 816; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(42)(C), (f)(33)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–428, 2681–434; Pub. L. 113–128, title V, §512(u)(2), July 22, 2014, 128 Stat. 1712.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (a), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

CODIFICATION

Section was formerly classified to section 12554 of this title prior to renumbering by Pub. L. 103–82, §101(a).

PRIOR PROVISIONS

A prior section 199L of Pub. L. 101–610 was classified to section 12655k of this title prior to repeal by Pub. L. 103–82, §101(e)(8)(A).

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–128 substituted "coordinated with activities supported with assistance made available under programs administered by the heads of such agencies (including title I of the Workforce Innovation and Opportunity Act)" for "coordinated with activities supported with assistance made available under programs administered by the heads of such agencies (including title I of the Workforce Investment Act of 1998)".

1998—Subsec. (a). Pub. L. 105–277, §101(f) [title VIII, §405(f)(33)(B)], struck out "the Job Training Partnership Act and" after "(including".

Pub. L. 105–277, §101(f) [title VIII, §405(d)(42)(C)], substituted "the Job Training Partnership Act and title I of the Workforce Investment Act of 1998" for "the Job Training Partnership Act (29 U.S.C. 1501 et seq.)".

1993—Subsecs. (a), (d). Pub. L. 103–82, §101(e)(1), substituted "Corporation" for "Commission".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(d)(42)(C)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(33)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

§12655n. Federal and State employee status

(a) In general

Participants and crew leaders shall be responsible to, or be the responsibility of, the program agency administering the program on which such participants, crew leaders, and volunteers work.

(b) Non-Federal employees

(1) In general

Except as otherwise provided in this subsection, a participant or crew leader in a program that receives assistance under this division shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment.

(2) Work-related injury

For purposes of subchapter I of chapter 81 of title 5, relating to the compensation of Federal

employees for work injuries, a participant or crew leader serving in a program that receives assistance under this division shall be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5 and the provision [1] of that subchapter shall apply, except—

(A) the term "performance of duty", as used in such subchapter, shall not include an act of a participant or crew leader while absent from the assigned post of duty of such participant or crew leader, except while participating in an activity authorized by or under the direction and supervision of a program agency (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date that the employment of the injured participant or crew leader is terminated.

(3) Tort claims procedure

For purposes of chapter 171 of title 28, relating to tort claims procedure, a participant or crew leaders assigned to a youth corps program for which a grant has been made to the Secretary of Agriculture, Secretary of the Interior, or the Director of ACTION, shall be considered an employee of the United States within the meaning of the term "employee of the government" as defined in section 2671 of such title.

(4) Allowance for quarters

For purposes of section 5911 of title 5, relating to allowances for quarters, a participant or crew leader shall be considered an employee of the United States within the meaning of the term "employee" as defined in paragraph (3) of subsection (a) of such section.

(c) Availability of appropriation

Contract authority under this division shall be subject to the availability of appropriations. Assistance made available under this division shall only be used for activities that are in addition to those which would otherwise be carried out in the area in the absence of such funds.

(Pub. L. 101–610, title I, §199M, formerly §135, Nov. 16, 1990, 104 Stat. 3149; renumbered §199O, renumbered §199M, Pub. L. 103–82, title I, §101(a), (e)(8)(B), Sept. 21, 1993, 107 Stat. 788, 816, as amended Pub. L. 103–304, §3(b)(1), Aug. 23, 1994, 108 Stat. 1567.)

EDITORIAL NOTES

CODIFICATION

Section was formerly classified to section 12555 of this title prior to renumbering by Pub. L. 103–82, §101(a).

AMENDMENTS

1994—Pub. L. 103–304 amended directory language of Pub. L. 103–82, §101(a)(3), which renumbered section 135 of Pub. L. 101–610 as section 199O.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–304 effective as of Oct. 1, 1993, see section 3(b)(10)(B) of Pub. L. 103–304, set out as a note under section 4953 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of Director of ACTION Agency (including all related functions of any officer or employee of ACTION Agency) to Corporation for National and Community Service, and effective date of such transfer, see section 203(c), (d) of Pub. L. 103–82, set out as a note under section 12651 of this title.

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

Division J—Miscellaneous

§12656. Urban Youth Corps

(a) Findings

The Congress finds the following:

(1) The rehabilitation, reclamation, and beautification of urban public housing, recreational sites, youth and senior centers, and public roads and public works facilities through the efforts of young people in the United States in an Urban Youth Corps can benefit these youths, while also benefiting their communities, by—

(A) providing them with education and work opportunities;

(B) furthering their understanding and appreciation of the challenges faced by individuals residing in urban communities; and

(C) providing them with a means to pay for higher education or to repay indebtedness they have incurred to obtain higher education.

(2) A significant number of housing units for low-income individuals in urban areas has become substandard and unsafe and the deterioration of urban roadways, mass transit systems, and transportation facilities in the United States have contributed to the blight encountered in many cities in the United States.

(3) As a result, urban housing, public works, and transportation resources are in need of labor intensive rehabilitation, reclamation, and beautification work that has been neglected in the past and cannot be adequately carried out by Federal, State, and local government at existing personnel levels.

(4) Urban youth corps have established a good record of rehabilitating, reclaiming, and beautifying these kinds of resources in a cost-efficient manner, especially when they have worked in partnership with government housing, public works, and transportation authorities and agencies.

(b) Purpose

It is the purpose of this section—

(1) to perform, in a cost-effective manner, appropriate service projects to rehabilitate, reclaim, beautify, and improve public housing and public works and transportation facilities and resources in urban areas suffering from high rates of poverty where work will not be performed by existing employees;

(2) to assist government housing, public works, and transportation authorities and agencies;

(3) to expose young people in the United States to public service while furthering their understanding and appreciation of their community;

(4) to expand educational opportunity for individuals who participate in the Urban Youth Corps established by this section by providing them with an increased ability to pursue postsecondary education or job training; and

(5) to stimulate interest among young people in the United States in lifelong service to their communities and the United States.

(c) Definitions

For purposes of this section:

(1) Appropriate service project

The term "appropriate service project" means any project for the rehabilitation, reclamation, or beautification of urban public housing and public works and transportation resources or facilities.

(2) Corps and Urban Youth Corps

The term "Corps" and "Urban Youth Corps" mean the Urban Youth Corps established under

subsection (d)(1).

(3) Qualified urban youth corps

The term "qualified urban youth corps" means any program established by a State or local government or by a nonprofit organization that—

(A) is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in an urban or public works or transportation setting;

(B) gives participants a mix of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values and skills through service to their communities and the United States.

(4) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development or the Secretary of Transportation.

(5) State

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

(d) Establishment of Urban Youth Corps

(1) Establishment

There is hereby established in the Department of Housing and Urban Development and the Department of Transportation an Urban Youth Corps. The Corps shall consist of individuals between the ages of 16 and 25, inclusive, who are enrolled as participants in the Corps by the Secretary of Housing and Urban Development and the Secretary of Transportation. To be eligible for enrollment in the Corps, an individual shall satisfy the criteria specified in section 139(b) of the National and Community Service Act of 1990 [42 U.S.C. 12593(b)]. The Secretaries may enroll such individuals in the Corps without regard to the civil service and classification laws, rules, or regulations of the United States. The Secretaries may establish a preference for the enrollment in the Corps of individuals who are economically, physically, or educationally disadvantaged.

(2) Use of qualified urban youth corps

The Secretaries are authorized to enter into contracts and cooperative agreements with any qualified urban youth corps to perform appropriate service projects described in paragraph (3). As part of the Urban Youth Corps established in the Department of Transportation, the Secretary of Transportation may make grants to States (and through States to local governments) for the purpose of establishing, operating, or supporting qualified urban youth corps that will perform appropriate service projects relating to transportation resources or facilities.

(3) Service projects

The Secretaries may each utilize the Corps or any qualified urban youth corps to carry out appropriate service projects that the Secretary involved is authorized to carry out under other authority of law involving public housing projects or public works resources or facilities.

(4) Preference for certain projects

In selecting an appropriate service project to be carried out under this section, the Secretaries shall give a preference to those projects which—

(A) will provide long-term benefits to the public;

(B) will instill in the participant a work ethic and a sense of public service;

(C) will be labor intensive;

(D) can be planned and initiated promptly; and

(E) will provide academic, experiential, or community education opportunities.

(5) Consistency

Each appropriate service project carried out under this section in any public housing project or public works resource or facility shall be consistent with the provisions of law and policies relating to the management and administration of such projects, facilities, or resources, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administration of such projects, facilities, or resources.

(e) Living allowances

The Secretaries shall provide each participant in the Urban Youth Corps with a living allowance in an amount not to exceed the maximum living allowance authorized by section 140(a)(3) [1] of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act [42 U.S.C. 12571 et seq.].

(f) Terms of service

Each participant in the Urban Youth Corps shall agree to participate in the Corps for a term of service established by the Secretary involved, consistent with the terms of service required under section 139(b) of the National and Community Service Act of 1990 [42 U.S.C. 12593(b)] for participants in a national service program assisted under subtitle C of title I of such Act [42 U.S.C. 12571 et seq.].

(g) Educational awards

(1) Eligibility

Each participant in the Urban Youth Corps shall be eligible for a national service educational award in the manner prescribed in subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.] if such participant complies with such requirements as may be established under this subtitle by the Secretary involved respecting eligibility for the award. The period during which the award may be used, the purposes for which the award may be used, and the amount of the award shall be determined as provided under such subtitle.

(2) Forbearance in the collection of Stafford loans

For purposes of section 1078 of title 20, in the case of borrowers who are participants in the Urban Youth Corps, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary of Education, during periods in which the borrower is serving as such a participant and eligible for a national service educational award under paragraph (1).

(h) Nondisplacement

The nondisplacement requirements of section 177 of the National and Community Service Act of 1990 [42 U.S.C. 12637] shall be applicable to all activities carried out by the Urban Youth Corps and to all activities carried out under this section by a qualified urban youth corps.

(i) Cost sharing

(1) Projects by qualified urban youth corps

The Secretaries are each authorized to pay not more than 75 percent of the costs of any appropriate service project carried out pursuant to this section by a qualified urban youth corps. The remaining 25 percent of the costs of such a project may be provided from nonfederal sources in the form of funds, services, facilities, materials, equipment, or any combination of the foregoing.

(2) Donations

The Secretaries are each authorized to accept donations of funds, services, facilities, materials, or equipment for the purposes of operating the Urban Youth Corps and carrying out appropriate service projects by the Corps. However, nothing in this section shall be construed to require any cost sharing for any project carried out directly by the Corps.

(3) Funds available under National and Community Service Act

In order to carry out the Urban Youth Corps or to support qualified urban youth corps under this section, the Secretaries shall be eligible to apply for and receive assistance under section 121(b) of the National and Community Service Act of 1990 [42 U.S.C. 12571(b)].

(Pub. L. 103–82, title I, §106, Sept. 21, 1993, 107 Stat. 854.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 140(a)(3) of the National and Community Service Act of 1990, referred to in subsec. (e), was redesignated section 140(a)(2) of the Act by Pub. L. 111–13, title I, §1315(1)(C), Apr. 21, 2009, 123 Stat. 1511, and is classified to section 12594(a)(2) of this title.

The National and Community Service Act of 1990, referred to in subsecs. (e), (f), and (g)(1), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitles C and D of title I of the Act are classified generally to divisions C (§12571 et seq.) and D (§12601 et seq.), respectively, of this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

CODIFICATION

Section was enacted as part of the National and Community Service Trust Act of 1993, and not as part of the National and Community Service Act of 1990 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as an Effective Date of 1993 Amendment note under section 1701 of Title 16, Conservation.

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

Division K—Training and Technical Assistance

§12657. Training and technical assistance

(a) In general

The Corporation shall, directly or through grants, contracts, or cooperative agreements (including through State Commissions), conduct appropriate training for and provide technical assistance to—

(1) programs receiving assistance under the national service laws; and

(2) entities (particularly entities in rural areas and underserved communities) that desire to—

(A) carry out or establish national service programs; or

(B) apply for assistance (including subgrants) under the national service laws.

(b) Activities included

Such training and technical assistance activities may include—

(1) providing technical assistance to entities applying to carry out national service programs or entities carrying out national service programs;

(2) promoting leadership development in national service programs;

(3) improving the instructional and programmatic quality of national service programs;

(4) developing the management and budgetary skills of individuals operating or overseeing national service programs, including developing skills to increase the cost effectiveness of the programs under the national service laws;

(5) providing for or improving the training provided to the participants in programs under the

national service laws;

(6) facilitating the education of individuals participating in national service programs in risk management procedures, including the training of participants in appropriate risk management practices;

(7) training individuals operating or overseeing national service programs—

(A) in volunteer recruitment, management, and retention to improve the abilities of such individuals to use participants and other volunteers in an effective manner, which training results in high-quality service and the desire of participants and volunteers to continue to serve in other capacities after the program is completed;

(B) in program evaluation and performance measures to inform practices to augment the capacity and sustainability of the national service programs; or

(C) to effectively accommodate individuals with disabilities to increase the participation of individuals with disabilities in national service programs, which training may utilize funding from the reservation of funds under section 12581(k) of this title to increase the participation of individuals with disabilities;

(8) establishing networks and collaboration among employers, educators, and other key stakeholders in the community to further leverage resources to increase local participation in national service programs, and to coordinate community-wide planning and service with respect to national service programs;

(9) providing training and technical assistance for the National Senior Service Corps, including providing such training and technical assistance to programs receiving assistance under section 5001 of this title; and

(10) carrying out such other activities as the Chief Executive Officer determines to be appropriate.

(c) Priority

In carrying out this section, the Corporation shall give priority to programs under the national service laws and entities eligible to establish such programs that seek training or technical assistance and that—

(1) seek to carry out high-quality programs where the services are needed most;

(2) seek to carry out high-quality programs where national service programs do not exist or where the programs are too limited to meet community needs;

(3) seek to carry out high-quality programs that focus on and provide service opportunities for underserved rural and urban areas and populations; and

(4) seek to assist programs in developing a service component that combines students, out-of-school youths, and older adults as participants to provide needed community services.

(Pub. L. 101–610, title I, §199N, as added Pub. L. 111–13, title I, §1821, Apr. 21, 2009, 123 Stat. 1577.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

SUBCHAPTER II—POINTS OF LIGHT FOUNDATION

§§12661 to 12664. Repealed. Pub. L. 111–13, title I, §1831(a), Apr. 21, 2009, 123 Stat. 1578

Section 12661, Pub. L. 101–610, title III, §302, Nov. 16, 1990, 104 Stat. 3180, related to findings and purpose of the Points of Light Foundation.

Section 12662, Pub. L. 101–610, title III, §303, Nov. 16, 1990, 104 Stat. 3181; Pub. L. 103–82, title IV, §402(b)(4), Sept. 21, 1993, 107 Stat. 919, granted Presidential authority to designate for funding a private, nonprofit organization known as the Points of Light Foundation.

Section 12663, Pub. L. 101–610, title III, §304, Nov. 16, 1990, 104 Stat. 3181, related to grants to the Foundation.

Section 12664, Pub. L. 101–610, title III, §305, Nov. 16, 1990, 104 Stat. 3181, related to eligibility of the Foundation for grants.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of this title.

SUBCHAPTER III—PROJECTS HONORING VICTIMS OF TERRORIST ATTACKS

§12671. Projects

(a) Definition

In this section, the term "administrative organization" means a nonprofit private organization that enters into an agreement with the Corporation to carry out this section.

(b) Identification of projects

(1) Estimated number

Not later than March 1, 2002, the administrative organization, after obtaining the guidance of the heads of appropriate Federal agencies, such as the Director of the Office of Homeland Security and the Attorney General, shall—

(A) make an estimate of the number of victims killed as a result of the terrorist attacks on September 11, 2001 (referred to in this section as the "estimated number"); and

(B) compile a list that specifies, for each individual that the administrative organization determines to be such a victim, the name of the victim and the State in which the victim resided.

(2) Identified projects

The administrative organization may identify approximately the estimated number of community-based national and community service projects that meet the requirements of subsection (d). The administrative organization may name projects in honor of victims described in subsection (b)(1)(A), after obtaining the permission of an appropriate member of the victim's family and the entity carrying out the project.

(c) Eligible entities

To be eligible to have a project named under this section, the entity carrying out the project shall be a political subdivision of a State, a business, a nonprofit organization (which may be a religious organization), an Indian tribe, or an institution of higher education.

(d) Projects

The administrative organization shall name, under this section, projects—

(1) that advance the goals of unity, and improving the quality of life in communities; and

(2) that will be planned, or for which implementation will begin, within a reasonable period after January 10, 2002, as determined by the administrative organization.

(e) Website and database

The administrative organization shall create and maintain websites and databases, to describe projects named under this section and serve as appropriate vehicles for recognizing the projects.

(Pub. L. 101–610, title IV, §401, as added Pub. L. 107–117, div. B, §1301(b), Jan. 10, 2002, 115 Stat. 2339; amended Pub. L. 111–13, title I, §1831(b), Apr. 21, 2009, 123 Stat. 1578.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 12671, Pub. L. 101–610, title IV, §401, Nov. 16, 1990, 104 Stat. 3183, stated sense of Congress concerning State enactment of model Good Samaritan Food Donation Act, prior to repeal by Pub. L. 104–210, §1(a)(1), Oct. 1, 1996, 110 Stat. 3011.

A prior section 12672, Pub. L. 101–610, title IV, §402, Nov. 16, 1990, 104 Stat. 3183, which set forth the model Good Samaritan Food Donation Act, was renumbered section 22 of the Child Nutrition Act of 1966 by Pub. L. 104–210, §1(b), Oct. 1, 1996, 110 Stat. 3012, and is classified to section 1791 of this title.

A prior section 12673, Pub. L. 101–610, title IV, §403, Nov. 16, 1990, 104 Stat. 3185, provided that model Good Samaritan Food Donation Act was intended only to serve as model law for enactment by States, District of Columbia, Commonwealth of Puerto Rico, and territories and possessions of United States, and that enactment of section 12672 of this title was to have no force or effect in law, prior to repeal by Pub. L. 104–210, §1(a)(1), Oct. 1, 1996, 110 Stat. 3011.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1831(b)(1), substituted "term 'administrative organization' means a nonprofit private organization that enters into an agreement with the Corporation to carry out this section." for "term 'Foundation' means the Points of Light Foundation funded under section 301, or another nonprofit private organization, that enters into an agreement with the Corporation to carry out this section."

Subsecs. (b), (d), (e). Pub. L. 111–13, §1831(b)(2), substituted "administrative organization" for "Foundation" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

SUBCHAPTER IV—AUTHORIZATION OF APPROPRIATIONS

§12681. Authorization of appropriations

(a) Subchapter I

(1) Division B

(A) In general

There are authorized to be appropriated to provide financial assistance under division B of subchapter I—

(i) $97,000,000 for fiscal year 2010; and

(ii) such sums as may be necessary for each of fiscal years 2011 through 2014.

(B) Part IV reservation

Of the amount appropriated under subparagraph (A) for a fiscal year, the Corporation may reserve such sums as may be necessary to carry out part IV of division B of subchapter I.

(C) Section 12561a

Of the amount appropriated under subparagraph (A) and not reserved under subparagraph (B) for a fiscal year, not more than $7,000,000 shall be made available for awards to Campuses of Service under section 12561a of this title.

(D) Section 12563(c)(8)

Of the amount appropriated under subparagraph (A) and not reserved under subparagraph (B) for a fiscal year, not more than $10,000,000 shall be made available for summer of service program grants under section 12563(c)(8) of this title, and not more than $10,000,000 shall be deposited in the National Service Trust to support summer of service educational awards, consistent with section 12563(c)(8) of this title.

(E) Section 12563(c)(9)

Of the amount appropriated under subparagraph (A) and not reserved under subparagraph (B) for a fiscal year, not more than $20,000,000 shall be made available for youth engagement zone programs under section 12563(c)(9) of this title.

(F) General programs

Of the amount remaining after the application of subparagraphs (A) through (E) for a fiscal year—

(i) not more than 60 percent shall be available to provide financial assistance under part I of division B of subchapter I;

(ii) not more than 25 percent shall be available to provide financial assistance under part II of such division; and

(iii) not less than 15 percent shall be available to provide financial assistance under part III of such division.

(2) Divisions C and D

There are authorized to be appropriated, for each of fiscal years 2010 through 2014, such sums as may be necessary to provide financial assistance under division C of subchapter I and to provide national service educational awards under division D of subchapter I for the number of participants described in section 12571(f)(1) of this title for each such fiscal year.

(3) Division E

(A) In general

There are authorized to be appropriated to operate the National Civilian Community Corps and provide financial assistance under division E of subchapter I, such sums as may be necessary for each of fiscal years 2010 through 2014.

(B) Priority

Notwithstanding any other provision of this chapter, in obligating the amounts made available pursuant to the authorization of appropriations in this paragraph, priority shall be given to programs carrying out activities in areas for which the President has declared the existence of a major disaster, in accordance with section 5170 of this title, including a major disaster as a consequence of Hurricane Katrina or Rita.

(4) Division H

(A) Authorization

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2014 to provide financial assistance under division H of subchapter I.

(B) Section 12653b

Of the amount authorized under subparagraph (A) for a fiscal year, such sums as may be necessary shall be made available to provide financial assistance under section 12653b of this title and to provide national service educational awards under division D of subchapter I to the number of participants in national service positions established or increased as provided in section 12653b(b)(3) of this title for such year.

(C) Section 12653c

Of the amount authorized under subparagraph (A) for a fiscal year, $12,000,000 shall be made available to provide financial assistance under section 12653c of this title.

(D) Section 12653h

Of the amount authorized under subparagraph (A) for a fiscal year, such sums as may be necessary shall be made available to provide financial assistance under section 12653h of this title.

(E) Section 12653k

Of the amount authorized under subparagraph (A), there shall be made available to carry out section 12653k of this title—

(i) $50,000,000 for fiscal year 2010;
(ii) $60,000,000 for fiscal year 2011;
(iii) $70,000,000 for fiscal year 2012;
(iv) $80,000,000 for fiscal year 2013; and
(v) $100,000,000 for fiscal year 2014.

(F) Section 12653p

Of the amount authorized under subparagraph (A), there shall be made available to carry out section 12653p of this title—

(i) $50,000,000 for fiscal year 2010;
(ii) $60,000,000 for fiscal year 2011;
(iii) $70,000,000 for fiscal year 2012;
(iv) $80,000,000 for fiscal year 2013; and
(v) $100,000,000 for fiscal year 2014.

(5) Administration

(A) In general

There are authorized to be appropriated for the administration of this chapter, including financial assistance under section 12576(a) of this title, such sums as may be necessary for each of fiscal years 2010 through 2014.

(B) Corporation

Of the amounts appropriated under subparagraph (A) for a fiscal year, a portion shall be made available to provide financial assistance under section 12576(a) of this title.

(6) Evaluation, training, and technical assistance

Notwithstanding paragraphs (1), (2), and (4) and any other provision of law, of the amounts appropriated for a fiscal year under divisions B, C, and H of subchapter I of this chapter and under titles I and II of the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq., 5000 et seq.], the Corporation shall reserve not more than 2.5 percent to carry out sections 12523(e) and 12639a of this title and division K of subchapter I,[1] of which $1,000,000 shall be used by the Corporation to carry out section 12639a of this title. Notwithstanding subsection (b), amounts so reserved shall be available only for the fiscal year for which the amounts are reserved.

(b) Availability of appropriations

Funds appropriated under this section shall remain available until expended.

(Pub. L. 101–610, title V, §501, Nov. 16, 1990, 104 Stat. 3185; Pub. L. 102–384, §11, Oct. 5, 1992, 106 Stat. 1459; Pub. L. 103–82, title III, §301(a), Sept. 21, 1993, 107 Stat. 897; Pub. L. 111–13, title I, §1841, Apr. 21, 2009, 123 Stat. 1579.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(3)(B), (5)(A), (6), was in the original "this Act", meaning Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of this title and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(6), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Title I of the Act is classified generally to subchapter I (§4951 et seq.) of chapter 66 of this title. Title II of the Act is classified generally to subchapter II (§5000 et seq.) of chapter 66 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of this title and Tables.

Division K of subchapter I, referred to in subsec. (a)(6), was in the original "subtitle J" which was translated as meaning subtitle J of title I of Pub. L. 101–610, to reflect the probable intent of Congress.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–13, §1841(1), added subsec. (a) and struck out former subsec. (a) which authorized appropriations for subchapter I of this chapter.

Subsecs. (b) to (d). Pub. L. 111–13, §1841(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b), which authorized appropriations for subchapter II of this chapter, and subsec. (d), which specified the budget function for the appropriations authorized in this section.

1993—Pub. L. 103–82 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which authorized appropriations to carry out subchapter I for fiscal year 1993 and subchapter II for fiscal years 1991 to 1993.

1992—Subsec. (a)(1). Pub. L. 102–384, §11(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "There are authorized to be appropriated to carry out subchapter I of this chapter, $56,000,000 for fiscal year 1991, $95,500,000 for fiscal year 1992, and $105,000,000 for fiscal year 1993."

Subsec. (a)(2). Pub. L. 102–384, §11(b), substituted "paragraph (1)(A)" for "paragraph (1)" in introductory provisions, redesignated subpars. (B) to (D) as (A) to (C), respectively, added subpar. (D), and struck out former subpar. (A) which read as follows: "$2,000,000 shall be made available to carry out part G of subchapter I of this chapter in each such fiscal year;".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as a note under section 4950 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–82, title III, §301(b), Sept. 21, 1993, 107 Stat. 898, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993."

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

§12682. Actions under national service laws to be subject to availability of appropriations

No action involving the obligation or expenditure of funds may be taken under one of the national service laws (as defined in section 12511(15) [1] of this title) unless and until the Corporation for National and Community Service has sufficient appropriations available at the time such action is taken to satisfy the obligation to be incurred or make the expenditure to be made.

(Pub. L. 103–82, title II, §205, Sept. 21, 1993, 107 Stat. 897.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12511(15) of this title, referred to in text, was redesignated section 12511(26) by Pub. L. 111–13, title I, §1102(b)(1), Apr. 21, 2009, 123 Stat. 1467.

CODIFICATION

Section enacted as part of the National and Community Service Trust Act of 1993, and not as part of the National and Community Service Act of 1990 which comprises this chapter.

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

CHAPTER 130—NATIONAL AFFORDABLE HOUSING

SUBCHAPTER I—GENERAL PROVISIONS AND POLICIES

SUBCHAPTER II—INVESTMENT IN AFFORDABLE HOUSING

PART A—HOME INVESTMENT PARTNERSHIPS

SUBCHAPTER I—GENERAL PROVISIONS AND POLICIES

§12701. National housing goal

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

(Pub. L. 101–625, title I, §101, Nov. 28, 1990, 104 Stat. 4085.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–186, title I, §101, Dec. 16, 2003, 117 Stat. 2685, provided that: "This title [amending part E of subchapter II of this chapter] may be cited as the 'American Dream Downpayment Act'."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–569, title I, §101, Dec. 27, 2000, 114 Stat. 2946, provided that: "This title [amending sections 5307, 12705c, and 12705d of this title] may be cited as the 'Housing Affordability Barrier Removal Act of 2000'."

SHORT TITLE

Pub. L. 101–625, §1(a), Nov. 28, 1990, 104 Stat. 4079, provided that: "This Act [see Tables for classification] may be cited as the 'Cranston-Gonzalez National Affordable Housing Act'."

Pub. L. 101–625, title II, §201, Nov. 28, 1990, 104 Stat. 4094, provided that: "This title [enacting subchapter II of this chapter, amending section 1437f of this title, and repealing sections 1437o and 1452b of this title, section 1706e of Title 12, Banks and Banking, and provisions set out as a note under section 1715l of Title 12] may be cited as the 'HOME Investment Partnerships Act'."

Pub. L. 101–625, title III, §301, Nov. 28, 1990, 104 Stat. 4129, provided that: "This subtitle [subtitle A (§§301–310) of title III of Pub. L. 101–625, enacting subchapter III of this chapter] may be cited as the 'National Homeownership Trust Act'."

MILLENNIAL HOUSING COMMISSION

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 671, provided for necessary expenses of the Millennial Housing Commission and set a revised final report due date of May 30, 2002, and Commission termination date of Aug. 30, 2002.

Pub. L. 106–74, title II, §206, Oct. 20, 1999, 113 Stat. 1070, as amended by Pub. L. 106–554, §1(a)(4) [div. B, title X, §1001], Dec. 21, 2000, 114 Stat. 2763, 2763A–310, established the Millennial Housing Commission to study and report back to Congress on improving Federal housing policy.

COMMISSION ON AFFORDABLE HOUSING AND HEALTH FACILITY NEEDS FOR SENIORS IN THE 21ST CENTURY

Pub. L. 107–73, title II, Nov. 26, 2001, 115 Stat. 671, provided for necessary expenses of the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century and set a revised final report due date of June 30, 2002, and Commission termination date of Sept. 30, 2002.

Pub. L. 106–74, title V, §525, Oct. 20, 1999, 113 Stat. 1106, as amended by Pub. L. 106–377, §1(a)(1) [title II, §230], Oct. 27, 2000, 114 Stat. 1441, 1441A–31, established the Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century to study and report back to Congress on housing and health care facility needs for seniors.

§12702. Objective of national housing policy

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able—

(1) to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

(Pub. L. 101–625, title I, §102, Nov. 28, 1990, 104 Stat. 4085.)

§12703. Purposes of Cranston-Gonzalez National Affordable Housing Act

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

(Pub. L. 101–625, title I, §103, Nov. 28, 1990, 104 Stat. 4085.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

§12704. Definitions

As used in this subchapter and in subchapter II:

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 12746(2) of this title; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government that has been so designated in accordance with section 12746 of this title.

(5) The term "nonprofit organization" means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization as defined in paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization's governing board low-income persons residing in each county served.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "housing" includes manufactured housing and manufactured housing lots and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings.

(9) The term "very low-income families" means low-income families whose incomes do not

exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 1437a of this title.

(12) The term "security" has the same meaning as in section 77b of title 15.

(13) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term "first-time homebuyer" means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under subchapter II, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and

(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(15) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(16) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

(18) The term "public housing agency" has the meaning given the term in section 1437a(b) of this title.

(19) The term "metropolitan city" has the meaning given the term in section 5302(a)(4) of this title.

(20) The term "urban county" has the meaning given the term in section 5302(a)(6) of this title.

(21) The term "certification" means a written assertion, based on supporting evidence, which

shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23) [1] The term "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

(24) [2] The term "insular area" means any of the following: Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(24) [2] The term "energy efficient mortgage" means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(25) The term "energy efficient mortgage" means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.

(Pub. L. 101–625, title I, §104, Nov. 28, 1990, 104 Stat. 4085; Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 101–230, §2, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102–486, title I, §105(a), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102–550, title II, §§211(a)(1), 217(a), 218, 219, title IX, §914(a), Oct. 28, 1992, 106 Stat. 3756, 3760, 3761, 3877; Pub. L. 103–233, title II, §201, Apr. 11, 1994, 108 Stat. 363.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in pars. (1), (2), (6), (16), and (21), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, as amended, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

AMENDMENTS

1994—Par. (2). Pub. L. 103–233 struck out "and" after "Columbia," and inserted before period at end ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to the provisions of this Act".

1992—Par. (1). Pub. L. 102–550, §211(a)(1), amended this section to read as if amendment made by Pub. L. 102–230, §2(1), had not been enacted. See 1991 Amendment note below.

Par. (6). Pub. L. 102–550, §217(a), inserted concluding provisions.

Par. (8). Pub. L. 102–550, §218, inserted before period at end "and elder cottage housing opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings".

Par. (14)(C). Pub. L. 102–550, §219, added subpar. (C).

Par. (24). Pub. L. 102–550, §211(a)(1), amended this section to read as if amendment made by Pub. L. 102–230, §2(2), had not been enacted. See 1991 Amendment note below.

Pub. L. 102–486 added par. (24) defining "energy efficient mortgage".

Par. (25). Pub. L. 102–550, §914(a), added par. (25).

1991—Par. (1). Pub. L. 102–230, §2(1), directed the substitution of "the insular areas" for "Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands". See 1992 Amendment note above.

Pub. L. 102–229 struck out "Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa," after "of a State;".

Par. (24). Pub. L. 102–230, §2(2), directed the addition of a par. (24) to read as follows: "(24) The term 'insular areas' means Guam, the Northern Mariana Islands, the United States Virgin Islands, and American Samoa." See 1992 Amendment note above.

Pub. L. 102–229 added par. (24) defining "insular area".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of this chapter after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–550, title II, §211(b), Oct. 28, 1992, 106 Stat. 3757, provided that: "The amendments made by subsection (a) [amending this section and section 12747 of this title] shall apply with respect to fiscal year 1993 and thereafter."

Pub. L. 102–550, title II, §223, Oct. 28, 1992, 106 Stat. 3762, provided that: "The amendments made by this title [enacting section 12810 of this title and amending this section and sections 12705, 12724, 12742, 12745 to 12748, 12750, 12771, 12773, 12774, 12782, and 12784 of this title] shall apply to unexpended funds allocated under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] in fiscal year 1992, except as otherwise specifically provided."

REGULATIONS

Pub. L. 102–550, title II, §222, Oct. 28, 1992, 106 Stat. 3762, provided that: "The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title [enacting section 12810 of this title, amending this section and sections 12705, 12724, 12742, 12745 to 12748, 12750, 12771, 12773, 12774, 12782, and 12784 of this title, and enacting provisions set out as notes under this section and sections 12746, 12747, and 12750 of this title] and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section)."

TRANSITION RULE

Pub. L. 102–550, title II, §217(b), Oct. 28, 1992, 106 Stat. 3760, provided that: "For the purposes of determining compliance with the requirements of section 104(6) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12704(6)], the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act [42 U.S.C. 12721 et seq.] or September 30, 1993, whichever is sooner."

[1] *So in original. Probably should be "(22)".*

[2] *So in original. Two pars. (24) have been enacted.*

§12705. State and local housing strategies

(a) In general

The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under subchapter II of this chapter and other programs requiring submission of a housing strategy. If

the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) Contents

A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for very low-income, low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, persons with disabilities, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, victims of domestic violence, dating violence, sexual assault, and stalking and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness, including rural homelessness, within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, including tabular representation of such information, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies, except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under subchapter II of this chapter, the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing and Community Development Act of 1974, and the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs [1] (1) and (2), describe the reasons for allocation priorities, and identify any

obstacles to addressing underserved needs;

(9) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(10) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing;

(12) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(13) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(14) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(15) include a certification that the jurisdiction will affirmatively further fair housing;

(16) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under subchapter II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 [42 U.S.C. 5304(d)] in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act [42 U.S.C. 5306, 5318];

(17) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 4851b of this title, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs;

(18) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 12745 of this title using funds made available;

(19) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(20) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under subchapter II of this chapter. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) Approval

(1) In general

The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following November 28, 1990, the Secretary may extend the review period to not longer than 90 days.

(2) Actions in case of disapproval

If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) Amendments and resubmission

The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) Coordination of State and local housing strategies

The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) Consultation with social service agencies

(1) In general

When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(2) Lead-based paint hazards

When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.

(f) Barrier removal

Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

(g) Treatment of troubled public housing agencies

(1) Effect of troubled status on CHAS

The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under this section unless such plan includes a description of the manner in which the State or unit will provide financial or other assistance to such troubled agency in improving its operations to remove such designation.

(2) Definition

For purposes of this subsection, the term "troubled public housing agency" means a public housing agency that, upon the effective date of the Quality Housing and Work Responsibility Act of 1998, is designated under section 6(j)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437d(j)(2)] as a troubled public housing agency.

(Pub. L. 101–625, title I, §105, Nov. 28, 1990, 104 Stat. 4088; Pub. L. 102–550, title II, §220, title VI, §681, title X, §1014, title XII, §1206, Oct. 28, 1992, 106 Stat. 3761, 3830, 3908, 3940; Pub. L. 105–276, title V, §§568, 583, Oct. 21, 1998, 112 Stat. 2634, 2644; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 109–162, title VI, §604, Jan. 5, 2006, 119 Stat. 3040.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(6), (14) and (c)(1), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b)(7), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (b)(7), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (b)(7), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The effective date of the Quality Housing and Work Responsibility Act of 1998, referred to in subsec. (g)(2), probably means the general effective date for title V of Pub. L. 105–276, included in section 503 of Pub. L. 105–276 which is set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109–162 inserted "victims of domestic violence, dating violence, sexual assault, and stalking" after "immunodeficiency syndrome,".

2000—Subsec. (b)(7). Pub. L. 106–400 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

1998—Subsec. (b). Pub. L. 105–276, §583(1), transferred flush provisions relating to abbreviated housing strategies to end of subsection to follow last numbered paragraph.

Subsec. (b)(11) to (15). Pub. L. 105–276, §583(6), (7), added par. (11) and redesignated former pars. (11) to (14) as (12) to (15), respectively. Former par. (15) redesignated (16).

Subsec. (b)(16). Pub. L. 105–276, §583(6), redesignated par. (15) as (16). Former par. (16), relating to housing units that contain lead-based paint hazards, redesignated (17), and former par. (16), relating to number of families to whom jurisdiction will provide affordable housing, redesignated (18).

Pub. L. 105–276, §583(5)(A), substituted "programs;" for "programs." in par. (16) relating to housing units that contain lead-based paint hazards.

Pub. L. 105–276, §583(4)(A), struck out "and" at end of par. (16) relating to number of families to whom jurisdiction will provide affordable housing.

Subsec. (b)(17). Pub. L. 105–276, §583(5)(B), redesignated par. (16), relating to housing units that contain

lead-based paint hazards, as (17). Former par. (17), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, redesignated (19), and former par. (17), relating to activities to enhance coordination, redesignated (20).

Subsec. (b)(18). Pub. L. 105–276, §583(4)(B), redesignated par. (16), relating to number of families to whom jurisdiction will provide affordable housing, as (18).

Subsec. (b)(19). Pub. L. 105–276, §583(3), redesignated par. (17), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, as (19).

Subsec. (b)(20). Pub. L. 105–276, §583(2), redesignated par. (17), relating to activities to enhance coordination, as (20).

Subsec. (g). Pub. L. 105–276, §568, added subsec. (g).

1992—Subsec. (b)(1). Pub. L. 102–550, §681(1), inserted "persons with disabilities," after "the elderly,".

Subsec. (b)(2). Pub. L. 102–550, §220(a), inserted ", including rural homelessness," after "extent of homelessness" and "including tabular representation of such information," after "with homelessness,".

Subsec. (b)(4). Pub. L. 102–550, §1206, inserted before semicolon at end ", except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the information required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph".

Subsec. (b)(8). Pub. L. 102–550, §220(c)(2), added par. (8). Former par. (8) redesignated (9).

Subsec. (b)(9) to (13). Pub. L. 102–550, §220(c)(1), redesignated pars. (8) to (12) as (9) to (13), respectively. Former par. (13) redesignated (14).

Subsec. (b)(14). Pub. L. 102–550, §220(c)(1), redesignated par. (13) as (14). Former par. (14) redesignated (15).

Pub. L. 102–550, §220(b)(1), added par. (14) and struck out former par. (14) which read as follows: "include a certification that the jurisdiction is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the jurisdiction); and".

Subsec. (b)(15). Pub. L. 102–550, §220(c)(1), redesignated par. (14) as (15). Former par. (15) redesignated (16).

Subsec. (b)(16). Pub. L. 102–550, §1014(3), added par. (16) relating to housing units that contain lead-based paint hazards.

Pub. L. 102–550, §220(c)(1), redesignated par. (15) as (16). Former par. (16) redesignated (17).

Pub. L. 102–550, §220(b)(3), added at end par. (16) relating to reducing the number of households within a jurisdiction with incomes below the poverty line.

Subsec. (b)(17). Pub. L. 102–550, §681(2), which directed amendment of subsec. (b) by adding "after paragraph (16), as added by the preceding provisions of this Act", a new par. (17) relating to activities to enhance coordination, was executed by adding that par. (17) after par. (17) (formerly par. (16), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, to reflect the probable intent of Congress.

Pub. L. 102–550, §220(c)(1), redesignated par. (16), relating to reducing the number of households within a jurisdiction with incomes below the poverty line, as (17).

Subsec. (e). Pub. L. 102–550, §1014(4), designated existing provisions as par. (1), inserted heading, and added par. (2).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 220 of Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

Amendment by subtitles B through F of title VI [§§621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this

title.

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

§12705a. Purposes of Removal of Regulatory Barriers to Affordable Housing Act

The purposes of sections 12705a to 12705d of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

(Pub. L. 102–550, title XII, §1202, Oct. 28, 1992, 106 Stat. 3938.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original "this title", meaning title XII of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as a note below.

CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 102–550, title XII, §1201, Oct. 28, 1992, 106 Stat. 3938, provided that: "This title [enacting this section and sections 12705b to 12705d of this title, amending sections 5306 and 12705 of this title, and enacting provisions set out as a note below] may be cited as the 'Removal of Regulatory Barriers to Affordable Housing Act of 1992'."

REPORT BY SECRETARY

Pub. L. 102–550, title XII, §1207, Oct. 28, 1992, 106 Stat. 3941, provided that not later than 2 years after Oct. 28, 1992, the Secretary of Housing and Urban Development submit a report to Congress describing any successful State and local strategies for removal of barriers to affordable housing, assessing impact of identified regulatory barriers on housing patterns of minorities, and describing any strategies developed or implemented by Department of Housing and Urban Development for reducing barriers to affordable housing imposed by Federal Government, prior to repeal by Pub. L. 105–362, title VII, §701(b), Nov. 10, 1998, 112 Stat. 3287.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13878. ESTABLISHING A WHITE HOUSE COUNCIL ON ELIMINATING REGULATORY BARRIERS TO AFFORDABLE HOUSING

Ex. Ord. No. 13878, June 25, 2019, 84 F.R. 30853, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. For many Americans, access to affordable housing is becoming far too difficult. Rising housing costs are forcing families to dedicate larger shares of their monthly incomes to housing. In

2017, approximately 37 million renter and owner households spent more than 30 percent of their incomes on housing, with more than 18 million spending more than half of their incomes on housing. Between 2001 and 2017, the number of renter households allocating more than half of their incomes toward rent increased by nearly 45 percent. These rising costs are leaving families with fewer resources for necessities such as food, healthcare, clothing, education, and transportation, negatively affecting their quality of life and hindering their access to economic opportunity.

Driving the rise in housing costs is a lack of housing supply to meet demand. Federal, State, local, and tribal governments impose a multitude of regulatory barriers—laws, regulations, and administrative practices—that hinder the development of housing. These regulatory barriers include: overly restrictive zoning and growth management controls; rent controls; cumbersome building and rehabilitation codes; excessive energy and water efficiency mandates; unreasonable maximum-density allowances; historic preservation requirements; overly burdensome wetland or environmental regulations; outdated manufactured-housing regulations and restrictions; undue parking requirements; cumbersome and time-consuming permitting and review procedures; tax policies that discourage investment or reinvestment; overly complex labor requirements; and inordinate impact or developer fees. These regulatory barriers increase the costs associated with development, and, as a result, drive down the supply of affordable housing. They are the leading factor in the growth of housing prices across metropolitan areas in the United States. Many of the markets with the most severe shortages in affordable housing contend with the most restrictive State and local regulatory barriers to development.

These regulatory barriers impede our Nation's economic growth. Hardworking American families struggle to live in markets where there is an insufficient supply of housing—even in markets generating a significant number of jobs. One recent study suggests that certain regulatory restrictions on housing supply have forced workers to live far away from high-productivity areas with the best available jobs, creating a geographic misallocation of labor between cities that may have decreased the annual economic growth rate in the United States by 36 percent between 1964 and 2009.

Low- and middle-income Americans are often hit the hardest by regulatory barriers to housing development. High housing costs place strains on household budgets, limit educational opportunities, impair workforce mobility, slow job creation, and increase financial risks. Furthermore, studies have consistently identified high housing prices as a primary determinant of homelessness, and research has directly linked more stringent housing market regulation to higher homelessness rates.

To help these populations, in 2018, the Federal Government invested more than $46 billion in rental assistance programs for low-income families—much of which grows at approximately 3 percent per annum while assisting a fixed number of households. The Federal Government provides additional housing support through the tax code, with over $9.1 billion in tax expenditures in Low-Income Housing Tax Credits (LIHTC) to developers of low-income housing. Generally, these Federal tax dollars are focused disproportionately on areas with high-cost and highly regulated housing markets.

But to improve housing affordability in a truly sustainable manner, we need innovative solutions—not simply increases in spending and subsidies for Federal housing. These solutions must address the regulatory barriers that are inhibiting the development of housing. If we fail to act, Federal subsidies will only continue to mask the true cost of these onerous regulatory barriers, and, as a result, many Americans will not be able to access the opportunities they deserve.

SEC. 2. *Policy*. It shall be the policy of my Administration to work with Federal, State, local, tribal, and private sector leaders to address, reduce, and remove the multitude of overly burdensome regulatory barriers that artificially raise the cost of housing development and help to cause the lack of housing supply. Increasing the supply of housing by removing overly burdensome regulatory barriers will reduce housing costs, boost economic growth, and provide more Americans with opportunities for economic mobility. In addition, it will strengthen American communities and the quality of services offered in them by allowing hardworking Americans to live in or near the communities they serve.

SEC. 3. *White House Council on Eliminating Regulatory Barriers to Affordable Housing*. There is hereby established a White House Council on Eliminating Regulatory Barriers to Affordable Housing (Council). The Council shall be chaired by the Secretary of Housing and Urban Development, or his designee. The Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, or their designees, shall be Vice Chairs.

(a) *Membership*. In addition to the Chair and Vice Chairs, the Council shall consist of the following officials, or their designees:

(i) the Secretary of the Treasury;

(ii) the Secretary of the Interior;

(iii) the Secretary of Agriculture;

(iv) the Secretary of Labor;

(v) the Secretary of Transportation;

(vi) the Secretary of Energy;

(vii) the Administrator of the Environmental Protection Agency;

(viii) the Director of the Office of Management and Budget;

(ix) the Chairman of the Council of Economic Advisers;

(x) the Deputy Assistant to the President and Director of Intergovernmental Affairs; and

(xi) the heads of such other executive departments and agencies (agencies) and offices as the President, Chair, or Vice Chairs may, from time to time, designate or invite, as appropriate.

(b) *Administration*. The Vice Chairs shall convene regular meetings of the Council, determine its agenda, and direct its work with the oversight of and in consultation with the Chair. The Department of Housing and Urban Development shall provide funding and administrative support for the Council.

SEC. 4. *Mission and Functions of the Council*. The Council shall work across agencies and offices, with consideration of existing initiatives, to:

(a) solicit feedback from State, local, and tribal government officials, as well as relevant private-sector stakeholders, including developers, homebuilders, creditors, real estate professionals, manufacturers, academic researchers, renters, advocates, and homeowners, to:

(i) identify Federal, State, local, and tribal laws, regulations, and administrative practices that artificially raise the costs of housing development and contribute to shortages in housing supply, and

(ii) identify practices and strategies that most successfully reduce and remove burdensome Federal, State, local, and tribal laws, regulations, and administrative practices that artificially raise the costs of housing development, while highlighting actors that successfully implement such practices and strategies;

(b) evaluate and quantify the effect that various Federal, State, local, and tribal regulatory barriers have on affordable housing development, and the economy in general, and identify ways to improve the data available to the public and private researchers who evaluate such effects, without violating privacy laws or creating unnecessary burdens;

(c) identify and assess the actions each agency can take under existing authorities to minimize Federal regulatory barriers that unnecessarily raise the costs of housing development;

(d) assess the actions each agency can take under existing authorities to align, support, and encourage State, local, and tribal efforts to reduce regulatory barriers that unnecessarily raise the costs of housing development; and

(e) recommend Federal, State, local, and tribal actions and policies that would:

(i) reduce and streamline statutory, regulatory, and administrative burdens at all levels of government that inhibit the development of affordable housing, and

(ii) encourage State, local, and tribal governments to reduce regulatory barriers to the development of affordable housing.

SEC. 5. *Reports*. The Vice Chairs, on behalf of the Council, and with the oversight of and in consultation with the Chair, shall:

(a) within 12 months of the date of this order [June 25, 2019], submit to the President a report on the Council's implementation of section 4 of this order; and

(b) submit to the President any subsequent report that the President may request or that the Council may deem appropriate.

SEC. 6. *Agency Participation and Response*. The heads of agencies and offices shall provide such assistance and information to the Council, consistent with applicable law, as may be necessary to carry out the functions of this order.

SEC. 7. *Termination*. The Council shall terminate on January 21, 2021, unless extended by the President.

SEC. 8. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

§12705b. Definition of regulatory barriers to affordable housing

For purposes of sections 12705a to 12705d of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 12705(b)(4) of this title. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

(Pub. L. 102–550, title XII, §1203, Oct. 28, 1992, 106 Stat. 3938.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 12705a to 12705d of this title, referred to in text, were in the original "this title", meaning title XII of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3938, known as the Removal of Regulatory Barriers to Affordable Housing Act of 1992, which enacted sections 12705a to 12705d of this title, amended sections 5306 and 12705 of this title, and enacted provisions set out as notes under section 12705a of this title.

CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

§12705c. Grants for regulatory barrier removal strategies and implementation

(a) Funding

There is authorized to be appropriated for grants under subsections (b) and (c) [1] such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

(b) Grant authority

The Secretary may make grants to States and units of general local government (including consortia of such governments) for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide State, local, or regional programs to reduce regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State or local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

(5) carrying out the simplification and consolidation of administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

(c) Repealed. Pub. L. 106–569, title I, §102(c), Dec. 27, 2000, 114 Stat. 2947

(d) Definitions

For purposes of this section, the terms "regulatory barriers to affordable housing" and "regulatory barriers" have the meaning given such terms in section 12705b of this title.

(e) Application and selection

The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 12705(b)(4) of this title.

(f) Selection of grantees

To the extent amounts are made available to carry out this section, the Secretary shall provide grants on a competitive basis to eligible grantees based on the proposed uses of such amounts, as provided in applications under subsection (e).

(g) Coordination with clearinghouse

Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 12705d of this title.

(h) Reports to Secretary

Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

(Pub. L. 102–550, title XII, §1204, Oct. 28, 1992, 106 Stat. 3938; Pub. L. 106–569, title I, §102(a)–(e), Dec. 27, 2000, 114 Stat. 2946, 2947.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (c) of this section, referred to in subsec. (a), was repealed by Pub. L. 106–569, title I, §102(c), Dec. 27, 2000, 114 Stat. 2947.

CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

Section is comprised of section 1204 of Pub. L. 102–550. Subsection (i) of section 1204 of Pub. L. 102–550 amended section 5306 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–569, §102(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "The amounts set aside under section 5307 of this title for the purpose of this subsection shall be available for grants under subsection (b) and (c) of this section."

Subsec. (b). Pub. L. 106–569, §102(b)(1), (2), substituted "Grant authority" for "State grants" in heading and inserted "and units of general local government (including consortia of such governments)" after "States" in introductory provisions.

Subsec. (b)(3). Pub. L. 106–569, §102(b)(3), substituted "State, local, or regional programs to reduce" for "a State program to reduce State and local".

Subsec. (b)(4). Pub. L. 106–569, §102(b)(4), inserted "or local" after "State".

Subsec. (b)(5). Pub. L. 106–569, §102(b)(5), struck out "State" before "administrative procedures".

Subsec. (c). Pub. L. 106–569, §102(c), struck out heading and text of subsec. (c) which related to local grants.

Subsec. (e). Pub. L. 106–569, §102(d), substituted "and such criteria shall require that grant amounts be used in a manner consistent with the strategy contained in the comprehensive housing affordability strategy for the jurisdiction pursuant to section 12705(b)(4) of this title" for "and for the selection of units of general

local government to receive grants under subsection (f)(2) of this section" before period at end.

Subsec. (f). Pub. L. 106–569, §102(e), amended heading and text of subsec. (f) generally, substituting provisions relating to selection of grantees for provisions relating to allocation of amounts.

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

§12705d. Regulatory barriers clearinghouse

(a) Establishment

The Secretary of Housing and Urban Development shall establish a clearinghouse to serve as a national repository to receive, collect, process, assemble, and disseminate information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing (including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property), and the prevalence and effects on affordable housing of such laws, regulations, and policies;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies, including particularly innovative or successful activities, strategies, and plans; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation, including particularly innovative or successful strategies, activities, and plans.

(b) Functions

The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a);

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans; and

(3) by making available through a World Wide Web site of the Department, by electronic mail, or otherwise, provide to each housing agency of a unit of general local government that serves an area having a population greater than 100,000, an index of all State and local strategies and plans submitted under subsection (a) to the clearinghouse, which—

(A) shall describe the types of barriers to affordable housing that the strategy or plan was designed to ameliorate or remove; and

(B) shall, not later than 30 days after submission to the clearinghouse of any new strategy or plan, be updated to include the new strategy or plan submitted.

(c) Organization

The clearinghouse under this section shall be established within the Office of Policy Development of the Department of Housing and Urban Development and shall be under the direction of the Assistant Secretary for Policy Development and Research.

(d) Timing

The clearinghouse under this section (as amended by section 103 of the Housing Affordability Barrier Removal Act of 2000) shall be established and commence carrying out the functions of the clearinghouse under this section not later than 1 year after December 27, 2000. The Secretary of Housing and Urban Development may comply with the requirements under this section by reestablishing the clearinghouse that was originally established to comply with this section and updating and improving such clearinghouse to the extent necessary to comply with the requirements of this section as in effect pursuant to the enactment of such Act.

(Pub. L. 102–550, title XII, §1205, Oct. 28, 1992, 106 Stat. 3940; Pub. L. 106–569, title I, §103, Dec. 27, 2000, 114 Stat. 2947.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing Affordability Barrier Removal Act of 2000, referred to in subsec. (d), is title I of Pub. L. 106–569, Dec. 27, 2000, 114 Stat. 2946. Section 103 of the Act amended this section. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 12701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Removal of Regulatory Barriers to Affordable Housing Act of 1992, and also as part of the Housing and Community Development Act of 1992, and not as part of the Cranston-Gonzalez National Affordable Housing Act which comprises this chapter.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–569, §103(1)(A), substituted "serve as a national repository to receive, collect, process, assemble, and disseminate" for "receive, collect, process, and assemble" in introductory provisions.

Subsec. (a)(1). Pub. L. 106–569, §103(1)(B), substituted "(including" for ", including" and inserted "), and the prevalence and effects on affordable housing of such laws, regulations, and policies" before semicolon at end.

Subsec. (a)(2). Pub. L. 106–569, §103(1)(C), inserted before semicolon ", including particularly innovative or successful activities, strategies, and plans".

Subsec. (a)(3). Pub. L. 106–569, §103(1)(D), inserted before period at end ", including particularly innovative or successful strategies, activities, and plans".

Subsec. (b)(3). Pub. L. 106–569, §103(2), added par. (3).

Subsecs. (c), (d). Pub. L. 106–569, §103(3), added subsecs. (c) and (d).

§12706. Certification

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under subchapter II of this chapter, assistance under the Housing and Community Development Act of 1974, or assistance under the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

(Pub. L. 101–625, title I, §106, Nov. 28, 1990, 104 Stat. 4091; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in text, is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in text, is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

AMENDMENTS

2000—Pub. L. 106–400 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

§12707. Citizen participation

(a) In general

Before submitting a housing strategy under this section,[1] a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) Notice and comment

Before submitting any performance report or substantial amendment to a housing strategy under this section,[1] a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) Consideration of comments

A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) Regulations

The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

(Pub. L. 101–625, title I, §107, Nov. 28, 1990, 104 Stat. 4091.)

[1] So in original. The words "this section" probably should be "section 12705 of this title".

§12708. Compliance

(a) Performance reports

(1) In general

Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 12705(b)(15) [1] of this title, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) Submission

The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) Failure to report

If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under subchapter II of this chapter or the other programs referred to in section 12706 of this title may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) Performance review by Secretary

(1) In general

The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 12705 of this title are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) Report by Secretary

The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) Review by courts

The adequacy of information submitted under section 12705(b)(4) of this title shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

(Pub. L. 101–625, title I, §108, Nov. 28, 1990, 104 Stat. 4092.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12705(b)(15) of this title, referred to in subsec. (a)(1), was redesignated section 12705(b)(16) of this title by Pub. L. 102–550, title II, §220(c)(1), Oct. 28, 1992, 106 Stat. 3762, and was subsequently redesignated section 12705(b)(18) of this title by Pub. L. 105–276, title V, §583(4)(A), Oct. 21, 1998, 112 Stat. 2644.

This Act, referred to in subsecs. (a)(2) and (c), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

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

§12709. Energy efficiency standards

(a) Establishment

(1) In general

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than September 30, 2006, jointly establish, by rule, energy efficiency standards for—

(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.];

(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; and

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title.

(2) Contents

Such standards shall meet or exceed the requirements of the 2006 International Energy Conservation Code (hereafter in this section referred to as "the 2006 IECC"), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–2004 (hereafter in this section referred to as "ASHRAE Standard 90.1–2004"), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

(b) International Energy Conservation Code

If the Secretaries have not, by September 30, 2006, established energy efficiency standards under subsection (a), all new construction and rehabilitation of housing specified in such subsection shall meet the requirements of the 2006 IECC, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1–2004.

(c) Revisions of the International Energy Conservation Code

If the requirements of the 2006 IECC, or, in the case of multifamily high rises, ASHRAE Standard 90.1–2004, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.

(d) Failure to amend the standards

If the Secretary of Housing and Urban Development and the Secretary of Agriculture have not, within 1 year after the requirements of the 2006 IECC or the ASHRAE Standard 90.1–2004 are revised, amended the standards or made a determination under subsection (c), all new construction and rehabilitation of housing specified in subsection (a) shall meet the requirements of the revised code or standard if—

(1) the Secretary of Housing and Urban Development or the Secretary of Agriculture make a determination that the revised codes do not negatively affect the availability or affordability of new construction of assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act (12 U.S.C. 1701 et seq.) or insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), respectively; and

(2) the Secretary of Energy has made a determination under section 6833 of this title that the revised code or standard would improve energy efficiency.

(Pub. L. 101–625, title I, §109, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102–486, title I, §101(c)(1), Oct. 24, 1992, 106 Stat. 2786; Pub. L. 109–58, title I, §153, Aug. 8, 2005, 119 Stat. 649; Pub. L.

110–140, title IV, §481, Dec. 19, 2007, 121 Stat. 1648.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a)(1)(A) and (d)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

The Housing Act of 1949, referred to in subsecs. (a)(1)(B) and (d)(1), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Act is classified generally to subchapter III (§1471 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

AMENDMENTS

2007—Pub. L. 110–140, §481(6), substituted "2004" for "1989" wherever appearing in subsecs. (a) to (c).

Subsec. (a)(1)(C). Pub. L. 110–140, §481(1)(A), struck out ", where such standards are determined to be cost effective by the Secretary of Housing and Urban Development" before period at end.

Subsec. (a)(2). Pub. L. 110–140, §481(1)(B), (5), in first sentence, substituted "2006 International Energy Conservation Code" for "Council of American Building Officials Model Energy Code, 1992" and "the 2006 IECC" for "CABO Model Energy Code, 1992" and struck out ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code" before ", and shall be".

Subsec. (b). Pub. L. 110–140, §481(2), (5), in heading, substituted "International Energy Conservation" for "Model Energy" and, in text, inserted "and rehabilitation" after "all new construction", substituted "the 2006 IECC" for "CABO Model Energy Code, 1992", and struck out ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code" before period at end.

Subsec. (c). Pub. L. 110–140, §481(3), (5), in heading, struck out "Model Energy Code and" after "Revisions of" and, in text, substituted "the 2006 IECC" for "CABO Model Energy Code, 1992", and struck out ", or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code" before ", are revised".

Subsec. (d). Pub. L. 110–140, §481(4), added subsec. (d).

2005—Subsec. (a)(1). Pub. L. 109–58, §153(1)(A)(i), substituted "September 30, 2006" for "1 year after October 24, 1992" in introductory provisions.

Subsec. (a)(1)(C). Pub. L. 109–58, §153(1)(A)(ii)–(iv), added subpar. (C).

Subsec. (a)(2). Pub. L. 109–58, §153(1)(B), inserted ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code" after "90.1–1989')".

Subsec. (b). Pub. L. 109–58, §153(2), substituted "by September 30, 2006" for "within 1 year after October 24, 1992" and inserted ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code" before period at end.

Subsec. (c). Pub. L. 109–58, §153(3), inserted "and the International Energy Conservation Code" after "Model Energy Code" in heading and ", or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 1437v of this title, the 2003 International Energy Conservation Code" after "90.1–1989" in text.

1992—Pub. L. 102–486 amended section generally. Prior to amendment, section read as follows: "The Secretary of Housing and Urban Development shall, not later than one year after November 28, 1990, promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§12710. Capacity study

(a) In general

The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program, and the ability to respond to areas identified as "material weaknesses" by the Office of the Inspector General in financial audits or other reports.

(b) Report

Not later than 60 days after November 28, 1990, and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

(Pub. L. 101–625, title I, §110, Nov. 28, 1990, 104 Stat. 4093; Pub. L. 102–550, title IV, §407, Oct. 28, 1992, 106 Stat. 3778.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550 struck out ", and" after "responsibilities" and substituted for period at end "and the ability to respond to areas identified as 'material weaknesses' by the Office of the Inspector General in financial audits or other reports."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

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

§12711. Protection of State and local authority

Notwithstanding any other provision of this subchapter or subchapter II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by

the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

(Pub. L. 101–625, title I, §111, Nov. 28, 1990, 104 Stat. 4093.)

§12712. 5-year energy efficiency plan

(a) Establishment

The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) Initial plan

The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on November 28, 1990.

(c) Updates

The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) Submission to Congress

The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(Pub. L. 101–625, title IX, §945, Nov. 28, 1990, 104 Stat. 4416.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 944, referred to in subsec. (a), is section 944 of Pub. L. 101–625, which is set out below.

CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

BUDGET-NEUTRAL DEMONSTRATION PROGRAM FOR ENERGY AND WATER CONSERVATION IMPROVEMENTS AT MULTIFAMILY RESIDENTIAL UNITS

Pub. L. 114–94, div. G, title LXXXI, §81001, Dec. 4, 2015, 129 Stat. 1792, provided that:

"(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall establish a demonstration program under which the Secretary may execute budget-neutral, performance-based agreements in fiscal years 2016 through 2019 that result in a reduction in energy or water costs with such entities as the Secretary determines to be appropriate under which the entities shall carry out projects for energy or water conservation improvements at not more than 20,000 residential units in multifamily buildings participating in—

"(1) the project-based rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), other than assistance provided under section 8(o) of that Act;

"(2) the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12

U.S.C. 1701q); or

"(3) the supportive housing for persons with disabilities program under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(d)(2)).

"(b) REQUIREMENTS.—

"(1) PAYMENTS CONTINGENT ON SAVINGS.—

"(A) IN GENERAL.—The Secretary shall provide to an entity a payment under an agreement under this section only during applicable years for which an energy or water cost savings is achieved with respect to the applicable multifamily portfolio of properties, as determined by the Secretary, in accordance with subparagraph (B).

"(B) PAYMENT METHODOLOGY.—

"(i) IN GENERAL.—Each agreement under this section shall include a pay-for-success provision that—

"(I) shall serve as a payment threshold for the term of the agreement; and

"(II) requires that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties.

"(ii) LIMITATIONS.—A payment made by the Secretary under an agreement under this section—

"(I) shall be contingent on documented utility savings; and

"(II) shall not exceed the utility savings achieved by the date of the payment, and not previously paid, as a result of the improvements made under the agreement.

"(C) THIRD-PARTY VERIFICATION.—Savings payments made by the Secretary under this section shall be based on a measurement and verification protocol that includes at least—

"(i) establishment of a weather-normalized and occupancy-normalized utility consumption baseline established pre-retrofit;

"(ii) annual third-party confirmation of actual utility consumption and cost for utilities;

"(iii) annual third-party validation of the tenant utility allowances in effect during the applicable year and vacancy rates for each unit type; and

"(iv) annual third-party determination of savings to the Secretary.

An agreement under this section with an entity shall provide that the entity shall cover costs associated with third-party verification under this subparagraph.

"(2) TERMS OF PERFORMANCE-BASED AGREEMENTS.—A performance-based agreement under this section shall include—

"(A) the period that the agreement will be in effect and during which payments may be made, which may not be longer than 12 years;

"(B) the performance measures that will serve as payment thresholds during the term of the agreement;

"(C) an audit protocol for the properties covered by the agreement;

"(D) a requirement that payments shall be contingent on realized cost savings associated with reduced utility consumption in the participating properties; and

"(E) such other requirements and terms as determined to be appropriate by the Secretary.

"(3) ENTITY ELIGIBILITY.—The Secretary shall—

"(A) establish a competitive process for entering into agreements under this section; and

"(B) enter into such agreements only with entities that, either jointly or individually, demonstrate significant experience relating to—

"(i) financing or operating properties receiving assistance under a program identified in subsection (a);

"(ii) oversight of energy or water conservation programs, including oversight of contractors; and

"(iii) raising capital for energy or water conservation improvements from charitable organizations or private investors.

"(4) GEOGRAPHICAL DIVERSITY.—Each agreement entered into under this section shall provide for the inclusion of properties with the greatest feasible regional and State variance.

"(5) PROPERTIES.—A property may only be included in the demonstration under this section only if the property is subject to affordability restrictions for at least 15 years after the date of the completion of any conservation improvements made to the property under the demonstration program. Such restrictions may be made through an extended affordability agreement for the property under a new housing assistance payments contract with the Secretary of Housing and Urban Development or through an enforceable covenant with the owner of the property.

"(c) PLAN AND REPORTS.—

"(1) PLAN.—Not later than 90 days after the date of enactment of this Act [Dec. 4, 2015], the Secretary shall submit to the Committees on Appropriations and Financial Services of the House of Representatives and the Committees on Appropriations and Banking, Housing, and Urban Affairs of the Senate a detailed plan for the implementation of this section.

"(2) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall—

"(A) conduct an evaluation of the program under this section; and

"(B) submit to Congress a report describing each evaluation conducted under subparagraph (A).

"(d) FUNDING.—For each fiscal year during which an agreement under this section is in effect, the Secretary may use to carry out this section any funds appropriated to the Secretary for the renewal of contracts under a program described in subsection (a)."

ENERGY ASSESSMENT REPORT

Pub. L. 101–625, title IX, §944, Nov. 28, 1990, 104 Stat. 4415, directed Secretary of Housing and Urban Development to submit a report to Congress, not later than one year after Nov. 28, 1990, assessing any activity undertaken by the Secretary to increase energy efficiency in housing, such report to include an analysis of the Aug. 15, 1990, DOE-HUD program to expand energy efficiency and increase affordability of federally-assisted housing, and provided that in such report Secretary of Housing and Urban Development (in consultation with Secretary of Energy) was to establish, and include a description of, a standard measure by which changes over time in residential energy efficiency could be compared.

UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY

Pub. L. 101–625, title IX, §946, Nov. 28, 1990, 104 Stat. 4416, as amended by Pub. L. 102–486, title I, §105(b), Oct. 24, 1992, 106 Stat. 2792; Pub. L. 102–550, title IX, §914(b), Oct. 28, 1992, 106 Stat. 3877, provided that:

"(a) UNIFORM PLAN.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through energy efficient mortgages (as such term is defined in section 104 of this Act [42 U.S.C. 12704]). The plan shall be promulgated not later than 2 years after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990].

"(b) TASK FORCE.—To develop the plan, the Secretary shall form a task force to make recommendation[s] on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include, but not be limited to, individuals representing the Federal Housing Administration mortgage programs of the Department of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association. The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines."

ENERGY EFFICIENCY DEMONSTRATION

Pub. L. 101–625, title IX, §961, Nov. 28, 1990, 104 Stat. 4424, directed Secretary of Housing and Urban Development to establish a program to demonstrate various methods of improving the energy efficiency of existing housing, provided for funding, provided that the demonstration determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed, and directed Secretary, as soon as practicable after Sept. 30, 1991, to submit to Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

§12713. Eligibility under first-time homebuyer programs

(a) Eligibility of displaced homemakers and single parents for Federal assistance for first-time homebuyers

(1) Displaced homemakers

No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) Single parents

No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) Definitions

For purposes of this section:

(1) Displaced homemaker

The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) First-time homebuyer

The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) Single parent

The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) Applicability

This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

(Pub. L. 101–625, title IX, §956, Nov. 28, 1990, 104 Stat. 4421.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of title IX of the Cranston-Gonzalez National Affordable Housing Act, and not as part of title I of such Act which comprises this subchapter.

§12714. Repealed. Pub. L. 104–99, title IV, §404(a), Jan. 26, 1996, 110 Stat. 44

Section, Pub. L. 101–625, title IX, §957, Nov. 28, 1990, 104 Stat. 4422, related to maximum annual limitation on rent increases resulting from employment.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 104–99, title IV, §404(a), Jan. 26, 1996, 110 Stat. 44, provided in part that this section is repealed retroactive to Nov. 28, 1990, and shall be of no effect.

ECONOMIC INDEPENDENCE

Pub. L. 102–550, title IX, §923, Oct. 28, 1992, 106 Stat. 3884, which provided that Secretary of Housing and Urban Development was to immediately implement section 12714 of this title and that other Federal

agencies authorized to assist low-income families were to take similar steps to encourage economic independence and the accumulation of assets, was repealed retroactive to Oct. 28, 1992, by Pub. L. 104–99, title IV, §404(b), Jan. 26, 1996, 110 Stat. 44, which further provided that section 923 of Pub. L. 102–550 was to be of no effect.

SUBCHAPTER II—INVESTMENT IN AFFORDABLE HOUSING

§12721. Findings

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 [42 U.S.C. 1441 et seq.] and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to—

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent,

safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

(Pub. L. 101–625, title II, §202, Nov. 28, 1990, 104 Stat. 4094.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing Act of 1949, referred to in par. (1), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§1441 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The Housing and Urban Development Act of 1968, referred to in par. (1), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, as amended. For complete classification of this Act to the Code, see Short Title of 1968 Amendments note set out under section 1701 of Title 12, Banks and Banking, and Tables.

The Tax Reform Act of 1986, referred to in par. (3), is Pub. L. 99–514, Oct. 22, 1986, 100 Stat. 2085, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of this subchapter as the "HOME Investment Partnerships Act", see Short Title note set out under section 12701 of this title.

HOMELESSNESS ASSISTANCE AND SUPPORTIVE SERVICES PROGRAM

Pub. L. 117–2, title III, §3205, Mar. 11, 2021, 135 Stat. 61, provided that:

"(a) APPROPRIATION.—In addition to amounts otherwise available, there is appropriated to the Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $5,000,000,000, to remain available until September 30, 2025, except that amounts authorized under subsection (d)(3) shall remain available until September 30, 2029, for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) for the following activities to primarily benefit qualifying individuals or families:

"(1) Tenant-based rental assistance.

"(2) The development and support of affordable housing pursuant to section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) ('the Act' herein).

"(3) Supportive services to qualifying individuals or families not already receiving such supportive services, including—

"(A) activities listed in section 401(29) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(29));

"(B) housing counseling; and

"(C) homeless prevention services.

"(4) The acquisition and development of non-congregate shelter units, all or a portion of which may—

"(A) be converted to permanent affordable housing;

"(B) be used as emergency shelter under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371–11378);

"(C) be converted to permanent housing under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381–11389); or

"(D) remain as non-congregate shelter units.

"(b) QUALIFYING INDIVIDUALS OR FAMILIES DEFINED.—For the purposes of this section, qualifying individuals or families are those who are—

"(1) homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));

"(2) at-risk of homelessness, as defined in section 401(1) of the McKinney-Vento Homeless

Assistance Act (42 U.S.C. 11360(1));

"(3) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, as defined by the Secretary;

"(4) in other populations where providing supportive services or assistance under section 212(a) of the Act (42 U.S.C. 12742(a)) would prevent the family's homelessness or would serve those with the greatest risk of housing instability; or

"(5) veterans and families that include a veteran family member that meet one of the preceding criteria.

"(c) TERMS AND CONDITIONS.—

"(1) FUNDING RESTRICTIONS.—The cost limits in section 212(e) (42 U.S.C. 12742(e)), the commitment requirements in section 218(g) (42 U.S.C. 12748(g)), the matching requirements in section 220 (42 U.S.C. 12750), and the set-aside for housing developed, sponsored, or owned by community housing development organizations required in section 231 of the Act (42 U.S.C. 12771) shall not apply for amounts made available in this section.

"(2) ADMINISTRATIVE COSTS.— Notwithstanding sections 212(c) and (d)(1) of the Act (42 U.S.C. 12742(c) and (d)(1)), of the funds made available in this section for carrying out activities authorized in this section, a grantee may use up to fifteen percent of its allocation for administrative and planning costs.

"(3) OPERATING EXPENSES.—Notwithstanding sections 212(a) and (g) of the Act (42 U.S.C. 12742(a) and (g)), a grantee may use up to an additional five percent of its allocation for the payment of operating expenses of community housing development organizations and nonprofit organizations carrying out activities authorized under this section, but only if—

"(A) such funds are used to develop the capacity of the community housing development organization or nonprofit organization in the jurisdiction or insular area to carry out activities authorized under this section; and

"(B) the community housing development organization or nonprofit organization complies with the limitation on assistance in section 234(b) of the Act (42 U.S.C. 12774(b)).

"(4) CONTRACTING.—A grantee, when contracting with service providers engaged directly in the provision of services under paragraph [probably should be "subsection"] (a)(3), shall, to the extent practicable, enter into contracts in amounts that cover the actual total program costs and administrative overhead to provide the services contracted.

"(d) ALLOCATION.—

"(1) FORMULA ASSISTANCE.—Except as provided in paragraphs (2) and (3), the Secretary shall allocate amounts made available under this section pursuant to section 217 of the Act (42 U.S.C. 12747) to grantees that received allocations pursuant to that same formula in fiscal year 2021, and shall make such allocations within 30 days of enactment of this Act [Mar. 11, 2021].

"(2) TECHNICAL ASSISTANCE.—Up to $25,000,000 of the amounts made available under this section shall be used, without competition, to make new awards or increase prior awards to existing technical assistance providers to provide an immediate increase in capacity building and technical assistance available to any grantees implementing activities or projects consistent with this section.

"(3) OTHER COSTS.—Up to $50,000,000 of the amounts made available under this section shall be used for the administrative costs to oversee and administer implementation of this section and the HOME program [42 U.S.C. 12721 et seq.] generally, including information technology, financial reporting, and other costs.

"(4) WAIVERS OR ALTERNATIVE REQUIREMENTS.—The Secretary may waive or specify alternative requirements for any provision of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) and titles I and IV of the McKinney-Vento Homelessness Act (42 U.S.C. 11301 et seq., 11360 et seq.) or regulation for the administration of the amounts made available under this section other than requirements related to fair housing, nondiscrimination, labor standards, and the environment, upon a finding that the waiver or alternative requirement is necessary to expedite or facilitate the use of amounts made available under this section."

§12722. Purposes

The purposes of this subchapter are—

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply

of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed—

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this subchapter;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighborhood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

(Pub. L. 101–625, title II, §203, Nov. 28, 1990, 104 Stat. 4095.)

§12723. Coordinated Federal support for housing strategies

The Secretary shall make assistance under this subchapter available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this subchapter.

(Pub. L. 101–625, title II, §204, Nov. 28, 1990, 104 Stat. 4096.)

§12724. Authorization

There are authorized to be appropriated to carry out this subchapter $2,086,000,000 for fiscal year 1993, and $2,173,612,000 for fiscal year 1994, of which—

(1) not more than $14,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, shall

be for community housing partnership activities authorized under section 12773 of this title; and

(2) not more than $11,000,000 for fiscal year 1993, and $22,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under part C.

(Pub. L. 101–625, title II, §205, Nov. 28, 1990, 104 Stat. 4096; Pub. L. 102–550, title II, §201, Oct. 28, 1992, 106 Stat. 3751; Pub. L. 103–120, §5, Oct. 27, 1993, 107 Stat. 1148.)

EDITORIAL NOTES

AMENDMENTS

1993—Pub. L. 103–120 substituted "$25,000,000 for fiscal year 1994" for "$14,000,000 for fiscal year 1994" in par. (1) and "$22,000,000 for fiscal year 1994" for "$11,000,000 for fiscal year 1994" in par. (2).

1992—Pub. L. 102–550 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to carry out this subchapter $1,000,000,000 for fiscal year 1991, and $2,086,000,000 for fiscal year 1992, of which—

"(1) not more than $14,000,000 for fiscal year 1991, and $14,000,000 for fiscal year 1992, shall be for community housing partnership activities authorized under section 12773 of this title; and

"(2) not more than $11,000,000 for fiscal year 1991, and $11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under part C of this subchapter."

§12725. Notice

The Secretary shall issue regulations to implement the provisions of this subchapter after notice and an opportunity for comment pursuant to section 553 of title 5. Such regulations shall become effective not later than 180 days after November 28, 1990.

(Pub. L. 101–625, title II, §206, Nov. 28, 1990, 104 Stat. 4096.)

PART A—HOME INVESTMENT PARTNERSHIPS

§12741. Authority

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this part.

(Pub. L. 101–625, title II, §211, Nov. 28, 1990, 104 Stat. 4096.)

§12742. Eligible uses of investment

(a) Housing uses

(1) In general

Funds made available under this part may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations, and to provide tenant-based rental assistance. For the purpose of this part, the term "affordable housing" includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.

(2) Preference to rehabilitation

A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing; and

(B) the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under section 12753(2) of this title.

(3) Tenant-based rental assistance

(A) In general

A participating jurisdiction may use funds provided under this part for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this part for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 1437d(c)(4)(A) [1] of this title.

(B) Fair share not affected

A jurisdiction's section 8 [42 U.S.C. 1437f] fair share allocation shall be unaffected by the use of assistance under this subchapter.

(C) 24-month contracts

Rental assistance contracts made available with assistance under this subchapter shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) Use of section 1437f assistance

In any case where assistance under section 1437f of this title becomes available to a participating jurisdiction, recipients of rental assistance under this subchapter shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subchapter. A rental assistance program under this subchapter shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(E) Security deposit assistance

A jurisdiction using funds provided under this part for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.

(4) Redesignated (3)

(5) Lead-based paint hazards

A participating jurisdiction may use funds provided under this part for the evaluation and reduction of lead-based paint hazards, as defined in section 4851b of this title.

(b) Investments

Participating jurisdictions shall have discretion to invest funds made available under this part as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances,

interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subchapter. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) Administrative costs

In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this part to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this part, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this part.

(d) Prohibited uses

Funds made available under this part may not be used to—

(1) defray any administrative cost of a participating jurisdiction that exceed the amount specified under subsection (c),

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 [42 U.S.C. 1437f] program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 1437f of this title,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 1437g of this title,

(5) carry out activities authorized under section 1437g(d)(1) [1] of this title, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.].

(e) Cost limits

(1) In general

The Secretary shall establish limits on the amount of funds under this part that may be invested on a per unit basis. For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715l(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) Criteria

In calculating per unit limits, the Secretary shall take into account that assistance under this subchapter is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions;

(C) facilitate mixed-income housing; and

(D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) Consultation

In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(f) Certification of compliance

The requirements of section 3545(d) of this title shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(g) Limitation on operating assistance

A participating jurisdiction may not use more than 5 percent of its allocation under this part for the payment of operating expenses for community housing development organizations.

(Pub. L. 101–625, title II, §212, Nov. 28, 1990, 104 Stat. 4097; Pub. L. 102–550, title II, §§203(a), 204–207(b), (d), title X, §1012(e), Oct. 28, 1992, 106 Stat. 3752–3754, 3905; Pub. L. 105–276, title V, §522(b)(5), Oct. 21, 1998, 112 Stat. 2565.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437d(c)(4)(A) of this title, referred to in subsec. (a)(3)(A)(ii), was in the original "section 6(c)(4)(A) of the Housing Act of 1937", and was translated as reading "section 6(c)(4)(A) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

Section 1437g(d)(1) of this title, referred to in subsec. (d)(5), was in the original "section 9(d)(1) of the Housing Act of 1937", and was translated as reading "section 9(d)(1) of the United States Housing Act of 1937", act Sept. 1, 1937, ch. 896, to reflect the probable intent of Congress.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (d)(6), is title II of Pub. L. 100–242, Feb. 5, 1988, 102 Stat. 1877, as amended, which was classified principally as a note under section 1715l of Title 12, Banks and Banking. Title II of Pub. L. 100–242, was amended generally by Pub. L. 101–625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, and is now known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, which is classified principally to chapter 42 (§4101 et seq.) of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

AMENDMENTS

1998—Subsec. (d)(5). Pub. L. 105–276 substituted "section 1437g(d)(1)" for "section 1437l".

1992—Subsec. (a)(1). Pub. L. 102–550, §207(a), inserted "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations," after "or organizations,".

Pub. L. 102–550, §205, inserted at end "For the purpose of this part, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing."

Subsec. (a)(2). Pub. L. 102–550, §203(a)(1), struck out "under paragraph (3) of this subsection or" after "authorized" in concluding provisions.

Subsec. (a)(3). Pub. L. 102–550, §204(b), added cl. (ii) of par. (3)(A) and struck out former cl. (ii) which read as follows: "the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences."

Pub. L. 102–550, §204(a), added subpar. (E).

Pub. L. 102–550, §203(a)(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which provided for conditions for new construction of housing.

Subsec. (a)(4). Pub. L. 102–550, §203(a)(3), redesignated par. (4) as (3).

Subsec. (a)(5). Pub. L. 102–550, §1012(e), added par. (5).

Subsec. (c). Pub. L. 102–550, §207(b)(3), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 102–550, §207(b)(1), inserted before comma at end of par. (1) "that exceed the amount specified under subsection (c)".

Subsec. (d). Pub. L. 102–550, §207(b)(2), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 102–550, §206, inserted after first sentence of par. (1) "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 1715l(d)(3)(ii) of title 12, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs."

Subsecs. (e), (f). Pub. L. 102–550, §207(b)(2), redesignated subsecs. (d) and (e) as (e) and (f), respectively.
Subsec. (g). Pub. L. 102–550, §207(d), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 203–207 of Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

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

§12743. Development of model programs

(a) In general

The Secretary shall—

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this subchapter;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this part through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subchapter.

(b) Adoption of programs

Except as provided in section 12753(2) of this title, each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) Part D programs

The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in part D.

(Pub. L. 101–625, title II, §213, Nov. 28, 1990, 104 Stat. 4100.)

§12744. Income targeting

Each participating jurisdiction shall invest funds made available under this part within each fiscal year so that—

(1) with respect to rental assistance and rental units—

(A) not less than 90 percent of (i) the families receiving such rental assistance are families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and

(B) the remainder of (i) the families receiving such rental assistance are households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later, or (ii) the dwelling units assisted with such funds are occupied by such households;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 12745 of this title.

(Pub. L. 101–625, title II, §214, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 103–233, title II, §202, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105–276, title V, §599B(a), Oct. 21, 1998, 112 Stat. 2660.)

EDITORIAL NOTES

AMENDMENTS

1998—Par. (2). Pub. L. 105–276 struck out "at the time of occupancy or at the time funds are invested, whichever is later" before "; and".

1994—Par. (1)(A). Pub. L. 103–233, §202(1), substituted "(i) the families receiving such rental assistance are" for "such funds are invested with respect to dwelling units that are occupied by", ", or" for ", and" before cl. (ii), and added cl. (ii).

Par. (1)(B). Pub. L. 103–233, §202(2), substituted "(i) the families receiving such rental assistance are" for "such funds are invested with respect to dwelling units that are occupied by" and added cl. (ii).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §599B(c), Oct. 21, 1998, 112 Stat. 2660, provided that: "The amendments made by this section [amending this section and section 12745 of this title] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

§12745. Qualification as affordable housing

(a) Rental housing

(1) Qualification

Housing that is for rental shall qualify as affordable housing under this subchapter only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 1437f of this title, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for number of bedrooms in the unit, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of title 26;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 1437f of this title because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

(2) Adjustment of qualifying rent

The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) Increases in tenant income

Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent the lesser of the amount payable by the tenant under State or local law or 30 percent of the family's adjusted monthly income, as recertified annually. The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26.

(4) Mixed-income project

Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) Mixed-use project

Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(6) Waiver of qualifying rent

(A) In general

For the purpose of providing affordable housing appropriate for families described in subparagraph (B), the Secretary may, upon the application of the project owner, waive the applicability of subparagraph (A) of paragraph (1) with respect to a dwelling unit if—

(i) the unit is occupied by such a family, on whose behalf tenant-based assistance is provided under section 1437f of this title;

(ii) the rent for the unit is not greater than the existing fair market rent for comparable units in the area, as established by the Secretary under section 1437f of this title; and

(iii) the Secretary determines that the waiver, together with waivers under this paragraph for other dwelling units in the project, will result in the use of amounts described in clause (iii) [1] in an effective manner that will improve the provision of affordable housing for such families.

(B) Eligible families

A family described in this subparagraph is a family that consists of at least one elderly person (who is the head of household) and one or more of such person's grand [2] children, great grandchildren, great nieces, great nephews, or great great grandchildren (as defined by the Secretary), but does not include any parent of such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren. Such term includes any such grandchildren, great grandchildren, great nieces, great nephews, or great great grandchildren who have been legally adopted by such elderly person.

(b) Homeownership

Housing that is for homeownership shall qualify as affordable housing under this subchapter only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family—

(A) in the case of a contract to purchase existing housing, at the time of purchase;

(B) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

(C) in the case of a contract to purchase housing to be constructed, at the time the contract is signed;

(3) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

(i) provide the owner with a fair return on investment, including any improvements, and

(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

(B) recapture the investment provided under this subchapter in order to assist other persons in accordance with the requirements of this subchapter, except where there are no net proceeds or

where the net proceeds are insufficient to repay the full amount of the assistance; and

(4) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title.

(Pub. L. 101–625, title II, §215, Nov. 28, 1990, 104 Stat. 4101; Pub. L. 102–550, title II, §§208, 209, Oct. 28, 1992, 106 Stat. 3754; Pub. L. 103–233, title II, §203, Apr. 11, 1994, 108 Stat. 364; Pub. L. 105–276, title V, §599B(b), Oct. 21, 1998, 112 Stat. 2660; Pub. L. 106–569, title IX, §904, Dec. 27, 2000, 114 Stat. 3027.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1)(E), (3), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

AMENDMENTS

2000—Subsec. (a)(6). Pub. L. 106–569 added par. (6).

1998—Subsec. (b)(2). Pub. L. 105–276 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;".

1994—Subsec. (b)(3). Pub. L. 103–233, §203(a), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "is made available for initial purchase only to first-time homebuyers;".

Subsec. (b)(3)(B). Pub. L. 103–233, §203(b), substituted "subchapter" for "subsection" after "requirements of this".

Subsec. (b)(4), (5). Pub. L. 103–233, §203(a)(2), redesignated pars. (4) and (5) as (3) and (4), respectively.

1992—Subsec. (a)(1)(A). Pub. L. 102–550, §208(a)(1), substituted "number of bedrooms in the unit" for "smaller and larger families".

Subsec. (a)(1)(E). Pub. L. 102–550, §208(b), inserted before semicolon ", except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary".

Subsec. (a)(3). Pub. L. 102–550, §208(a)(2), (3), substituted "the lesser of the amount payable by the tenant under State or local law or" for "not less than" in second sentence and inserted at end "The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of title 26."

Subsec. (b)(4). Pub. L. 102–550, §209, added par. (4) and struck out former par. (4) which read as follows: "is made available for subsequent purchase only—

"(A) to persons who meet the qualifications specified under paragraph (2), and

"(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate—

"(i) to provide the owner with a fair return on investment, including any improvements, and

"(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–276 made on, and applicable beginning upon, Oct. 21, 1998, see section 599B(c) of Pub. L. 105–276, set out as a note under section 12744 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such

amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

HOME INVESTMENT PARTNERSHIPS PROGRAM

Pub. L. 114–113, div. L, title II, Dec. 18, 2015, 129 Stat. 2878, provided in part: "That with respect to funds made available under this heading [HOME INVESTMENT PARTNERSHIPS PROGRAM, see 129 Stat. 2878] pursuant to such Act [probably means title II of Pub. L. 101–625] and funds provided in prior and subsequent appropriations acts that were or are used by community land trusts for the development of affordable homeownership housing pursuant to section 215(b) of such Act [42 U.S.C. 12745(b)], such community land trusts, notwithstanding section 215(b)(3)(A) of such Act [42 U.S.C. 12745(b)(3)(A)], may hold and exercise purchase options, rights of first refusal or other preemptive rights to purchase the housing to preserve affordability, including but not limited to the right to purchase the housing in lieu of foreclosure".

[1] *So in original.*

[2] *So in original. Probably should be "grandchildren".*

§12746. Participation by States and local governments

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following:

(1) Allocation

Not later than 20 days after funds to carry out this part become available (or, during the first year after November 28, 1990, not later than 20 days after (A) funds to carry out this part are provided in an appropriations Act, or (B) regulations to implement this part are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 12747 of this title and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) Consortia

A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this subchapter if the Secretary determines that the consortium—

(A) has sufficient authority and administrative capability to carry out the purposes of this subchapter on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) Eligibility

(A) Except as provided in paragraph (10), a jurisdiction receiving a formula allocation under section 12747 of this title shall be eligible to become a participating jurisdiction if its formula allocation is $750,000 or greater, or if the Secretary finds that—

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this part, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula

allocation and $750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this part.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 12747(a)(1) of this title and the amount made available to the jurisdiction under subparagraph (A)(ii).

(4) Notification

If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 12747(d)(1) of this title) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(5) Submission of strategy

Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 12705 of this title.

(6) Reallocation

If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 12705(c)(3) of this title, disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) State

If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 12747(b) of this title.

(B) Local

If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) Direct reallocation

If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 12747(c) of this title are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 12747(b) of this title.

(D) Certain jurisdictions deemed to be participating jurisdictions

If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) Designation

The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 12705 of this title.

(8) Continuous designation

Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) Revocation

The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this subchapter, or

(B) the jurisdiction's allocation falls below $750,000 for 3 consecutive years, below $625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $500,000 or more in any 1 year, except as provided in paragraph (10).

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 12748 of this title shall be reallocated in accordance with paragraph (6) of this section.

(10) Threshold reduction

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year—

(A) by substituting "$500,000" for "$750,000" both places it appears in paragraph (3); and

(B) by substituting "$500,000", "$410,000", and "$335,000" for "$750,000", "$625,000", and "$500,000", respectively, where they appear in paragraph (9).

(Pub. L. 101–625, title II, §216, Nov. 28, 1990, 104 Stat. 4103; Pub. L. 102–550, title II, §202(a), Oct. 28, 1992, 106 Stat. 3751.)

EDITORIAL NOTES

AMENDMENTS

1992—Par. (3)(A). Pub. L. 102–550, §202(a)(1), substituted "Except as provided in paragraph (10), a jurisdiction" for "A jurisdiction".

Par. (9)(B). Pub. L. 102–550, §202(a)(2), inserted ", except as provided in paragraph (10)" after "in any 1 year".

Par. (10). Pub. L. 102–550, §202(a)(3), added par. (10).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

APPLICABILITY OF GRANT THRESHOLDS

Pub. L. 102–550, title II, §202(c), Oct. 28, 1992, 106 Stat. 3752, provided that: "Notwithstanding any other

provision of law, the grant thresholds provided for in section 216 [42 U.S.C. 12746], as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12747(b)], as amended by this section, shall apply."

§12747. Allocation of resources

(a) In general

(1) States and units of general local government

After reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this subchapter by formula as provided in subsection (b). Of the funds made available under the preceding sentence, the Secretary shall initially allocate 60 percent among units of general local government and 40 percent among States.

(2) Repealed. Pub. L. 104–330, title V, §505(a)(1)(B), Oct. 26, 1996, 110 Stat. 4044

(3) [1] Insular areas

For each fiscal year, of any amounts approved in appropriation Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.

(b) Formula allocation

(1) In general

(A) Basic formula

The Secretary shall establish in [2] regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction [3] for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 12742 of this title without Federal assistance. Allocation among units of general local government shall take into account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(B) Source of data

The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(C) Use of basic formula

The basic formula established under subparagraph (A) shall be used for all formula allocations and reallocations provided for in this part.

(D) Weights

When allocation is made among States, the Secretary shall apply the formula in subparagraph (A) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 12746(1) of this title.

(E) Adjustments

In developing the basic formula in subparagraph (A), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this part to any one

State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this part that appropriately reflects the housing need in each region of the Nation.

(F) Consultation

The Secretary shall develop the formula in subparagraph (A) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

(2) Minimum State allocation

(A) In general

If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) Increased minimum allocation

If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by $500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below $500,000.

(3) Minimum local allocation

The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 12746(2) of this title so that, when all such funds are initially allocated by formula, jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations, except as provided in paragraph (4).

(4) Threshold reduction

If the amount appropriated pursuant to section 12724 of this title for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year by substituting "$335,000" for "$500,000" where it appears in paragraph (3).

(c) Criteria for direct reallocation

The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating

jurisdictions within the State to develop, coordinate, and implement housing strategies under this subchapter. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account—

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this subchapter through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that—

(A) direct funds made available under this part to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 12744 of this title, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 1437f of this title to the selection of tenants for housing assisted under this part;

(C) provide matching resources in excess of funds required under section 12750 of this title; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 12705(b)(4) of this title may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) Reallocations

(1) In general

The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 12746 of this title.

(2) Commitments

The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this subchapter, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) Limitation

Unless otherwise specified in this part, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local

government shall be made only among all participating units of general local government.

(Pub. L. 101–625, title II, §217, Nov. 28, 1990, 104 Stat. 4105; Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 102–230, §1, Dec. 12, 1991, 105 Stat. 1720; Pub. L. 102–273, §1, Apr. 21, 1992, 106 Stat. 113; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1581; Pub. L. 102–550, title II, §§202(b), 203(b), 211(a)(2), Oct. 28, 1992, 106 Stat. 3751, 3752, 3756; Pub. L. 104–330, title V, §505(a)(1), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 105–65, title II, §214, Oct. 27, 1997, 111 Stat. 1366.)

EDITORIAL NOTES

AMENDMENTS

1997—Subsec. (b)(3). Pub. L. 105–65, in first sentence, substituted "jurisdictions that are allocated an amount of $500,000 or more, and participating jurisdictions (other than consortia that fail to renew the membership of all of their member jurisdictions) that are allocated an amount less than $500,000, shall receive an allocation" for "only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation".

1996—Subsec. (a)(1). Pub. L. 104–330, §505(a)(1)(A), struck out "reserving amounts under paragraph (2) for Indian tribes and after" after "After".

Subsec. (a)(2). Pub. L. 104–330, §505(a)(1)(B), struck out heading and text of par. (2). Text read as follows: "For each fiscal year, of the amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

1992—Subsec. (a)(1). Pub. L. 102–550, §211(a)(2)(A), added first sentence and struck out former first sentence which read as follows: "After reserving amounts for Indian tribes as required by paragraph (2) of this subsection and after reserving amounts for the insular areas under paragraph (3), the Secretary shall allocate funds approved in an appropriations Act to carry out this subchapter by formula as provided in subsection (b) of this section."

Pub. L. 102–389 made identical amendment to those made by Pub. L. 102–229 and Pub. L. 102–230, §1(1). See 1991 Amendment note below.

Subsec. (a)(3). Pub. L. 102–550, §211(a)(2)(D), and Pub. L. 102–389 both added new pars. (3) related to insular areas. The text reflects the par. (3) added by Pub. L. 102–550. The par. (3) added by Pub. L. 102–389 read as follows: "For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Pub. L. 102–550, §211(a)(2)(C), struck out par. (3), as added by Pub. L. 102–230, §1(2), which read as follows:

"(A) IN GENERAL.—For each fiscal year, of any amount approved in an appropriations Act to carry out this subchapter, the Secretary shall reserve for grants to the insular areas an amount that reflects—

"(i) their share of the total population of eligible jurisdictions; and

"(ii) any adjustments that the Secretary determines are reasonable in light of available data that are related to factors set forth in subsection (b)(1)(B) of this section.

"(B) SPECIFIC CRITERIA.—The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas in accordance with specific criteria to be set forth in a regulation promulgated by the Secretary after notice and public comment.

"(C) TRANSITIONAL PROVISIONS.—For fiscal year 1992, the reservation for insular areas specified in subparagraph (A) shall be made from any funds which become available for reallocation in accordance with the provisions of section 12746(6)(A) of this title."

Pub. L. 102–550, §211(a)(2)(B), struck out par. (3), as added by Pub. L. 102–229, which read as follows: "For each fiscal year, of any amounts approved in appropriations Acts to carry out this subchapter, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.5 percent of the

amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."

Subsec. (b)(1)(A). Pub. L. 102–550, §203(b)(1), (6), redesignated subpar. (B) as (A) and struck out former subpar. (A) which provided for a formula for allocation of funds for production of affordable rental housing through new construction or substantial rehabilitation.

Pub. L. 102–273 added cl. (iii) reading as follows: "Notwithstanding clauses (i) and (ii), any jurisdiction receiving amounts made available under such clause may, at the discretion of the jurisdiction, use such amounts for other eligible uses in accordance with section 12742 of this title if the jurisdiction determines that such use will better meet the housing needs within the jurisdiction. This clause shall be effective only with respect to funds provided under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 744), which suspends the requirement of contributions by participating jurisdictions, and shall become ineffective if such requirement is reimposed."

Subsec. (b)(1)(B), (C). Pub. L. 102–550, §203(b)(6), redesignated subpars. (C) and (D) as (B) and (C), respectively. Former subpar. (B) redesignated (A).

Subsec. (b)(1)(D). Pub. L. 102–550, §203(b)(6), redesignated subpar. (E) as (D). Former subpar. (D) redesignated (C).

Pub. L. 102–550, §203(b)(2), substituted "The basic formula established under subparagraph (A)" for "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)".

Subsec. (b)(1)(E). Pub. L. 102–550, §203(b)(6), redesignated subpar. (F) as (E). Former subpar. (E) redesignated (D).

Pub. L. 102–550, §203(b)(3), substituted "formula in subparagraph (A)" for "formulas in subparagraph (B)".

Subsec. (b)(1)(F). Pub. L. 102–550, §203(b)(6), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Pub. L. 102–550, §203(b)(4), substituted "basic formula in subparagraph (A)" for "basic formula in subparagraph (B)" and struck out at end "If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction's allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations were made according to the formula under subparagraph (B) alone."

Subsec. (b)(1)(G). Pub. L. 102–550, §203(b)(6), redesignated subpar. (G) as (F).

Pub. L. 102–550, §203(b)(5), substituted "formula in subparagraph (A)" for "formulas in subparagraphs (A) and (B)".

Subsec. (b)(3). Pub. L. 102–550, §202(b)(1), inserted before period at end ", except as provided in paragraph (4)".

Subsec. (b)(4). Pub. L. 102–550, §202(b)(2), added par. (4).

1991—Subsec. (a)(1). Pub. L. 102–229 and Pub. L. 102–230, §1(1), amended par. (1) identically, inserting before first comma "and after reserving amounts for the insular areas under paragraph (3)".

Subsec. (a)(3). Pub. L. 102–229 and Pub. L. 102–230, §1(2), which were enacted on the same day, both added new pars. (3) relating to insular areas.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

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

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Pub. L. 104–330, title V, §505(b), Oct. 26, 1996, 110 Stat. 4044, provided that: "The amendments under

subsection (a) [amending this section and section 12838 of this title] shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12721 et seq.] for fiscal year 1998 and fiscal years thereafter."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 211(a)(2) of Pub. L. 102–550 applicable with respect to fiscal year 1993 and thereafter, see section 211(b) of Pub. L. 102–550, set out as a note under section 12704 of this title.

Amendment by sections 202(b) and 203(b) of Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

APPLICABILITY OF GRANT THRESHOLDS

Grant thresholds provided for in subsec. (b) of this section as amended by Pub. L. 102–550 to apply notwithstanding any other provision of law, see section 202(c) of Pub. L. 102–550, set out as a note under section 12746 of this title.

EXPEDITED ISSUANCE OF REGULATION

Pub. L. 102–550, title II, §211(a)(3), Oct. 28, 1992, 106 Stat. 3757, provided that: "The regulation referred to in the amendment made by paragraph (2)(D) [amending this section] shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 1992]. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act [42 U.S.C. 3535(o)]."

[1] See 1992 Amendment note below.

[2] So in original. Probably should be "by".

[3] So in original. Probably should be "jurisdictions".

§12748. HOME Investment Trust Funds

(a) Establishment

The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 12749(c) of this title) for use solely to invest in affordable housing within the participating jurisdiction's boundaries or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions in accordance with the provisions of this part.

(b) Line of credit

The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 12747 of this title, and

(2) any payment or repayment made pursuant to section 12749 of this title.

(c) Reductions

A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 12754 [1] of this title.

(d) Certification

A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all

requirements of this subchapter. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) Investment within 15 days

The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) No interest or fees

The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) Expiration of right to draw funds

If any funds becoming available to a participating jurisdiction under this subchapter are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 12747(d) of this title.

(h) Administrative provision

The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

(Pub. L. 101–625, title II, §218, Nov. 28, 1990, 104 Stat. 4109; Pub. L. 102–550, title II, §§203(c), 221, Oct. 28, 1992, 106 Stat. 3752, 3762.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550, §221, inserted "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions" after "boundaries".

Subsec. (g). Pub. L. 102–550, §203(c), substituted "If" for "Except as provided in section 12747(b)(1)(A)(ii) of this title, if".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

[1] *So in original. Probably should be section "12753".*

§12749. Repayment of investment

(a) In general

Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 12747(d) of this title.

(b) Assurance of repayment

Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this part are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 12747(d) of this title.

(c) Availability

The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this part that apply to funds that are allocated under section 12747 of this title. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subchapter. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

(Pub. L. 101–625, title II, §219, Nov. 28, 1990, 104 Stat. 4110.)

§12750. Matching requirements

(a) Contribution

Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this subchapter that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 12746(3)(A)(ii) of this title.

(b) Recognition

(1) In general

A contribution shall be recognized for purposes of subsection (a) only if it—

(A) is made with respect to housing that qualifies as affordable housing under section 12745 of this title; or

(B) is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 12745 of this title.

(2) Administrative expenses

Contributions for administrative expenses may not be recognized for purposes of subsection (a).

(c) Form

Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;

(2) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this subchapter;

(3) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(4) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this subchapter;

(5) Redesignated (4)

(6) up to—

(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed,

but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

(8) such other contributions to affordable housing as the Secretary considers appropriate.

(d) Reduction of requirement

(1) In general

The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

(2) Definitions

For purposes of this section—

(A) "fiscal distress" means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

(B) "severe fiscal distress" means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

(3) Distress criteria

For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

(A) Poverty rate

The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

(B) Per capita income

The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

(4) States

In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

(5) Waiver in disaster areas

If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.

(Pub. L. 101–625, title II, §220, Nov. 28, 1990, 104 Stat. 4111; Pub. L. 102–550, title II, §§207(c), 210(a)–(c), Oct. 28, 1992, 106 Stat. 3753, 3755; Pub. L. 103–233, title II, §204, Apr. 11, 1994, 108 Stat. 364.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(5), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–233 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this subchapter that total, throughout a fiscal year, not less than—

"(1) 25 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to rental assistance, housing rehabilitation and substantial rehabilitation; and

"(2) 30 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 12746(3)(A)(ii) of this title."

1992—Subsec. (a). Pub. L. 102–550, §210(a)(4), substituted "housing that qualifies as affordable housing under this subchapter" for "affordable housing assisted under this subchapter" in introductory provisions.

Subsec. (a)(1). Pub. L. 102–550, §210(a)(1), substituted ", housing rehabilitation and substantial rehabilitation; and" for "and housing rehabilitation;".

Subsec. (a)(2). Pub. L. 102–550, §210(a)(2), substituted "30" for "33" and "new construction." for "substantial rehabilitation; and".

Subsec. (a)(3). Pub. L. 102–550, §210(a)(3), struck out par. (3) which read as follows: "50 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction."

Subsec. (b)(2). Pub. L. 102–550, §207(c)(1), substituted "may not be recognized for purposes of subsection (a)" for "shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this subchapter".

Subsec. (c)(2). Pub. L. 102–550, §207(c)(2), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "payment of administrative expenses, as defined by the Secretary, from non-Federal resources, which may include funds from a grant made under section 5306(b) or section 5306(d) of this title;".

Subsec. (c)(3). Pub. L. 102–550, §210(b)(1), which directed the striking of "and" at end of par. (4), was executed by striking "and" at end of par. (3) to reflect the probable intent of Congress and the redesignation of par. (4) as (3). See below.

Pub. L. 102–550, §207(c)(2)(B), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 102–550, §210(b)(2), which directed the substitution of a semicolon for the period at end of par. (5), was executed by making the substitution at end of par. (4) to reflect the probable intent of Congress and the redesignation of par. (5) as (4). See below.

Pub. L. 102–550, §207(c)(2)(B), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (c)(5). Pub. L. 102–550, §207(c)(2)(B), redesignated par. (5) as (4).

Subsec. (c)(6) to (8). Pub. L. 102–550, §210(b)(3), added pars. (6) to (8).

Subsec. (d). Pub. L. 102–550, §210(c), added subsec. (d) and struck out former subsec. (d) which read as follows: "If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) of this section is necessary to permit the jurisdiction to carry out the purposes of this subchapter, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–550, title II, §210(d), Oct. 28, 1992, 106 Stat. 3756, provided that: "The amendments made by this section [amending this section] shall apply with respect to fiscal year 1993 and each fiscal year thereafter."

Amendment by section 207(c) of Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

§12751. Private-public partnership

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this subchapter, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

(Pub. L. 101–625, title II, §221, Nov. 28, 1990, 104 Stat. 4112.)

§12752. Distribution of assistance

(a) Local

Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this part geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) State

Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 12705 of this title. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

(Pub. L. 101–625, title II, §222, Nov. 28, 1990, 104 Stat. 4112.)

§12753. Penalties for misuse of funds

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this part and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this subchapter, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for

activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this subchapter to activities that conform to one or more model programs made available under section 12743 of this title; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this part.

(Pub. L. 101–625, title II, §223, Nov. 28, 1990, 104 Stat. 4112.)

§12754. Limitation on jurisdictions under court order

(a) In general

Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this part are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

(1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

(2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

(b) Remedial use of funds permitted

In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

(Pub. L. 101–625, title II, §224, Nov. 28, 1990, 104 Stat. 4113.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (a)(1), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (a)(1), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

§12755. Tenant and participant protections

(a) Lease

The lease between a tenant and an owner of affordable housing assisted under this subchapter for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(b) Termination of tenancy

An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this subchapter except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any

termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action. Such 30-day waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew is in accordance with the requirements of State or local law).

(c) Maintenance and replacement

The owner of rental housing assisted under this subchapter shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) Tenant selection

The owner of rental housing assisted under this subchapter shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 1437d(c)(4)(A) of this title, and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for [2] the prompt notification in writing of any rejected applicant of the grounds for any rejection.

(Pub. L. 101–625, title II, §225, Nov. 28, 1990, 104 Stat. 4113; Pub. L. 114–113, div. L, title II, §235, Dec. 18, 2015, 129 Stat. 2896.)

EDITORIAL NOTES

AMENDMENTS

2015—Subsec. (b). Pub. L. 114–113 inserted at end "Such 30-day waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew is in accordance with the requirements of State or local law)."

[2] So in original. The word "for" probably should not appear.

§12756. Monitoring of compliance

(a) Enforceable agreements

Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this subchapter. Such measures shall provide for (1) enforcement of the provisions of this subchapter by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) Periodic monitoring

Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this subchapter for rental to assess compliance with the requirements of this subchapter. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 12708(a) of this title and made available to the public.

(c) Special procedures for certain projects

In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined

procedures for achieving the purposes of this section as the Secretary determines to be appropriate.
(Pub. L. 101–625, title II, §226, Nov. 28, 1990, 104 Stat. 4114.)

PART B—COMMUNITY HOUSING PARTNERSHIP

§12771. Set-aside for community housing development organizations

(a) In general

For a period of 24 months after funds under part A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. If during the first 24 months of its participation under this subchapter, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed $150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) Recapture and reuse

If any funds reserved under subsection (a) remain uninvested for a period of 24 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 12773 of this title, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

(c) Direct reallocation criteria

Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 12747(c) of this title.

(Pub. L. 101–625, title II, §231, Nov. 28, 1990, 104 Stat. 4114; Pub. L. 102–550, title II, §212(a), (b), Oct. 28, 1992, 106 Stat. 3757.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550 substituted "24" for "18" in first sentence and inserted after second sentence "If during the first 24 months of its participation under this subchapter, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed $150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction."

Subsec. (b). Pub. L. 102–550, §212(a), substituted "24" for "18".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

§12772. Project-specific assistance to community housing development organizations

(a) In general

Amounts reserved under section 12771 of this title may be used for activities eligible under section 12742 of this title and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

(b) Project-specific technical assistance and site control loans

(1) In general

Amounts reserved under section 12771 of this title may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

(2) Allowable expenses

A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

(3) Repayment

A community housing development organization that receives a loan under this subsection shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(c) Project-specific seed money loans

(1) In general

Amounts reserved under section 12771 of this title may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

(2) Eligible sponsors

A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) Repayment

A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(Pub. L. 101–625, title II, §232, Nov. 28, 1990, 104 Stat. 4115.)

§12773. Housing education and organizational support

(a) In general

The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this part—

(1) to facilitate the education of low-income homeowners and tenants;

(2) to promote the ability of community housing development organizations, including community land trusts, to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this subchapter; and

(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.

(b) Eligible activities

Assistance under this section may be used only for the following eligible activities:

(1) Organizational support

Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

(2) Housing education

Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this subchapter.

(3) Program-wide support of nonprofit development and management

Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this subchapter.

(4) Benevolent loan funds

Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) Community development banks and credit unions

Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

(6) Community land trusts

Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts.

(7) Facilitating women in homebuilding professions

Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work

environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act [12 U.S.C. 1707 et seq.] and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as "nontraditional occupations").

(c) Delivery of assistance

The Secretary shall provide this assistance only through contract—

(1) with a nonprofit intermediary organization that, in the determination of the Secretary—

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing;

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; and

(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's housing strategy.

(d) Limitations

Contracts under this section with any one contractor for a fiscal year may not—

(1) exceed 40 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) Single-State contractors

Not less than 25 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State. The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.

(f) "Community land trust" defined

For purposes of this section, the term "community land trust" means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 12704(6) of this title shall not apply for purposes of this subsection)—

(1) that is not sponsored by a for-profit organization;

(2) that is established to carry out the activities under paragraph (3);

(3) that—

(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

(5) whose board of directors—

(A) includes a majority of members who are elected by the corporate membership; and

(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.

(Pub. L. 101–625, title II, §233, Nov. 28, 1990, 104 Stat. 4116; Pub. L. 102–550, title II, §213, Oct. 28, 1992, 106 Stat. 3757; Pub. L. 111–8, div. I, title II, §229(1), (2), Mar. 11, 2009, 123 Stat. 978.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b)(7), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 4 of the Job Training Partnership Act, referred to in subsec. (c)(1)(E), which was classified to section 1503 of Title 29, Labor, was repealed by Pub. L. 105–220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to former section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, were deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and, effective July 1, 2000, were deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. The Workforce Investment Act of 1998 was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Pursuant to section 3361(a) of Title 29, references to a provision of the Workforce Investment Act of 1998 are deemed to refer to the corresponding provision of the Workforce Innovation and Opportunity Act, Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, effective July 1, 2015. For complete classification of the Job Training Partnership Act and the Workforce Investment Act of 1998 to the Code, see Tables. For complete classification of the Workforce Innovation and Opportunity Act to the Code, see Short Title note set out under section 3101 of title 29 and Tables.

AMENDMENTS

2009—Subsec. (d)(1). Pub. L. 111–8, §229(1), substituted "40" for "20".

Subsec. (e). Pub. L. 111–8, §229(2), substituted "25" for "40".

1992—Subsec. (a)(2). Pub. L. 102–550, §213(a)(1), inserted ", including community land trusts," after "organizations".

Subsec. (a)(3). Pub. L. 102–550, §213(b)(1), added par. (3).

Subsec. (b)(6). Pub. L. 102–550, §213(a)(2), added par. (6).

Subsec. (b)(7). Pub. L. 102–550, §213(b)(2), added par. (7).

Subsec. (c)(1)(E). Pub. L. 102–550, §213(b)(3), added subpar. (E).

Subsec. (e). Pub. L. 102–550, §213(b)(4), inserted at end "The Secretary shall provide assistance under this

section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development."

Subsec. (f). Pub. L. 102–550, §213(a)(3), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

§12774. Other requirements

(a) Tenant participation plan

A community housing development organization that receives assistance under this part shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

(b) Limitation on assistance

A community housing development organization may not receive assistance under this subchapter for any fiscal year in an amount that provides more than 50 percent of the organization's total operating budget in the fiscal year or $50,000 annually, whichever is greater.

(c) Adjustments of other assistance

The Secretary shall take account of assistance provided to a project under this part when adjusting other assistance to be provided to the project as required by section 3545(d) of this title.

(Pub. L. 101–625, title II, §234, Nov. 28, 1990, 104 Stat. 4117; Pub. L. 102–550, title II, §212(c), Oct. 28, 1992, 106 Stat. 3757.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–550 struck out ", together with other Federal assistance," after "in an amount that" and inserted before period "or $50,000 annually, whichever is greater".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

PART C—OTHER SUPPORT FOR STATE AND LOCAL HOUSING STRATEGIES

§12781. Authority

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an

increased supply of decent, affordable housing.

(Pub. L. 101–625, title II, §241, Nov. 28, 1990, 104 Stat. 4117.)

§12782. Priorities for capacity development

To carry out section 12781 of this title, the Secretary shall provide assistance under this part to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this subchapter, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this subchapter;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing;

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects; and

(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this subchapter.

(Pub. L. 101–625, title II, §242, Nov. 28, 1990, 104 Stat. 4118; Pub. L. 102–550, title II, §214(a), Oct. 28, 1992, 106 Stat. 3759.)

EDITORIAL NOTES

AMENDMENTS

1992—Par. (6). Pub. L. 102–550 added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

§12783. Conditions of contracts

(a) Eligible organizations

The Secretary shall carry out this part insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this subchapter;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this part.

(b) Contract terms

Contracts under this part shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 40 percent of the funds appropriated under this part in that fiscal year.

(Pub. L. 101–625, title II, §243, Nov. 28, 1990, 104 Stat. 4118; Pub. L. 111–8, div. I, title II, §229(3), Mar. 11, 2009, 123 Stat. 978.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (b). Pub. L. 111–8 substituted "40 percent of the funds" for "20 percent of the funds".

§12784. Research in housing affordability

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this subchapter. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability, through the use of cost-saving innovative building technology and construction techniques. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 12783 of this title.

(Pub. L. 101–625, title II, §244, Nov. 28, 1990, 104 Stat. 4118; Pub. L. 102–550, title II, §215, Oct. 28, 1992, 106 Stat. 3759.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–550 inserted before period at end of second sentence ", through the use of cost-saving innovative building technology and construction techniques".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as a note under section 12704 of this title.

§12785. REACH: asset recycling information dissemination

(a) In general

The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this subchapter.

(b) Eligible properties

An eligible property under this section shall—

(1) be an unoccupied single-family or multifamily dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 1715l(d)(3)(ii) of title 12 for elevator-type structures.

(Pub. L. 101–625, title II, §245, Nov. 28, 1990, 104 Stat. 4119.)

PART D—SPECIFIED MODEL PROGRAMS

§12801. General authority

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 12743 of this title shall be model programs specified in this part. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

(Pub. L. 101–625, title II, §251, Nov. 28, 1990, 104 Stat. 4119.)

§12802. Rental housing production

(a) Repayable advances

(1) In general

The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(2) Maximum amount of advance

An advance under this model program shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating jurisdiction.

(3) Terms of repayment

(A) Interest payments

(i) In general

Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(ii) Exception

Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

(B) Additional interest payments

Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction's HOME Investment Trust Fund as additional interest.

(C) Principal and unpaid interest

The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 12749(b) of this title.

(b) Selection guidelines

(1) In general

The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(2) Specific requirements

The selection guidelines may include—

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 12744 of this title;

(E) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this subchapter, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

(c) Guidelines

The Secretary shall publish guidelines for the model program under this section not later than 180 days after November 28, 1990.

(Pub. L. 101–625, title II, §252, Nov. 28, 1990, 104 Stat. 4119.)

§12803. Rental rehabilitation

(a) In general

The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) Amount of subsidy

The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) Additional restrictions

The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 1437o(c) [1] of this title.

(Pub. L. 101–625, title II, §253, Nov. 28, 1990, 104 Stat. 4121.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437o of this title, referred to in subsec. (c), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

[1] See References in Text note below.

§12804. Rehabilitation loans

(a) In general

The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) Condition of loans

The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) Additional restrictions

Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property [1] is residential and owner-occupied; and

(3) the property [1] is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 1452b [2] of this title.

(Pub. L. 101–625, title II, §254, Nov. 28, 1990, 104 Stat. 4121.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1452b of this title, referred to in subsec. (c), was repealed by Pub. L. 101–625, title II, §289(b)(1), Nov. 28, 1990, 104 Stat. 4128, which is classified to section 12839(b)(1) of this title.

[1] So in original. The words "the property" probably should not appear.

[2] See References in Text note below.

§12805. Sweat equity model program

(a) In general

The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) Rehabilitation of properties

The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) Homeownership opportunities through sweat equity

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

(d) Rental opportunities through sweat equity

(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) "Self-help housing" defined

The term "self-help housing" means the same as in section 1490c of this title.

(f) Additional restrictions

The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 1490c of this title.

(Pub. L. 101–625, title II, §255, Nov. 28, 1990, 104 Stat. 4121.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS

Pub. L. 104–120, §11, Mar. 28, 1996, 110 Stat. 841, as amended by Pub. L. 105–276, title V, §599E(a), Oct. 21, 1998, 112 Stat. 2663; Pub. L. 106–569, title II, §202, Dec. 27, 2000, 114 Stat. 2951; Pub. L. 108–285, §2, Aug. 2, 2004, 118 Stat. 917; Pub. L. 114–201, title V, §502, July 29, 2016, 130 Stat. 811, provided that:

"(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to national and regional organizations and consortia that have experience in providing or facilitating self-help housing homeownership opportunities.

"(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

"(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwellings;

"(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 4,000 new dwellings;

"(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

"(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and organizations and consortia, resulting in efficient development of affordable housing with minimal governmental intervention, limited governmental regulation, and significant involvement by private entities;

"(5) activities to develop housing assisted pursuant to this section involve community participation in

which volunteers assist in the construction of dwellings; and

"(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

"(c) NATIONAL COMPETITION.—The Secretary shall select organizations and consortia referred to in subsection (a) to receive grants through a national competitive process, which the Secretary shall establish.

"(d) USE.—

"(1) PURPOSE.—Amounts from grants made under this section, including any recaptured amounts, shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

"(2) ELIGIBLE EXPENSES.—For purposes of paragraph (1), the term 'eligible expenses' means costs only for the following activities:

"(A) LAND ACQUISITION.—Acquiring land (including financing and closing costs), which may include reimbursing an organization, consortium, or affiliate, upon approval of any required environmental review, for nongrant amounts of the organization, consortium, or affiliate advanced before such review to acquire land.

"(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure.

Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

"(e) ESTABLISHMENT OF GRANT FUND.—

"(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

"(2) ASSISTANCE TO AFFILIATES.—Any organization or consortia that receives a grant under this section may use amounts in the fund established for such organization or consortia pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization or consortia.

"(f) REQUIREMENTS FOR ASSISTANCE.—The Secretary may make a grant to an organization or consortium under subsection (a) only pursuant to—

"(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

"(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

"(A) develop not less than 30 dwellings in connection with the grant amounts; and

"(B) otherwise comply with a grant agreement under subsection (i); and

"(3) a grant agreement entered into under subsection (i).

"(g) ENERGY EFFICIENCY REQUIREMENTS.—The Secretary may not require any dwelling developed using amounts from a grant made under this section to meet any energy efficiency standards other than the standards applicable at such time pursuant to section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) to housing specified in subsection (a) of such section.

"(h) GEOGRAPHICAL DIVERSITY.—In making grants under subsection (a), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

"(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

"(1) require such organization or consortia to use grant amounts only as provided in this section;

"(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into consideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

"(3) require the organization or consortia to use the grant amounts in a manner that leverages other

sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

"(4) require the organization or consortia to comply with the other provisions of this section;

"(5) provide that the Secretary shall recapture any grant amounts provided to the organization or consortia that are not used within 24 months after such amounts are first disbursed to the organization or consortia, except that such period shall be 36 months in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section, and in the case of a [sic] grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts; and

"(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

"(j) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that an organization or consortia awarded a grant under this section has not, within 24 months after grant amounts are first made available to the organization or consortia (or, in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section and grant amounts provided to a local affiliate of the organization or consortia that is developing five or more dwellings in connection with such grant amounts, within 36 months), substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

"(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

"(1) the organization awarded the grant shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

"(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

"(l) CLOSE-OUT.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

"(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 [42 U.S.C. 3547].

"(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

"(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) APPLICABLE COMMITTEES.—The term 'applicable Committees' means the Committee on Banking and Financial Services [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(3) UNITED STATES.—The term 'United States' includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

"(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2001.

"(q) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act [Mar. 28, 1996]. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register."

[Pub. L. 105–276, title V, §599E(b), Oct. 21, 1998, 112 Stat. 2664, provided that: "Notwithstanding the amendments made by subsection (a) [amending section 11 of Pub. L. 104–120, set out above], any grant under section 11 of the Housing Opportunity Program Extension Act of 1996 [Pub. L. 104–120] (42 U.S.C. 12805 note) from amounts appropriated in fiscal year 1998 or any prior fiscal year shall be governed by the

provisions of such section 11 as in effect immediately before the enactment of this Act [Oct. 21, 1998], except that the amendments made by paragraphs (8) and (9) of subsection (a) of this section shall apply to such grants."]

[Pub. L. 105–276, title V, §599E(c), Oct. 21, 1998, 112 Stat. 2664, provided that: "This section [amending section 11 of Pub. L. 104–120, set out above, and enacting provisions set out as a note above] shall take effect, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."]

FUNDING FOR SELF-HELP HOUSING ASSISTANCE, NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM, AND CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE

Pub. L. 104–120, §12, Mar. 28, 1996, 110 Stat. 845, provided that:

"(a) AUTHORITY TO USE ASSISTED HOUSING AMOUNTS.—To the extent and for the purposes specified in subsection (b), the Secretary of Housing and Urban Development may use amounts in the account of the Department of Housing and Urban Development known as the Annual Contributions for Assisted Housing account, but only such amounts which—

"(1) have been appropriated for a fiscal year that occurs before the fiscal year for which the Secretary uses the amounts; and

"(2) have been obligated before becoming available for use under this section.

"(b) FISCAL YEAR 1996.—Of the amounts described in subsection (a), $60,000,000 shall be available to the Secretary of Housing and Urban Development for fiscal year 1996 in the following amounts for the following purposes:

"(1) SELF-HELP HOUSING ASSISTANCE.—$40,000,000 for carrying out section 11 of this Act [set out above].

"(2) NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM .—$10,000,000 for carrying out section 930 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3887).

"(3) CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE.—$10,000,000 for carrying out section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note)."

§12806. Home repair services grants for older and disabled homeowners

(a) In general

The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

(b) Eligible recipients

Home repair services shall be provided to homeowners who—

(1) own and reside in the dwellings for which services are provided;

(2) are older or disabled; and

(3) are members of low-income families.

(c) Permitted restrictions

Guidelines for the model program shall require that—

(1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;

(2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by noneconomic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;

(3) any fees charged be based on the income of the individual receiving the home repair services.

(Pub. L. 101–625, title II, §256, Nov. 28, 1990, 104 Stat. 4122.)

§12807. Low-income housing conservation and efficiency grant programs

(a) In general

The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

(b) Activities

The model program shall provide for—

(1) identification of housing that is—

(A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act [42 U.S.C. 6861 et seq.] (or a comparable Federal or State program);

(B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and

(3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this subchapter.

(Pub. L. 101–625, title II, §257, Nov. 28, 1990, 104 Stat. 4122.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Conservation and Production Act, referred to in subsec. (b)(1)(A), is Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1142, as amended. Part A of title IV of the Act is classified generally to part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

§12808. Second mortgage assistance for first-time homebuyers

(a) In general

The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) Homeownership counseling

The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

(1) counseling before and after purchase of the property;

(2) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(3) providing homebuyers with financial management assistance;

(4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

(c) Eligibility requirements

Deferred payment loans secured by second mortgages may be provided under the model program under this section if—

(1) the homebuyer assisted is a first-time homebuyer;

(2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and

(3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(d) Payment terms

(1) Period of deferral

The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(2) Interest rate

The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

(3) Repayment period

A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

(e) Security

A deferred payment loan assisted with amount [1] provided under a grant under this section shall be secured by a lien on the property involved, which lien shall be subordinate to the first mortgage on the property.

(Pub. L. 101–625, title II, §258, Nov. 28, 1990, 104 Stat. 4123.)

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

§12809. Rehabilitation of State and local government in rem properties

(a) In general

The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

(b) Target

The program shall target vacant properties for rehabilitation by nonprofit organizations.

(Pub. L. 101–625, title II, §259, Nov. 28, 1990, 104 Stat. 4124.)

§12810. Cost-saving building technologies and construction techniques

(a) In general

The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this subchapter.

(b) Selection criteria

The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

(1) the extent to which innovative, cost-saving building and construction technologies are

utilized;

(2) the extent to which innovative, cost-saving construction techniques are utilized;

(3) the extent to which units will be made available to low-income families and individuals;

(4) the extent to which non-Federal public or private assistance is utilized; and

(5) any other factor, determined by the Secretary to be appropriate.

(c) Guidelines

The Secretary shall publish guidelines for the model program under this section not later than 180 days after October 28, 1992.

(d) Report

The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.

(Pub. L. 101–625, title II, §260, as added Pub. L. 102–550, title II, §216, Oct. 28, 1992, 106 Stat. 3760.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable to unexpended funds allocated under subchapter II of this chapter in fiscal year 1992, except as otherwise specifically provided, see section 223 of Pub. L. 102–550, set out as an Effective Date of 1992 Amendment note under section 12704 of this title.

PART E—OTHER ASSISTANCE

EDITORIAL NOTES

CODIFICATION

Pub. L. 108–186, title I, §102, Dec. 16, 2003, 117 Stat. 2686, amended heading generally. Prior to amendment, heading read "Mortgage Credit Enhancement".

§12821. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 101–625, title II, §271, Nov. 28, 1990, 104 Stat. 4124; Pub. L. 108–186, title I, §102, Dec. 16, 2003, 117 Stat. 2686; Pub. L. 111–8, div. I, title II, §229(4), Mar. 11, 2009, 123 Stat. 978, which related to downpayment assistance toward the purchase of single family housing, was omitted from the Code upon the expiration of Secretary's authority on Dec. 31, 2011, to make grants to participating jurisdictions to assist low-income families to achieve homeownership.

PART F—GENERAL PROVISIONS

§12831. Equal opportunity

(a) Solicitation of contracts

Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) Report to Congress

Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 12747 of this title, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

(Pub. L. 101–625, title II, §281, Nov. 28, 1990, 104 Stat. 4125.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, known as the Cranston-Gonzalez National Affordable Housing Act. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of this title and Tables.

§12832. Nondiscrimination

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 shall also apply to any such program or activity. The Secretary may waive this section in connection with the use of funds made available under this subchapter on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108).

(Pub. L. 101–625, title II, §282, Nov. 28, 1990, 104 Stat. 4125; Pub. L. 104–204, title II, §213, Sept. 26, 1996, 110 Stat. 2904.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in text, is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Hawaiian Homes Commission Act, 1920, referred to in text, is act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

AMENDMENTS

1996—Pub. L. 104–204 inserted at end "The Secretary may waive this section in connection with the use of funds made available under this subchapter on lands set aside under the Hawaiian Homes Commission Act, 1920 (42 Stat. 108)."

§12833. Audits by Comptroller General

(a) Audits of HOME Investment Partnerships program

The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(b) Audits of recipients

The financial transactions of participating jurisdictions and of other recipients of funds provided under this subchapter may, insofar as they relate to funds provided under this subchapter, be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(Pub. L. 101–625, title II, §283, Nov. 28, 1990, 104 Stat. 4125; Pub. L. 103–233, title II, §205, Apr. 11, 1994, 108 Stat. 364; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

1994—Pub. L. 103–233, §205(1), substituted "Audits by Comptroller General" for "Annual audits and accountability" in section catchline.

Subsec. (a). Pub. L. 103–233, §205(4), struck out after first sentence "The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year."

Pub. L. 103–233, §205(3)(B), (C), redesignated subsec. (b)(1) as (a) and realigned margins.

Pub. L. 103–233, §205(2), struck out heading and text of subsec. (a). Text read as follows: "The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the HOME Investment Partnerships program for each fiscal year. Funds available for departmental administration may be used to provide for such audits. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States (hereinafter referred to as the 'Comptroller General'), and shall be consistent with the requirements of sections 9105 and 9106 of title 31. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31."

Subsec. (b). Pub. L. 103–233, §205(3), struck out heading "AUDITS BY THE COMPTROLLER GENERAL.—", redesignated subsec. (b)(2) as (b), and realigned margins.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of

Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

§12834. Uniform recordkeeping and reports to Congress

(a) Uniform requirements

The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) Omitted

(Pub. L. 101–625, title II, §284, Nov. 28, 1990, 104 Stat. 4126.)

EDITORIAL NOTES

CODIFICATION

Subsec. (b) of this section, which required the Secretary to make an annual report to Congress that summarizes and assesses the results of reports provided under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 3rd item on page 102 of House Document No. 103–7.

§12835. Citizen participation

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 12707 of this title.

(Pub. L. 101–625, title II, §285, Nov. 28, 1990, 104 Stat. 4126.)

§12836. Labor

(a) In general

Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this part shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40, shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) Waiver

Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

(Pub. L. 101–625, title II, §286, Nov. 28, 1990, 104 Stat. 4126.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "sections 3141–3144, 3146, and 3147 of title 40" substituted for "the Davis-Bacon Act (40 U.S.C. 276a—276a–5)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§12837. Interstate agreements

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this subchapter as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

(Pub. L. 101–625, title II, §287, Nov. 28, 1990, 104 Stat. 4127.)

§12838. Environmental review

(a) In general

In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this subchapter, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to jurisdictions or insular areas under this subchapter who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. The regulations shall provide—

(1) for the monitoring of the environmental reviews performed under this section;

(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.

(b) Procedure

The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects [1] the jurisdiction or insular area has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) Certification

A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under

this subchapter qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this subchapter has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the jurisdiction or insular area and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) Assistance to units of general local government from a State

In the case of assistance to units of general local government from a State, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

(Pub. L. 101–625, title II, §288, Nov. 28, 1990, 104 Stat. 4127; Pub. L. 103–233, title II, §206, Apr. 11, 1994, 108 Stat. 365; Pub. L. 104–330, title V, §505(a)(2), Oct. 26, 1996, 110 Stat. 4044.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a), (b), and (c)(4), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–330, §505(a)(2)(A), struck out ", Indian tribes," after "projects to jurisdictions" in introductory provisions.

Subsecs. (b), (c)(4). Pub. L. 104–330, §505(a)(2)(B), (C), struck out ", Indian tribe," after "the jurisdiction".

1994—Subsec. (a). Pub. L. 103–233, §206(1), substituted "jurisdictions, Indian tribes, or insular areas" for "participating jurisdictions" and inserted before period at end "The regulations shall provide—

"(1) for the monitoring of the environmental reviews performed under this section;

"(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

"(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds."

Subsec. (b). Pub. L. 103–233, §206(2), substituted "jurisdiction, Indian tribe, or insular area" for "participating jurisdiction".

Subsec. (c)(4)(B). Pub. L. 103–233, §206(3), substituted "jurisdiction, Indian tribe, or insular area" for "participating jurisdiction".

Subsec. (d). Pub. L. 103–233, §206(4), substituted "Assistance to units of general local government from a State" for "Assistance to a State" in heading and "In the case of assistance to units of general local government from a State" for "In the case of assistance to States" in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104–330, set out as an Effective Date note under section 4101 of Title 25, Indians.

Amendment by Pub. L. 104–330 applicable with respect to amounts made available for assistance under this subchapter for fiscal year 1998 and fiscal years thereafter, see section 505(b) of Pub. L. 104–330, set out as a note under section 12747 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out this

subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

[1] *So in original. Probably should be followed by a comma.*

§12839. Termination of existing housing programs

(a) In general

Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under—

(1) section 17 of the United States Housing Act of 1937 [42 U.S.C. 1437o];

(2) section 312 of the Housing Act of 1964 [42 U.S.C. 1452b];

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(e)(2)], except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11360 et seq.]; and

(5) section 810 of the Housing and Community Development Act of 1974 [12 U.S.C. 1706e].

(b) Repeals

(1) In general

Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) are repealed.

(2) No effect on SRO program

The provision of law referred to in subsection (a)(4) shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11360 et seq.].

(c) Disposition of repayments

Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

(Pub. L. 101–625, title II, §289, Nov. 28, 1990, 104 Stat. 4128; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title VI of the Housing and Community Development Act of 1987 [Pub. L. 100–242], referred to in subsec. (a)(3), is set out as a note under section 1715l of Title 12, Banks and Banking.

The McKinney-Vento Homeless Assistance Act, referred to in subsecs. (a)(4) and (b)(2), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Title IV of the Act is classified generally to subchapter IV (§11360 et seq.) of chapter 119 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

AMENDMENTS

2000—Subsecs. (a)(4), (b)(2). Pub. L. 106–400 substituted "McKinney-Vento Homeless Assistance Act" for "Stewart B. McKinney Homeless Assistance Act".

§12840. Suspension of requirements for disaster areas

For funds designated under this subchapter by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170 et seq.], the Secretary may suspend all statutory requirements for purposes of assistance under this subchapter for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.

(Pub. L. 101–625, title II, §290, as added Pub. L. 103–233, title II, §208, Apr. 11, 1994, 108 Stat. 366.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended. Title IV of the Act is classified generally to subchapter IV (§5170 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section applicable with respect to any amounts made available to carry out this subchapter after Apr. 11, 1994, and any amounts made available to carry out this subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out this section not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as an Effective Date of 1994 Amendment note under section 5301 of this title.

SUBCHAPTER III—NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION

§12851. National Homeownership Trust

(a) Establishment

There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subchapter.

(b) Board of Directors

The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) Powers of Trust

The Trust shall have the same powers as the powers given the Government National Mortgage

Association in section 1723a(a) of title 12.

(d) Travel and per diem

Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, as appropriate.

(e) Director and staff

(1) Director

The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) Staff

Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

(Pub. L. 101–625, title III, §302, Nov. 28, 1990, 104 Stat. 4129.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of this subchapter as the "National Homeownership Trust Act", see Short Title note set out under section 12701 of this title.

§12852. Assistance for first-time homebuyers

(a) In general

The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) Interest rate buydowns

Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) Downpayment assistance

Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(3) Assistance in connection with mortgage revenue bonds financing

Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).

(4) Second mortgage assistance

Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and [1]

(5) Capitalization of revolving loan funds

Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subchapter. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.

(b) Eligibility requirements

Assistance payments under this subchapter may be made only to homebuyers and for mortgages meeting the following requirements:

(1) First-time homebuyer

The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subchapter;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A);

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A); or

(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

(2) Maximum income of homebuyer

The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subchapter, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subchapter and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) Certification

The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) Principal residence

The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) Maximum mortgage amount

The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act [12 U.S.C. 1701 et seq.].

(6) Maximum interest rate

The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) Responsible mortgagee

The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) Minimum downpayment

For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) Terms of assistance

(1) Security

Assistance payments under this subchapter shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) Repayment upon sale

Assistance payments under this subchapter shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) Repayment upon increased income

If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subchapter exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) Repayment if property ceases to be principal residence

If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) Available assistance

The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) Allocation formula

Amounts available in any fiscal year for assistance under this subchapter shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

(e) Assistance in connection with housing financed with mortgage revenue bonds

(1) Authority

The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of title 26), or (B) for which a credit is allowable under section 25 of title 26.

(2) Eligibility

To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

(A) the certification under subsection (b)(3) shall not be required for assistance under this

subsection;

(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

(3) Limitation of assistance

Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

(A) Interest rate buydowns

Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

(B) Downpayment assistance

Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

(3) [2] Availability

The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.

(Pub. L. 101–625, title III, §303, Nov. 28, 1990, 104 Stat. 4130; Pub. L. 102–550, title I, §182(c)–(e), Oct. 28, 1992, 106 Stat. 3737, 3738.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b)(2)(B), (5), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102–550, §182(c)(2), added par. (3).
Subsec. (a)(4), (5). Pub. L. 102–550, §182(e), added pars. (4) and (5).
Subsec. (b)(1)(D). Pub. L. 102–550, §182(d), added subpar. (D).
Subsec. (e). Pub. L. 102–550, §182(c)(1), added subsec. (e).

[1] So in original. The "; and" probably should be a period.

[2] So in original. Probably should be "(4)".

§12853. National Homeownership Trust Fund

(a) Establishment

There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) Assets

The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 12857 of this title for purposes of carrying out this subchapter;

(2) any amount received by the Trust as repayment for payments made under this subchapter; and

(3) any amount received by the Trust under subsection (d).

(c) Use of amounts

The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subchapter.

(d) Investment of excess amounts

Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subchapter shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) Demonstration programs

Using not more than $20,000,000 of any amounts appropriated for the Fund under section 12857 of this title in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed $4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed $10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed $1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

(Pub. L. 101–625, title III, §304, Nov. 28, 1990, 104 Stat. 4132.)

§12854. Definitions

For purposes of this subchapter:

(1) Board of Directors

The term "Board of Directors" or "Board" means the Board of Directors of the National Homeownership Trust under section 12851(b) of this title.

(2) Displaced homemaker

The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading

employment.

(3) Fund

The term "Fund" means the National Homeownership Trust Fund established in section 12853 of this title.

(4) Single parent

The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) State

The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) Trust

The term "Trust" means the National Homeownership Trust established in section 12851 of this title.

(Pub. L. 101–625, title III, §305, Nov. 28, 1990, 104 Stat. 4132.)

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§12855. Regulations

The Board of Directors shall issue any regulations necessary to carry out this subchapter.

(Pub. L. 101–625, title III, §306, Nov. 28, 1990, 104 Stat. 4133.)

§12856. Report

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 12859 of this title, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

(Pub. L. 101–625, title III, §307, Nov. 28, 1990, 104 Stat. 4133.)

§12857. Authorization of appropriations

There are authorized to be appropriated for assistance payments under this subchapter $520,665,600 for fiscal year 1993 and $542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 12852(e) of this title. Any amount appropriated under this section shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 12858 [1] of this title.

(Pub. L. 101–625, title III, §308, Nov. 28, 1990, 104 Stat. 4133; Pub. L. 102–550, title I, §182(b), Oct. 28, 1992, 106 Stat. 3736.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12858 of this title, referred to in text, was in the original "section 311", and was translated as reading "section 309", meaning section 309 of Pub. L. 101–625, to reflect the probable intent of Congress, because Pub. L. 101–625 does not contain a section 311.

AMENDMENTS

1992—Pub. L. 102–550 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to carry out this subchapter $250,000,000 for fiscal year 1991 and $521,500,000 for fiscal year 1992. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 12858 of this title."

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

§12858. Transition

(a) Authority of Secretary

Upon the termination of the Trust as provided in section 12859 of this title, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subchapter as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) Applicability of Trust provisions

Any assistance under this subchapter shall, after termination of the Trust, be subject to the provisions of this subchapter that would have applied to such assistance if the termination had not occurred.

(c) Certification of Fund to Treasury

Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

(Pub. L. 101–625, title III, §309, Nov. 28, 1990, 104 Stat. 4133.)

§12859. Termination

The Trust shall terminate September 30, 1994.

(Pub. L. 101–625, title III, §310, Nov. 28, 1990, 104 Stat. 4133; Pub. L. 102–550, title I, §182(a), Oct. 28, 1992, 106 Stat. 3736.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–550 substituted "September 30, 1994" for "on September 30, 1993".

SUBCHAPTER IV—HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY AND SINGLE FAMILY HOMES

§12870. Authorization of appropriations

(a) Fiscal year 1993

There are authorized to be appropriated for grants under this title [1] $855,000,000 for fiscal year 1993, of which—

(1) $285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937 [42 U.S.C. 1437aaa et seq.], of which up to $4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this [2] title;

(2) $285,000,000 shall be available for activities authorized under part A, of which up to $3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this [2] part; and

(3) $285,000,000 shall be available for activities under part B, of which up to $2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this [2] part.

Any amount appropriated pursuant to this subsection shall remain available until expended.

(b) Fiscal year 1994

There are authorized to be appropriated for grants under this title [1] $883,641,000 for fiscal year 1994, of which—

(1) $294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937 [42 U.S.C. 1437aaa et seq.], up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this [2] title;

(2) $294,547,000 shall be available for activities authorized under part A, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this [2] part; and

(3) $294,547,000 shall be available for activities under part B, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this [2] part.

Any amount appropriated pursuant to this subsection shall remain available until expended.

(c) Technical assistance

Technical assistance made available under title III of the United States Housing Act of 1937 [42 U.S.C. 1437aaa et seq.] or part A or part B of this subchapter may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or part A or part B of this subchapter may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or part for the fiscal year.

(Pub. L. 101–625, title IV, §402, as added Pub. L. 102–550, title I, §181(a)(1), Oct. 28, 1992, 106 Stat. 3734; amended Pub. L. 109–281, §2(d)(3), Sept. 22, 2006, 120 Stat. 1181.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in introductory provisions of subsecs. (a) and (b), is title IV of Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4148, known as the Homeownership and Opportunity Through HOPE Act, which enacted

this subchapter and subchapter II–A (§1437aaa et seq.) of chapter 8 of this title, amended sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of title IV to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

The United States Housing Act of 1937, referred to in subsecs. (a)(1), (b)(1), and (c), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653. Title III of the Act is classified generally to subchapter II–A (§1437aaa et seq.) of chapter 8 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–281 struck out the second sentence, which read as follows: "Of the amounts appropriated pursuant to this subsection, up to $40,000,000, but not less than 5 percent, shall be available for activities authorized under part C of this subchapter."

Subsec. (b). Pub. L. 109–281 struck out the second sentence, which read as follows: "Of the amounts appropriated pursuant to this subsection, up to $41,680,000, but not less than 5 percent, shall be available for activities authorized under part C of this subchapter."

STATUTORY NOTES AND RELATED SUBSIDIARIES

GAO AUDIT OF TECHNICAL ASSISTANCE CONTRACTS

Pub. L. 102–550, title I, §181(a)(3), Oct. 28, 1992, 106 Stat. 3735, provided that: "The Comptroller General of the United States shall conduct an audit of all of the technical assistance contracts awarded for fiscal years 1993 and 1994 pursuant to section 402 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12870]. The Comptroller General shall submit a report to the Congress describing the results of such audit not later than September 30, 1994."

[1] See References in Text note below.

[2] So in original. Probably should be "such".

PART A—HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS

§12871. Program authority

(a) In general

The Secretary is authorized to make—

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) Authority to reserve housing assistance

In connection with a grant under this part, the Secretary may reserve authority to provide assistance under section 1437f of this title to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(Pub. L. 101–625, title IV, §421, Nov. 28, 1990, 104 Stat. 4162; Pub. L. 102–550, title I, §181(a)(2)(B)(i), Oct. 28, 1992, 106 Stat. 3735.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original "this subtitle", meaning subtitle B (§§421–431) of title IV of Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4162, which enacted this part and amended section 1709

of Title 12, Banks and Banking.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–550 struck out subsec. (c) which read as follows: "AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this part $51,000,000 for fiscal year 1991 and $280,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended."

§12872. Planning grants

(a) Grants

The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this part. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) Eligible activities

Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) inspection for lead-based paint hazards, as required by section 4822(a) of this title;

(5) preliminary architectural and engineering work;

(6) tenant and homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this part.

(c) Application

(1) Form and procedures

An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(d) Selection criteria

The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this part in an effective and efficient manner.

(Pub. L. 101–625, title IV, §422, Nov. 28, 1990, 104 Stat. 4162; Pub. L. 102–550, title X, §1012(i)(1), Oct. 28, 1992, 106 Stat. 3906.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (c)(2)(E), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(E), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (c)(2)(E), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1992—Subsec. (b)(4) to (9). Pub. L. 102–550 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

§12873. Implementation grants

(a) Grants

The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this part.

(b) Eligible activities

Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this part.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 4822(a) of this title.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(6) Development of resident management corporations and resident management councils, but

only if the applicant has not received assistance under section 12872 [1] of this title for such activities.

(7) Counseling and training of homebuyers and homeowners under the homeownership program.

(8) Relocation of tenants who elect to move.

(9) Any necessary temporary relocation of tenants during rehabilitation.

(10) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(11) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(12) Legal fees.

(13) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(14) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) Matching funding

(1) In general

Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) Form

Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 5306(b) or section 5306(d) of this title;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this part;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this part; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) [2] Application

(1) Form and procedure

An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 1437f of this title, specifying the

proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 12874 [1] of this title and the other requirements of this part, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 12874(b) [1] of this title;

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(d) [2] Selection criteria

The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title [1] exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the [3] part in an effective and efficient manner.

(e) Approval

The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve

the application for an implementation grant with a statement that the application for the section 8 [42 U.S.C. 1437f] assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(Pub. L. 101–625, title IV, §423, Nov. 28, 1990, 104 Stat. 4163; Pub. L. 102–550, title X, §1012(i)(2), Oct. 28, 1992, 106 Stat. 3906.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12872 of this title, referred to in subsec. (b)(6), was in the original "section 322" and was translated as reading "section 422", meaning section 422 of Pub. L. 101–625, to reflect the probable intent of Congress. Section 322 of Pub. L. 101–625 amended section 1708 of Title 12, Banks and Banking.

Section 12874 of this title and section 12874(b) of this title, referred to in subsec. (d)(2)(D), were in the original "section 324" and "section 324(b)", respectively, and were translated as reading "section 424" and "section 424(b)", respectively, meaning section 424 of Pub. L. 101–625, to reflect the probable intent of Congress. Section 324 of Pub. L. 101–625, which proposed an amendment to section 1709 of Title 12, never took effect pursuant to section 351 of Pub. L. 101–625. Such section 324 did not contain a subsec. (b).

The Fair Housing Act, referred to in subsec. (d)(2)(M), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(M), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(M), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

This title, referred to in subsec. (d)(6), means title IV of Pub. L. 101–625, known as the Homeownership and Opportunity Through HOPE Act, and probably should have been "this subtitle", meaning subtitle B (§§421–431) of title IV of Pub. L. 101–625, which is classified principally to this part. For complete classification of title IV of Pub. L. 101–625 to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

AMENDMENTS

1992—Subsec. (b)(4) to (14). Pub. L. 102–550 added par. (4) and redesignated former pars. (4) to (13) as (5) to (14), respectively.

[1] See References in Text note below.

[2] So in original. Two subsecs. (d) have been enacted.

[3] So in original. Probably should be "this".

§12874. Homeownership program requirements

(a) In general

A homeownership program under this part shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) Affordability

A homeownership program under this part shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) Plan

A homeownership program under this part shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) Acquisition and rehabilitation limitation

Acquisition or rehabilitation of a property under a homeownership program under this part may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) Financing

(1) In general

The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(2) Prohibition against pledges

Property transferred under this part shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this part.

(3) Opportunity to cure

Any lender that provides financing in connection with a homeownership program under this part shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) Housing quality standards

The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing

standards established by the Secretary for the purpose of this title.[1]

(g) Protection of nonpurchasing families

(1) In general

No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this part.

(2) Rental assistance

If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 1437f of this title is available for use by each otherwise qualified tenant in that or another property.

(3) Relocation assistance

The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(Pub. L. 101–625, title IV, §424, Nov. 28, 1990, 104 Stat. 4166.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (e)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

This title, referred to in subsec. (f)(2), is title IV of Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4148, known as the Homeownership and Opportunity Through HOPE Act, which enacted this subchapter and subchapter II–A (§1437aaa et seq.) of chapter 8 of this title, amended sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of title IV to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

Section 1437f of this title, referred to in subsec. (g)(2), was in the original "section 8", and was translated as reading "section 8 of the United States Housing Act of 1937" to reflect the probable intent of Congress.

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

§12875. Other program requirements

(a) Preferences

In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) Cost limitations

The Secretary may establish cost limitations on eligible activities under this part, subject to the provisions of this part.

(c) Use of proceeds from sales to eligible families

The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the

project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) Restrictions on resale by homeowners

(1) In general

(A) Transfer permitted

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) Right to purchase

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) Promissory note required

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 years or less

In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 years

In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) Use of recaptured funds

Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business

opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this part, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) Third party rights

The requirements under this part regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) Dollar limitation on economic development activities

Not more than an aggregate of $250,000 from amounts made available under sections 12872 and 12873 of this title may be used for economic development activities under sections 12872(b)(6) and 12873(b)(9) [1] of this title for any project.

(g) Timely homeownership

Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) Records and audit of recipients of assistance

(1) In general

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this part (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by Secretary

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

(3) Access by Comptroller General

The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

(i) Certain entities not eligible

Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

(Pub. L. 101–625, title IV, §425, Nov. 28, 1990, 104 Stat. 4168.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 12872(b)(6) and 12873(b)(9) of this title, referred to in subsec. (f), were redesignated sections 12872(b)(7) and 12873(b)(10) of this title, respectively, by Pub. L. 102–550, title X, §1012(i), Oct. 28, 1992, 106 Stat. 3906.

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

§12876. Definitions

For purposes of this part:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 1437r of this title.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(G) A mutual housing association.

(2) The term "eligible family" means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, or a State or local government or an agency or instrumentality thereof.

(4) The term "homeownership program" means a program for homeownership under this part.

(5) The term "Indian housing authority" has the meaning given such term in section 1437a(b)(11) [1] of this title.

(6) The term "low-income family" has the meaning given such term in section 1437a(b)(2) of this title.

(7) The term "public housing agency" has the meaning given such term in section 1437a(b)(6) of this title.

(8) The term "recipient" means an applicant approved to receive a grant under this title [1] or such other entity specified in the approved application that will assume the obligations of the recipient under this part.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

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

(Pub. L. 101–625, title IV, §426, Nov. 28, 1990, 104 Stat. 4170; Pub. L. 102–550, title I, §181(d), (e), (h), Oct. 28, 1992, 106 Stat. 3735, 3736.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437a(b)(11) of this title, referred to in par. (5), was repealed by Pub. L. 104–330, title V, §501(b)(1)(D), Oct. 26, 1996, 110 Stat. 4041, and a new section 1437a(b)(11), defining "public housing agency plan", was enacted by Pub. L. 105–276, title V, §506(4), Oct. 21, 1998, 112 Stat. 2524.

This title, referred to in par. (8), means title IV of Pub. L. 101–625, known as the Homeownership and Opportunity Through HOPE Act, and probably should have been "this subtitle", meaning subtitle B (§§421–431) of title IV of Pub. L. 101–625, which is classified principally to this part. For complete classification of title IV of Pub. L. 101–625 to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

AMENDMENTS

1992—Par. (1)(G). Pub. L. 102–550, §181(d), added subpar. (G).

Par. (3)(D). Pub. L. 102–550, §181(e), (h), inserted "the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency," after "Corporation," and "or an agency or instrumentality thereof" before period at end.

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

§12877. Exemption

Eligible property covered by a homeownership program approved under this part shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.], or

(2) the requirements of section 1701z–11 of title 12 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

(Pub. L. 101–625, title IV, §427, Nov. 28, 1990, 104 Stat. 4171.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in par. (1), is title II of Pub. L. 100–242, as amended by Pub. L. 101–625, title VI, §601(a), Nov. 28, 1990, 104 Stat. 4249, which is classified principally to chapter 42 (§4101 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

§12878. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this part, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or

discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Pub. L. 101–625, title IV, §428, Nov. 28, 1990, 104 Stat. 4171.)

§12879. Implementation

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this part first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

(Pub. L. 101–625, title IV, §430, Nov. 28, 1990, 104 Stat. 4172.)

§12880. Report

The Secretary shall no later than December 31, 1995, submit to the Congress a report setting forth—

(1) the number, type and cost of eligible properties transferred pursuant to this part;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this part;

(3) the amount and type of financial assistance provided under and in conjunction with this part;

(4) the amount of financial assistance provided under this part that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

(Pub. L. 101–625, title IV, §431, Nov. 28, 1990, 104 Stat. 4172; Pub. L. 104–66, title I, §1072(a), Dec. 21, 1995, 109 Stat. 721.)

EDITORIAL NOTES

AMENDMENTS

1995—Pub. L. 104–66 in section catchline substituted "Report" for "Annual report", and in introductory provisions substituted "The Secretary shall no later than December 31, 1995," for "The Secretary shall annually".

PART B—HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES

§12891. Program authority

The Secretary is authorized to make—

(1) planning grants to help applicants develop homeownership programs in accordance with this part; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this part.

(Pub. L. 101–625, title IV, §441, Nov. 28, 1990, 104 Stat. 4172; Pub. L. 102–550, title I, §181(a)(2)(B)(ii), Oct. 28, 1992, 106 Stat. 3735.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–550 struck out "(a) IN GENERAL" before "The Secretary is authorized" and subsec. (b) which read as follows: "AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this part $36,000,000 for fiscal year 1991, and $195,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended."

§12892. Planning grants

(a) Grants

The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this part. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) Eligible activities

Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) inspection for lead-based paint hazards, as required by section 4822(a) of this title;

(5) preliminary architectural and engineering work;

(6) homebuyer counseling and training;

(7) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(8) development of security plans; and

(9) preparation of an application for an implementation grant under this part.

(c) Application

(1) Form and procedures

An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(d) Selection criteria

The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this part in an effective and efficient manner.

(Pub. L. 101–625, title IV, §442, Nov. 28, 1990, 104 Stat. 4172; Pub. L. 102–550, title X, §1012(j)(1), Oct. 28, 1992, 106 Stat. 3906.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (c)(2)(E), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(E), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (c)(2)(E), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1992—Subsec. (b)(4) to (9). Pub. L. 102–550 added par. (4) and redesignated former pars. (4) to (8) as (5) to (9), respectively.

§12893. Implementation grants

(a) Grants

The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this part.

(b) Eligible activities

Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this part.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Abatement of lead-based paint hazards, as required by section 4822(a) of this title.

(5) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(6) Counseling and training of homebuyers and homeowners under the homeownership

program.

(7) Relocation of eligible families who elect to move.

(8) Any necessary temporary relocation of homebuyers during rehabilitation.

(9) Legal fees.

(10) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(11) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) Matching funding

(1) In general

Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) Form

Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 5306(b) or section 5306(d) of this title;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 5306(b) or section 5306(d) of this title;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this part;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this part; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) Application

(1) Form and procedure

An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) Minimum requirements

The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 12894 of this title and the other requirements of this part specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 12894(b) of this title;

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 12705 of this title that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after November 28, 1990, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and will affirmatively further fair housing.

(e) Selection criteria

The Secretary shall establish selection criteria for assistance under this part, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 12705(b)(7) of this title;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this part exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) Approval

The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

(Pub. L. 101–625, title IV, §443, Nov. 28, 1990, 104 Stat. 4174; Pub. L. 102–550, title X, §1012(j)(2), Oct. 28, 1992, 106 Stat. 3906; Pub. L. 103–233, title II, §221, Apr. 11, 1994, 108 Stat. 366.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (d)(2)(K), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(K), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this

title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (d)(2)(K), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–233 substituted "25 percent" for "33 percent".

1992—Subsec. (b)(4) to (11). Pub. L. 102–550 added par. (4) and redesignated former pars. (4) to (10) as (5) to (11), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–233 applicable with respect to any amounts made available to carry out subchapter II (§12721 et seq.) of this chapter after Apr. 11, 1994, and any amounts made available to carry out that subchapter before that date that remain uncommitted on that date, with Secretary to issue any regulations necessary to carry out such amendment not later than end of 45-day period beginning on that date, see section 209 of Pub. L. 103–233, set out as a note under section 5301 of this title.

§12894. Homeownership program requirements

(a) In general

A homeownership program under this part shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) Affordability

A homeownership program under this part shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) Eligible property

A property may not participate in a homeownership program under this part unless all tenants or occupants of the property (at the time of [1] the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) Plan

A homeownership program under this part shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) Housing quality standards

The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.[2]

(f) Preference for acquisition of vacant units

Each homeownership program under this part shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.

(Pub. L. 101–625, title IV, §444, Nov. 28, 1990, 104 Stat. 4176; Pub. L. 102–550, title I, §181(f), Oct. 28, 1992, 106 Stat. 3736.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (e)(2), is title IV of Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4148, known as the Homeownership and Opportunity Through HOPE Act, which enacted this subchapter and subchapter II–A (§1437aaa et seq.) of chapter 8 of this title, amended sections 1437c, 1437f, 1437l, 1437p, 1437r, and 1437s of this title and section 1709 of Title 12, Banks and Banking, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of this title. For complete classification of title IV to the Code, see Short Title note set out under section 1437aaa of this title and Tables.

AMENDMENTS

1992—Subsec. (f). Pub. L. 102–550 added subsec. (f).

[1] *So in original. The word "of" probably should not appear.*

[2] *So in original. See References in Text note below.*

§12895. Other program requirements

(a) Cost limitations

The Secretary may establish cost limitations on eligible activities under this part, subject to the provisions of this part.

(b) Use of proceeds from sales to eligible families

Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) Restrictions on resale by homeowners

(1) In general

(A) Transfer permitted

A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) Right to purchase

Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall

have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) Promissory note required

The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 years or less

In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6–20 years

In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) Use of recaptured funds

Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this part, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) Third party rights

The requirements under this part regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) Protection of nonpurchasing families

No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program

approved under this part.

(h) [1] Records and audit of recipients of assistance

(1) In general

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this part (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by Secretary

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

(3) Access by Comptroller General

The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this part.

(Pub. L. 101–625, title IV, §445, Nov. 28, 1990, 104 Stat. 4177.)

[1] So in original. Probably should be "(f)".

§12896. Definitions

For purposes of this part:

(1) The term "applicant" means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "displaced homemaker" has the same meaning as in section 12704 of this title.

(3) The term "eligible family" means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term "eligible property" means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (excluding public or Indian housing under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] and including properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" has the same meaning as in section 12704 of this title.

(6) The term "homeownership program" means a program for homeownership under this part.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) [1] of the United States Housing Act of 1937.

(8) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the

United States Housing Act of 1937 [42 U.S.C. 1437a(b)(6)].

(10) The term "recipient" means an applicant approved to receive a grant under this part or such other entity specified in the approved application that will assume the obligations of the recipient under this part.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(Pub. L. 101–625, title IV, §446, Nov. 28, 1990, 104 Stat. 4179; Pub. L. 102–550, title I, §181(g)(2), (h), Oct. 28, 1992, 106 Stat. 3736.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in par. (4), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

Section 3(b)(11) of the United States Housing Act of 1937, referred to in par. (7), was classified to section 1437a(b)(11) of this title prior to repeal by Pub. L. 104–330, title V, §501(b)(1)(D), Oct. 26, 1996, 110 Stat. 4041, and a new section 1437a(b)(11), defining "public housing agency plan", was enacted by Pub. L. 105–276, title V, §506(4), Oct. 21, 1998, 112 Stat. 2524.

AMENDMENTS

1992—Par. (4). Pub. L. 102–550 inserted "the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency," after "Corporation," and substituted "(excluding public or Indian housing under the United States Housing Act of 1937 and including" for "(including scattered site single family properties, and".

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

§12897. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this part, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Pub. L. 101–625, title IV, §447, Nov. 28, 1990, 104 Stat. 4180.)

§12898. Implementation

Not later than the expiration of the 180-day period beginning on the date funds authorized under this part first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

(Pub. L. 101–625, title IV, §448, Nov. 28, 1990, 104 Stat. 4180.)

§12898a. Enterprise zone homeownership opportunity grants

(a) Statement of purpose

It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) Definitions

For purposes of this section the following definitions shall apply:

(1) Home

The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) Metropolitan statistical area

The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(3) Nonprofit organization

The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(5) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) Unit of general local government

The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) Assistance to nonprofit organizations

(1) In general

The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) Applications

Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) Eligible uses of assistance

(1) In general

Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) Specific requirements

Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding $15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) Program requirements

(1) In general

Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) Family need

Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) Downpayment

Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) Leasing prohibition

No family purchasing a home under this section may lease such home.

(f) Terms and conditions of assistance

(1) Local consultation

No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) Program schedule

Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) Location

All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) Sales contracts

Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) Program selection criteria

(1) In general

In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements,

waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home [1] constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) Exception

To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) Regulations

Not later than 180 days after October 28, 1992, the Secretary shall issue final regulations to carry out the provisions of this title.[2] Any such regulations shall be issued in accordance with section 553 of title 5, notwithstanding the provisions of subsection (a)(2) of such section.

(i) Funding

There are authorized to be appropriated to carry out this section $30,000,000 in each of fiscal years 1993 and 1994.

(Pub. L. 102–550, title I, §186, Oct. 28, 1992, 106 Stat. 3748.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1992, and not as part of subtitle C (§§441–448) of title IV of Pub. L. 101–625 which comprises this part.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

[1] So in original. Probably should be "homes".

[2] So in original. Probably should be "this section."

PART C—HOPE FOR YOUTH: YOUTHBUILD

§§12899 to 12899i. Repealed. Pub. L. 109–281, §2(e), Sept. 22, 2006, 120 Stat. 1181

Section 12899, Pub. L. 101–625, title IV, §451, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3723, set forth the statement of purpose of this part.

Section 12899a, Pub. L. 101–625, title IV, §452, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3723, authorized the Secretary to make planning and implementation grants.

Section 12899b, Pub. L. 101–625, title IV, §453, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3723, related to planning grants.

Section 12899c, Pub. L. 101–625, title IV, §454, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3725; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(43)(A), (f)(34)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–428, 2681–434, related to implementation grants.

Section 12899d, Pub. L. 101–625, title IV, §455, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3728; amended Pub. L. 105–276, title V, §514(a)(2)(B), Oct. 21, 1998, 112 Stat. 2547; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, set forth Youthbuild program requirements.

Section 12899e, Pub. L. 101–625, title IV, §456, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3730; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(43)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–428, set forth additional program requirements.

Section 12899f, Pub. L. 101–625, title IV, §457, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3731; amended Pub. L. 103–382, title III, §394(d), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 105–244, title I, §102(a)(13)(M), Oct. 7, 1998, 112 Stat. 1621; Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 109–136, §5, Dec. 22, 2005, 119 Stat. 2644, defined terms.

Section 12899g, Pub. L. 101–625, title IV, §458, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3733, related to management and technical assistance.

Section 12899h, Pub. L. 101–625, title IV, §459, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3733, related to contracts.

Section 12899h–1, Pub. L. 101–625, title IV, §460, as added Pub. L. 104–330, title V, §504(a)(2), Oct. 26, 1996, 110 Stat. 4044; amended Pub. L. 105–276, title V, §595(e)(15), Oct. 21, 1998, 112 Stat. 2659; Pub. L. 109–136, §6, Dec. 22, 2005, 119 Stat. 2644, rendered Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas ineligible for amounts made available for assistance under this part for fiscal years 1998 through 2005.

Section 12899i, Pub. L. 101–625, title IV, §461, formerly §460, as added Pub. L. 102–550, title I, §164, Oct. 28, 1992, 106 Stat. 3733; renumbered §461, Pub. L. 104–330, title V, §504(a)(1), Oct. 26, 1996, 110 Stat. 4043, authorized the Secretary to issue any regulations necessary to carry out this part.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

All functions which the Secretary of Housing and Urban Development exercised before Sept. 22, 2006, relating to subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) transferred to the Department of Labor, see section 3(b) of Pub. L. 109–281, set out as a Transfer of Functions and Savings Provisions note under section 3226 of Title 29, Labor.

CHAPTER 131—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

Sec.

§12901. Purpose

The purpose of this chapter [1] is to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired

immunodeficiency syndrome and families of such persons.

(Pub. L. 101–625, title VIII, §852, Nov. 28, 1990, 104 Stat. 4375; Pub. L. 102–550, title VI, §606(j)(1), Oct. 28, 1992, 106 Stat. 3810.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", and was translated as reading "this subtitle", meaning subtitle D (§§851–863) of title VIII of Pub. L. 101–625, to reflect the probable intent of Congress.

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–550 inserted before period at end "and families of such persons".

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 101–625, title VIII, §851, Nov. 28, 1990, 104 Stat. 4375, provided that: "This subtitle [subtitle D (§§851–863) of title VIII of Pub. L. 101–625, enacting this chapter] may be cited as the 'AIDS Housing Opportunity Act'."

REGULATIONS

Pub. L. 102–550, title VI, §606(k), Oct. 28, 1992, 106 Stat. 3811, provided that:

"(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12901 et seq.] (as amended by this section). Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

"(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance."

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

§12902. Definitions

For purposes of this chapter:

(1) The term "acquired immunodeficiency syndrome and related diseases" or "AIDS" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "applicant" means a State, a unit of general local government, or a nonprofit organization eligible to receive assistance under this chapter.

(3) The term "low-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "grantee" means a State or unit of general local government receiving grants from the Secretary under this chapter.

(5) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term "locality" means the geographical area within the jurisdiction of a local government.

(7) The term "recipient" means a grantee or other applicant receiving funds under this chapter.[1]

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this chapter.

(10) The term "unit of general local government" has the same meaning as in section 12704 of this title.

(11) The term "city" has the meaning given the term in section 5302(a) of this title.

(12) The term "eligible person" means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

(13) The term "nonprofit organization" means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

(14) The term "project sponsor" means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this chapter.

(15) The term "HIV" means infection with the human immunodeficiency virus.

(16) The term "individuals living with HIV or AIDS" means, with respect to the counting of cases in a geographic area during a period of time, the sum of—

(A) the number of living non-AIDS cases of HIV in the area; and

(B) the number of living cases of AIDS in the area.

(Pub. L. 101–625, title VIII, §853, Nov. 28, 1990, 104 Stat. 4375; Pub. L. 102–550, title VI, §606(c), Oct. 28, 1992, 106 Stat. 3807; Pub. L. 114–201, title VII, §701(b), July 29, 2016, 130 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in par. (7), was in the original "this title", and was translated as reading "this subtitle", meaning subtitle D (§§851–863) of title VIII of Pub. L. 101–625, to reflect the probable intent of Congress.

AMENDMENTS

2016—Par. (1). Pub. L. 114–201, §701(b)(1), inserted "or 'AIDS' " before "means".

Pars. (15), (16). Pub. L. 114–201, §701(b)(2), added pars. (15) and (16).

1992—Par. (2). Pub. L. 102–550, §606(c)(1), substituted "organization eligible to receive assistance under this chapter" for "sponsor receiving assistance from a grantee".

Par. (5). Pub. L. 102–550, §606(c)(2), substituted "term 'metropolitan statistical area' means" for "term 'metropolitan area' means".

Pars. (11) to (14). Pub. L. 102–550, §606(c)(3), added pars. (11) to (14).

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

§12903. General authority

(a) Grants authorized

The Secretary shall, to the extent of amounts approved in appropriations Acts under section 12912 of this title, make grants to States, units of general local government, and nonprofit organizations.

(b) Implementation of eligible activities

A grantee shall carry out eligible activities under section 12904 of this title through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.

(c) Allocation of resources

(1) Allocation of resources

(A) Allocation formula

The Secretary shall allocate 90 percent of the amount approved in appropriations Acts under section 12912 of this title among States and metropolitan statistical areas as follows:

(I) [1] 75 percent of such amounts among—

(I) cities that are the most populous unit of general local government in a metropolitan statistical area with a population greater than 500,000, as determined on the basis of the most recent census, and with more than 2,000 individuals living with HIV or AIDS, using the data specified in subparagraph (B); and

(II) States with more than 2,000 individuals living with HIV or AIDS outside of metropolitan statistical areas.

(ii) 25 percent of such amounts among States and metropolitan statistical areas based on the method described in subparagraph (C).

(B) Source of data

For purposes of allocating amounts under this paragraph for any fiscal year, the number of individuals living with HIV or AIDS shall be the number of such individuals as confirmed by the Director of the Centers for Disease Control and Prevention, as of December 31 of the most recent calendar year for which such data is available.

(C) Allocation under subparagraph (A)(ii)

For purposes of allocating amounts under subparagraph (A)(ii), the Secretary shall develop a method that accounts for—

(I) [1] differences in housing costs among States and metropolitan statistical areas based on the fair market rental established pursuant to section 1437f(c) of this title or another methodology established by the Secretary through regulation; and

(ii) differences in poverty rates among States and metropolitan statistical areas based on area poverty indexes or another methodology established by the Secretary through regulation.

(2) Maintaining grants

(A) Continued eligibility of fiscal year 2016 grantees

A grantee that received an allocation in fiscal year 2016 shall continue to be eligible for allocations under paragraph (1) in subsequent fiscal years, subject to—

(i) the amounts available from appropriations Acts under section 12912 of this title;

(ii) approval by the Secretary of the most recent comprehensive housing affordability strategy for the grantee approved under section 12705 of this title; [2] and

(iii) the requirements of subparagraph (C).

(B) Adjustments

Allocations to grantees described in subparagraph (A) shall be adjusted annually based on the administrative provisions included in fiscal year 2016 appropriations Acts.

(C) Redetermination of continued eligibility

The Secretary shall redetermine the continued eligibility of a grantee that received an allocation in fiscal year 2016 at least once during the 10-year period following fiscal year 2016.

(D) Adjustment to grants

For each of fiscal years 2017, 2018, 2019, 2020, and 2021, with respect to a grantee that received an allocation in the prior fiscal year, the Secretary shall ensure that the grantee's share of total formula funds available for allocation does not decrease more than 5 percent nor gain more than 10 percent of the share of the total available formula funds that the grantee received in the preceding fiscal year.

(3) Alternative grantees

(A) Requirements

The Secretary may award funds reserved for a grantee eligible under paragraph (1) to an alternative grantee if—

(I) [1] the grantee submits to the Secretary a written agreement between the grantee and the alternative grantee that describes how the alternative grantee will take actions consistent with the applicable comprehensive housing affordability strategy approved under section 12705 of this title; [2]

(ii) the Secretary approves the written agreement described in clause (I) and agrees to award funds to the alternative grantee; and

(iii) the written agreement does not exceed a term of 10 years.

(B) Renewal

An agreement approved pursuant to subparagraph (A) may be renewed by the parties with the approval of the Secretary.

(C) Definition

In this paragraph, the term "alternative grantee" means a public housing agency (as defined in section 1437a(b) of this title), a unified funding agency (as defined in section 11360 of this title), a State, a unit of general local government, or an instrumentality of State or local government.

(4) Reallocations

If a State or metropolitan statistical area declines an allocation under paragraph (1)(A), or the Secretary determines, in accordance with criteria specified in regulation, that a State or metropolitan statistical area that is eligible for an allocation under paragraph (1)(A) is unable to properly administer such allocation, the Secretary shall reallocate any funds reserved for such State or metropolitan statistical area as follows:

(A) For funds reserved for a State—

(I) [1] to eligible metropolitan statistical areas within the State on a pro rata basis; or

(ii) if there is no eligible metropolitan statistical areas within a State, to metropolitan cities and urban counties within the State that are eligible for grant under section 5306 of this title, on a pro rata basis.

(B) For funds reserved for a metropolitan statistical area, to the State in which the metropolitan statistical area is located.

(C) If the Secretary is unable to make a reallocation under subparagraph (A) or (B), the Secretary shall make such funds available on a pro rata basis under the formula in paragraph (1)(A).

(5) Nonformula allocation

(A) In general

The Secretary shall allocate 10 percent of the amounts appropriated under section 12912 of this title among—

(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.

(B) Selection

In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of eligible persons in the community; (iii) extent of local planning and coordination of housing programs for eligible persons; and (iv) the likelihood of the continuation of State and local efforts.

(C) National significance projects

For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for eligible persons; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) Applications

Funds made available under this section shall be allocated among applications submitted by applicants and approved by the Secretary. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed activities;

(2) a description of the size and characteristics of the population that would be served by the proposed activities;

(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this chapter;

(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and

(6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) Additional requirement for metropolitan areas

In addition to the other requirements of this section, to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

(f) Additional requirement for city formula grantees

In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government

located within the metropolitan statistical area to provide such assurances and comply with the assurances.

(Pub. L. 101–625, title VIII, §854, Nov. 28, 1990, 104 Stat. 4376; Pub. L. 102–550, title VI, §606(d), (j)(2), Oct. 28, 1992, 106 Stat. 3807, 3810; Pub. L. 114–201, title VII, §701(a), July 29, 2016, 130 Stat. 812; Pub. L. 115–31, div. K, title II, §203, May 5, 2017, 131 Stat. 779.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12705 of this title, referred to in subsec. (c)(2)(A)(ii), (3)(A)(I), was in the original "section 105" or "section 105 of this Act", meaning section 105 of the AIDS Housing Opportunity Act, and was translated as meaning section 105 of the Cranston-Gonzalez National Affordable Housing Act, to reflect the probable intent of Congress. The AIDS Housing Opportunity Act does not contain a section 105.

AMENDMENTS

2017—Subsec. (c)(2)(A)(i). Pub. L. 115–31, §203(1), redesignated subcl. (I) as cl. (i).

Subsec. (c)(2)(D). Pub. L. 115–31, §203(2), amended subpar. (D) generally. Prior to amendment, text read as follows: "For each of fiscal years 2017, 2018, 2019, 2020, and 2021, the Secretary shall ensure that a grantee that received an allocation in the prior fiscal year does not receive an allocation that is 5 percent less than or 10 percent greater than the amount allocated to such grantee in the preceding fiscal year."

2016—Subsec. (c). Pub. L. 114–201 added pars. (1) to (4), redesignated former par. (3) as (5), and struck out former pars. (1) and (2) which related to formula allocation and minimum grant, respectively.

1992—Subsec. (a). Pub. L. 102–550, §606(d)(1), substituted ", units of general local government, and nonprofit organizations" for "and units of general local government".

Subsec. (b). Pub. L. 102–550, §606(d)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: "ELIGIBILITY.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 12705 of this title. A grantee shall carry out activities authorized under this chapter through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts."

Subsec. (c)(1). Pub. L. 102–550, §606(d)(3), added par. (1) and struck out former par. (1) which read as follows: "IN GENERAL.—90 percent of the amounts approved in appropriations Acts under section 12912 of this title shall be allocated among eligible grantees on the basis of the incidence of acquired immunodeficiency syndrome. Of the amounts made available under the previous sentence, the Secretary shall allocate—

"(A) 75 percent among units of general local government located in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome and States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in subparagraph (A), and

"(B) 25 percent among units of general local government in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, that have a higher than average per capita incidence of acquired immunodeficiency syndrome."

Subsec. (c)(3). Pub. L. 102–550, §606(d)(4)(A), substituted "Nonformula allocation" for "Noneligible grantees" in heading.

Subsec. (c)(3)(A). Pub. L. 102–550, §606(d)(4)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "IN GENERAL.—10 percent of the amounts appropriated under section 12912 of this title shall be distributed to grantees and recipients by the Secretary—

"(i) to meet housing needs in States and localities that do not qualify under paragraph (1), or that do qualify under paragraph (1) but do not have an approved housing strategy under section 12705 of this title, and

"(ii) to fund special projects of national significance."

Subsec. (c)(3)(B), (C). Pub. L. 102–550, §606(j)(2), substituted "eligible persons" for "persons with acquired immunodeficiency syndrome" wherever appearing.

Subsec. (d). Pub. L. 102–550, §606(d)(5), substituted "applications submitted by applicants and approved by the Secretary" for "approvable applications submitted by eligible applicants" in first sentence.

Subsec. (e). Pub. L. 102–550, §606(d)(6), substituted "other requirements of this section" for "requirements of subsection (b) of this section".

Subsec. (f). Pub. L. 102–550, §606(d)(7), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102–531, title III, §312, Oct. 27, 1992, 106 Stat. 3504.

[1] *So in original. Probably should be "(i)".*

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

§12904. Eligible activities

Grants allocated under this chapter shall be available only for approved activities to carry out strategies designed to prevent homelessness among eligible persons. Approved activities shall include activities that—

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 12906 of this title;

(2) facilitate the development and operation of shelter and services for such persons under section 12907 of this title;

(3) provide rental assistance to such persons under section 12908 of this title;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 12909 of this title;

(5) facilitate the development of community residences for eligible persons under section 12910 of this title;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities, except that activities developed under this paragraph may be assisted only with amounts provided under section 12903(c)(3) [1] of this title.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

(Pub. L. 101–625, title VIII, §855, Nov. 28, 1990, 104 Stat. 4378; Pub. L. 102–550, title VI, §606(e), (h)(2), (j)(3), Oct. 28, 1992, 106 Stat. 3808, 3810.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12903(c)(3) of this title, referred to in par. (6), was redesignated section 12903(c)(5) of this title by Pub. L. 114–201, title VII, §701(a)(1), July 29, 2016, 130 Stat. 812.

AMENDMENTS

1992—Pub. L. 102–550, §606(j)(3)(A), in introductory provisions, substituted "eligible persons" for "such persons with acquired immunodeficiency syndrome".

Par. (3). Pub. L. 102–550, §606(h)(2), struck out "short-term" after "provide".

Par. (5). Pub. L. 102–550, §606(j)(3)(B), struck out "with acquired immunodeficiency syndrome" after "persons".

Par. (6). Pub. L. 102–550, §606(e), inserted before period at end ", except that activities developed under this paragraph may be assisted only with amounts provided under section 12903(c)(3) of this title".

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

§12905. Responsibilities of grantees

(a) Prohibition of substitution of funds

Amounts received from grants under this chapter may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this chapter.

(b) Capability

The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this chapter.

(c) Cooperation

The recipient shall agree to cooperate and coordinate in providing assistance under this chapter with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for eligible persons and other public and private organizations and agencies providing services for such eligible persons.

(d) Prohibition of fees

The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this chapter.

(e) Confidentiality

The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this chapter and any other information regarding individuals receiving such assistance.

(f) Financial records

The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this chapter.

(g) Administrative expenses

(1) Grantees

Notwithstanding any other provision of this chapter, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

(2) Project sponsors

Notwithstanding any other provision of this chapter, each project sponsor receiving amounts from grants made under this chapter [1] may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 12904 of this title, including the costs of staff necessary to carry out eligible activities.

(h) Environmental review

For purposes of environmental review, a grant under this chapter shall be treated as assistance for a special project that is subject to section 3547 of this title, and shall be subject to the regulations issued by the Secretary to implement such section.

(Pub. L. 101–625, title VIII, §856, Nov. 28, 1990, 104 Stat. 4378; Pub. L. 102–550, title VI, §606(f), (j)(4), (11)(A), Oct. 28, 1992, 106 Stat. 3809–3811; Pub. L. 106–377, §1(a)(1) [title II, §203(c)], Oct. 27, 2000, 114 Stat. 1441, 1441A–24; Pub. L. 116–260, div. Q, title I, §101(e), Dec. 27, 2020, 134 Stat. 2164.)

AMENDMENT OF SECTION

Pub. L. 116–260, div. Q, title I, §101(e), (h), Dec. 27, 2020, 134 Stat. 2164, 2165, provided that, effective 2 years after Dec. 27, 2020, this section is amended by adding at the end the following new subsection:

"(i) Carbon monoxide alarms

"Each dwelling unit assisted under this chapter shall contain installed carbon monoxide alarms or detectors that meet or exceed—

"(1) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

"(2) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register."

See 2020 Amendment note below.

EDITORIAL NOTES

REFERENCES IN TEXT

Under this chapter, referred to in subsec. (g)(2), was in the original "under this title", and was translated as reading "under this subtitle", meaning under subtitle D (§§851–863) of title VIII of Pub. L. 101–625, to reflect the probable intent of Congress.

AMENDMENTS

2020—Subsec. (i). Pub. L. 116–260 added subsec. (i).

2000—Subsec. (h). Pub. L. 106–377 added subsec. (h).

1992—Subsec. (c). Pub. L. 102–550, §606(j)(4), (11)(A), substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" and "services for such eligible persons" for "services for such individuals".

Subsec. (d). Pub. L. 102–550, §606(f)(1), added subsec. (d) and struck out former subsec. (d) which read as follows: "NO FEE.—The recipient shall agree that no fee will be charged of any low-income individual for any services provided with amounts from a grant under this chapter and that if fees are charged of any other individuals, the fees will be based on the income and resources of the individual."

Subsec. (g). Pub. L. 102–550, §606(f)(2), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–260 effective 2 years after Dec. 27, 2020, see section 101(h) of div. Q of Pub. L. 116–260, set out as a note under section 1701q of Title 12, Banks and Banking.

CONSTRUCTION OF 2020 AMENDMENT

Nothing in amendment made by Pub. L. 116–260 to be construed to preempt or limit applicability of certain State or local laws relating to carbon monoxide devices, see section 101(j) of div. Q of Pub. L. 116–260, set out as a note under section 1437a of this title.

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

§12906. Grants for AIDS housing information and coordination services

Grants under this section may only be used for the following activities:

(1) Housing information services

To provide (or contract to provide) counseling, information, and referral services to assist eligible persons to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) Resource identification

To identify, coordinate, and develop housing assistance resources (including conducting

preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for eligible persons.

(Pub. L. 101–625, title VIII, §857, Nov. 28, 1990, 104 Stat. 4379; Pub. L. 102–550, title VI, §606(j)(11)(B), Oct. 28, 1992, 106 Stat. 3811.)

EDITORIAL NOTES

AMENDMENTS

1992—Pars. (1), (2). Pub. L. 102–550 substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases".

§12907. AIDS short-term supported housing and services

(a) Use of grants

Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to eligible persons who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

(1) Short-term supported housing

Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

(2) Short-term housing payments assistance

Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) Supportive services

Providing supportive services, to eligible persons assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services (except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(4) Operation

Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

(5) Administration

Providing staff to carry out the program under this section (subject to the provisions of section 12905(g) of this title).

(b) Program requirements

(1) Minimum use period for structures

(A) In general

Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for eligible persons—

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) Waiver

The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) Residency and location limitations on short-term supported housing

(A) Residency

A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) Waiver

The Secretary may, as the Secretary determines appropriate, waive the limitation under subparagraph (A) for any program or short-term supported housing facility.

(3) Term of assistance

(A) Supported housing assistance

A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) Housing payments assistance

A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(C) Waiver

Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.

(4) Placement

A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) Presumption for independent living

In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) Case management services

A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

(Pub. L. 101–625, title VIII, §858, Nov. 28, 1990, 104 Stat. 4379; Pub. L. 102–550, title VI, §606(g), (j)(5), (11)(C), Oct. 28, 1992, 106 Stat. 3809–3811.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550, §606(j)(11)(C)(i), substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" in introductory provisions.

Subsec. (a)(3). Pub. L. 102–550, §606(g)(1)(A), (j)(5), substituted "to eligible persons assisted under" for "to individuals assisted under" and inserted before period at end "(except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments".

Subsec. (a)(4), (5). Pub. L. 102–550, §606(g)(1)(B), (C), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

"(4) MAINTENANCE AND ADMINISTRATION.—Providing for maintenance, administration, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs relating to any short-term supported housing provided under the demonstration program under this section.

"(5) TECHNICAL ASSISTANCE.—Providing technical assistance to such individuals to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments."

Subsec. (b)(1)(A). Pub. L. 102–550, §606(j)(11)(C)(ii), substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 102–550, §606(g)(2)(A)(i), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: "LOCATION.—A facility for short-term supported housing assisted with amounts from a grant under this section may not be located in or contiguous to any other facility for emergency or short-term housing that is not limited to use by individuals with acquired immunodeficiency syndrome or related diseases."

Subsec. (b)(2)(C). Pub. L. 102–550, §606(g)(2)(A)(ii), (iii), substituted "limitation under subparagraph (A)" for "limitations under subparagraphs (A) and (B)" and redesignated subpar. (C) as (B).

Subsec. (b)(3)(C). Pub. L. 102–550, §606(g)(2)(B), added subpar. (C).

§12908. Rental assistance

(a) Use of funds

(1) In general

Grants under this section may be used only for assistance to provide rental assistance for low-income eligible persons. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 1437f of this title. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) Shared housing arrangements

Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 1437f(p) of this title, except that, notwithstanding such section, assistance under this section may be made available to nonelderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 1437f(p) of this title only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 1437f(p) of this title.

(b) Limitations

A recipient under this section shall comply with the following requirements:

(1) Services

The recipient shall provide for qualified service providers in the area to provide appropriate services to the eligible persons assisted under this section.

(2) Intensive assistance

For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

(c) Administrative costs

A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 12905(g)(2) [1] of this title.

(Pub. L. 101–625, title VIII, §859, Nov. 28, 1990, 104 Stat. 4381; Pub. L. 102–550, title VI, §606(h)(1), (j)(6), (7), (11)(D), Oct. 28, 1992, 106 Stat. 3810, 3811.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–550, §606(h)(1)(A), substituted "Rental assistance" for "Short-term rental assistance" in section catchline.

Subsec. (a)(1). Pub. L. 102–550, §606(h)(1)(B), (j)(11)(D), struck out "short-term" before "rental assistance" and substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases".

Subsec. (b)(1). Pub. L. 102–550, §606(j)(6), substituted "eligible persons" for "individuals".

Subsec. (b)(2). Pub. L. 102–550, §606(j)(7), inserted "with acquired immunodeficiency syndrome or related diseases" after "any individual".

Subsec. (c). Pub. L. 102–550, §606(h)(1)(C), added subsec. (c).

[1] So in original. Probably should be preceded by "section".

§12909. Single room occupancy dwellings

(a) Use of grants

Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 1437f(n) [1] of this title.

(b) Limitation

Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) Services

Appropriate services provided by qualified service providers in the area.

(2) Intensive assistance

For any individual with acquired immunodeficiency syndrome or related diseases who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

(Pub. L. 101–625, title VIII, §860, Nov. 28, 1990, 104 Stat. 4381; Pub. L. 102–550, title VI, §606(j)(7), Oct. 28, 1992, 106 Stat. 3810.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437f(n) of this title, referred to in subsec. (a), was repealed by Pub. L. 105–276, title V, §550(a)(7), Oct. 21, 1998, 112 Stat. 2609.

AMENDMENTS

1992—Subsec. (b)(2). Pub. L. 102–550 inserted "with acquired immunodeficiency syndrome or related diseases" after "any individual".

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

§12910. Grants for community residences and services

(a) Grant authority

The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for eligible persons.

(b) Community residences and services

(1) Community residences

(A) In general

A community residence under this section shall be a multiunit residence designed for eligible persons for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among eligible persons by increasing available suitable housing resources.

(iv) To integrate eligible persons into local communities and provide services to maintain the abilities of such eligible persons to participate as fully as possible in community life.

(B) Rent

Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low-income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act [42 U.S.C. 1437 et seq.].

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) Fees

Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) Section 1437f assistance

Assistance made available under section 8 of the United States Housing Act of 1937 (42

U.S.C. 1437f) may be used in conjunction with a community residence under this subsection for tenant-based assistance.

(2) Services

Services provided with a grant under this section shall consist of services appropriate in assisting eligible persons to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) Use of grants

Any amounts received from a grant under this section may be used only as follows:

(1) Community residences

For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) Physical improvements

Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) Operating costs

Operating costs for a community residence.

(C) Technical assistance

Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses, and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this chapter.

(D) In-house services

Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) Services

For providing services under subsection (b)(2) to any individuals assisted under this chapter.

(3) Administrative expenses

For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 12905(g) of this title).

(d) Limitations on use of grants

(1) Community residences

Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) Service agreement

That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to eligible persons assisted by the community residence.

(B) Funding and capability

That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist eligible persons.

(C) Zoning and building codes

That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) Intensive assistance

That, for any individual with acquired immunodeficiency syndrome or related diseases who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) Services

Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to eligible persons.

(Pub. L. 101–625, title VIII, §861, Nov. 28, 1990, 104 Stat. 4382; Pub. L. 102–550, title VI, §606(i), (j)(8)–(10), (11)(E), Oct. 28, 1992, 106 Stat. 3810, 3811; Pub. L. 105–276, title V, §550(b), Oct. 21, 1998, 112 Stat. 2609.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (b)(1)(B)(i), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(1)(D). Pub. L. 105–276 substituted "assistance" for "certificates or vouchers".

1992—Subsec. (a). Pub. L. 102–550, §606(j)(8), substituted "eligible persons" for "persons with acquired immunodeficiency syndrome or related diseases".

Subsec. (b)(1)(A). Pub. L. 102–550, §606(j)(11)(E)(i), substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" in introductory provisions and cl. (iii).

Subsec. (b)(1)(A)(iv). Pub. L. 102–550, §606(j)(9), (11)(E)(i), substituted "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" and "such eligible persons" for "such individuals".

Subsec. (b)(2). Pub. L. 102–550, §606(j)(11)(E)(i), which directed the substitution of "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" wherever appearing in subsec. (b), was executed by making the substitution for "individuals with acquired immunodeficiency syndrome and related diseases" in par. (2) to reflect the probable intent of Congress.

Subsec. (c)(1)(C). Pub. L. 102–550, §606(i)(1), inserted before period at end ", and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this chapter".

Subsec. (c)(3). Pub. L. 102–550, §606(i)(2), added par. (3) and struck out former par. (3) which read as follows: "For administrative expenses related to the planning and execution of activities under this section, except that a jurisdiction that receives a grant under this section may expend not more than 10 percent of the amount received under the grant for such administrative expenses. Administrative expenses under this paragraph may include expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases, for staff carrying out activities assisted with a grant under this section and for individuals who reside in proximity of individuals assisted under this chapter."

Subsec. (d). Pub. L. 102–550, §606(j)(11)(E)(ii), which directed the substitution of "eligible persons" for "individuals with acquired immunodeficiency syndrome or related diseases" wherever appearing in subsec. (d), was executed by making the substitution for "individuals with acquired immunodeficiency syndrome and related diseases" in pars. (1)(B) and (2) to reflect the probable intent of Congress.

Subsec. (d)(1)(A). Pub. L. 102–550, §606(j)(10)(A), substituted "eligible persons" for "individuals".

Subsec. (d)(1)(D). Pub. L. 102–550, §606(j)(10)(B), inserted "with acquired immunodeficiency syndrome or related diseases" after "any individual".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of this title.

§12911. Report

Any organization or agency that receives a grant under this chapter shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this chapter, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

(Pub. L. 101–625, title VIII, §862, Nov. 28, 1990, 104 Stat. 4384.)

§12912. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter $150,000,000 for fiscal year 1993 and $156,300,000 for fiscal year 1994.

(Pub. L. 101–625, title VIII, §863, Nov. 28, 1990, 104 Stat. 4384; Pub. L. 102–550, title VI, §606(b), Oct. 28, 1992, 106 Stat. 3806.)

EDITORIAL NOTES

AMENDMENTS

1992—Pub. L. 102–550 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to carry out this chapter $75,000,000 for fiscal year 1991, and $156,500,000 for fiscal year 1992."

CHAPTER 132—VICTIMS OF CHILD ABUSE

SUBCHAPTER I—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SUBCHAPTER II—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SUBCHAPTER III—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SUBCHAPTER I—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

§13001. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13001 was editorially reclassified as section 20301 of Title 34, Crime Control and Law Enforcement.

§13001a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13001a was editorially reclassified as section 20302 of Title 34, Crime Control and Law Enforcement.

§13001b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13001b was editorially reclassified as section 20303 of Title 34, Crime Control and Law Enforcement.

§13002. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13002 was editorially reclassified as section 20304 of Title 34, Crime Control and Law Enforcement.

§13003. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13003 was editorially reclassified as section 20305 of Title 34, Crime Control and Law Enforcement.

§13004. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13004 was editorially reclassified as section 20306 of Title 34, Crime Control and Law Enforcement.

§13005. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13005 was editorially reclassified as section 20307 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

§13011. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13011 was editorially reclassified as section 20321 of Title 34, Crime Control and Law Enforcement.

§13012. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13012 was editorially reclassified as section 20322 of Title 34, Crime Control and Law Enforcement.

§13013. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13013 was editorially reclassified as section 20323 of Title 34, Crime Control and Law Enforcement.

§13013a. Omitted

Section, Pub. L. 101–647, title II, §218, as added Pub. L. 109–162, title I, §112(d)(2), Jan. 5, 2006, 119 Stat. 2986, which required the Inspector General of the Department of Justice to submit a report to Congress not later than Dec. 31, 2006, on activities funded by the National Court-Appointed Special Advocate Association, was omitted as obsolete.

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 218 of Pub. L. 101–647 was renumbered section 219 and is classified to section 20324 of Title 34, Crime Control and Law Enforcement.

§13014. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13014 was editorially reclassified as section 20324 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER III—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

§13021. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13021 was editorially reclassified as section 20331 of Title 34, Crime Control and Law Enforcement.

§13022. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13022 was editorially reclassified as section 20332 of Title 34, Crime Control and Law

Enforcement.

§13023. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13023 was editorially reclassified as section 20333 of Title 34, Crime Control and Law Enforcement.

§13024. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13024 was editorially reclassified as section 20334 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER IV—REPORTING REQUIREMENTS

§13031. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13031 was editorially reclassified as section 20341 of Title 34, Crime Control and Law Enforcement.

§13032. Repealed. Pub. L. 110–401, title V, §501(b)(1), Oct. 13, 2008, 122 Stat. 4251

Section, Pub. L. 101–647, title II, §227, as added Pub. L. 105–314, title VI, §604(a), Oct. 30, 1998, 112 Stat. 2983; amended Pub. L. 106–113, div. B, §1000(a)(1) [title I, §121], Nov. 29, 1999, 113 Stat. 1535, 1501A–23; Pub. L. 108–21, title V, §508(a), Apr. 30, 2003, 117 Stat. 683; Pub. L. 109–248, title I, §130, July 27, 2006, 120 Stat. 601, required certain electronic communication service or remote computing service providers to report child pornography violations, established conditions for disclosure of the information reported, and limited civil liability and scope of reports by informants.

SUBCHAPTER V—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

§13041. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13041 was editorially reclassified as section 20351 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER VI—TREATMENT FOR JUVENILE OFFENDERS WHO ARE VICTIMS OF CHILD ABUSE OR NEGLECT

§§13051 to 13055. Repealed. Pub. L. 102–586, §2(i)(2), Nov. 4, 1992, 106 Stat. 5015

Section 13051, Pub. L. 101–647, title II, §251, Nov. 29, 1990, 104 Stat. 4814, authorized Administrator to make grants to public and nonprofit private organizations to develop, establish, and support projects for juvenile offenders who are victims of child abuse or neglect.

Section 13052, Pub. L. 101–647, title II, §252, Nov. 29, 1990, 104 Stat. 4815, related to administrative requirements.

Section 13053, Pub. L. 101–647, title II, §253, Nov. 29, 1990, 104 Stat. 4815, provided that Administrator in making grants give priority to applicants with experience and not disapprove an application solely because applicant proposes treating or serving juveniles whose offenses were not serious crimes.

Section 13054, Pub. L. 101–647, title II, §254, Nov. 29, 1990, 104 Stat. 4815, authorized appropriations to carry out this subchapter.

Section 13055, Pub. L. 101–647, title II, §255, Nov. 29, 1990, 104 Stat. 4815, defined "Administrator" and "juvenile" for purposes of this subchapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 102–586, §2(i)(2), Nov. 4, 1992, 106 Stat. 5015, provided that the repeal by that section is effective Sept. 30, 1993.

CHAPTER 133—POLLUTION PREVENTION

Sec.

§13101. Findings and policy

(a) Findings

The Congress finds that:

(1) The United States of America annually produces millions of tons of pollution and spends tens of billions of dollars per year controlling this pollution.

(2) There are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw material, pollution control, and liability costs as well as help protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multi-media management of pollution; and businesses need information and technical assistance to overcome institutional barriers to the adoption of source reduction practices.

(4) Source reduction is fundamentally different and more desirable than waste management and pollution control. The Environmental Protection Agency needs to address the historical lack of attention to source reduction.

(5) As a first step in preventing pollution through source reduction, the Environmental Protection Agency must establish a source reduction program which collects and disseminates information, provides financial assistance to States, and implements the other activities provided for in this chapter.

(b) Policy

The Congress hereby declares it to be the national policy of the United States that pollution should be prevented or reduced at the source whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

(Pub. L. 101–508, title VI, §6602, Nov. 5, 1990, 104 Stat. 1388–321.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(5), was in the original "this subtitle", meaning subtitle F (§§6501, 6601–6610) of title VI, Pub. L. 101–508, which is classified generally to this chapter. For complete classification of subtitle F to the Code, see Short Title note below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 101–508, title VI, §6601, Nov. 5, 1990, 104 Stat. 1388–321, provided that: "This subtitle [subtitle F (§§6501, 6601–6610) of title VI of Pub. L. 101–508, enacting this chapter and section 4370c of this title] may be cited as the 'Pollution Prevention Act of 1990'."

§13102. Definitions

For purposes of this chapter—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any substance on the list described in section 11023(c) of this title.

(4) The term "release" has the same meaning as provided by section 11049(8) of this title.

(5)(A) The term "source reduction" means any practice which—

(i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(ii) reduces the hazards to public health and the environment associated with the release of

such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(B) The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

(6) The term "multi-media" means water, air, and land.

(7) The term "SIC codes" refers to the 2-digit code numbers used for classification of economic activity in the Standard Industrial Classification Manual.

(Pub. L. 101–508, title VI, §6603, Nov. 5, 1990, 104 Stat. 1388–321.)

§13103. EPA activities

(a) Authorities

The Administrator shall establish in the Agency an office to carry out the functions of the Administrator under this chapter. The office shall be independent of the Agency's single-medium program offices but shall have the authority to review and advise such offices on their activities to promote a multi-media approach to source reduction. The office shall be under the direction of such officer of the Agency as the Administrator shall designate.

(b) Functions

The Administrator shall develop and implement a strategy to promote source reduction. As part of the strategy, the Administrator shall—

(1) establish standard methods of measurement of source reduction;

(2) ensure that the Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review regulations of the Agency prior and subsequent to their proposal to determine their effect on source reduction;

(3) coordinate source reduction activities in each Agency Office [1] and coordinate with appropriate offices to promote source reduction practices in other Federal agencies, and generic research and development on techniques and processes which have broad applicability;

(4) develop improved methods of coordinating, streamlining and assuring public access to data collected under Federal environmental statutes;

(5) facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this chapter to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provision of technical assistance to businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques;

(6) identify, where appropriate, measurable goals which reflect the policy of this chapter, the tasks necessary to achieve the goals, dates at which the principal tasks are to be accomplished, required resources, organizational responsibilities, and the means by which progress in meeting the goals will be measured;

(8) [2] establish an advisory panel of technical experts comprised of representatives from industry, the States, and public interest groups, to advise the Administrator on ways to improve collection and dissemination of data;

(9) establish a training program on source reduction opportunities, including workshops and guidance documents, for State and Federal permit issuance, enforcement, and inspection officials working within all agency program offices.[3]

(10) identify and make recommendations to Congress to eliminate barriers to source reduction

including the use of incentives and disincentives;

(11) identify opportunities to use Federal procurement to encourage source reduction;

(12) develop, test and disseminate model source reduction auditing procedures designed to highlight source reduction opportunities; and

(13) establish an annual award program to recognize a company or companies which operate outstanding or innovative source reduction programs.

(Pub. L. 101–508, title VI, §6604, Nov. 5, 1990, 104 Stat. 1388–322.)

[1] *So in original. Probably should not be capitalized.*

[2] *So in original. Subsec. (b) enacted without a par. (7).*

[3] *So in original. The period probably should be a semicolon.*

§13104. Grants to States for State technical assistance programs

(a) General authority

The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) Criteria

When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following:

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to business [1] seeking assistance and to assist in the development of source reduction plans.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) Matching funds

Federal funds used in any State program under this section shall provide no more than 50 per centum of the funds made available to a State in each year of that State's participation in the program.

(d) Effectiveness

The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of source reduction techniques by businesses.

(e) Information

States receiving grants under this section shall make information generated under the grants available to the Administrator.

(Pub. L. 101–508, title VI, §6605, Nov. 5, 1990, 104 Stat. 1388–323.)

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

§13105. Source Reduction Clearinghouse

(a) Authority

The Administrator shall establish a Source Reduction Clearinghouse to compile information

including a computer data base which contains information on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer;

(2) mount active outreach and education programs by the States to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 13104 of this title on the operation and success of State source reduction programs.

(b) Public availability

The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this chapter and such other pertinent information and analysis regarding source reduction as may be available to the Administrator. The data base shall permit entry and retrieval of information to any person.

(Pub. L. 101–508, title VI, §6606, Nov. 5, 1990, 104 Stat. 1388–324.)

§13106. Source reduction and recycling data collection

(a) Reporting requirements

Each owner or operator of a facility required to file an annual toxic chemical release form under section 11023 of this title for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceeding [1] calendar year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 11023(c) of this title. This section shall take effect with the annual report filed under section 11023 of this title for the first full calendar year beginning after November 5, 1990.

(b) Items included in report

The toxic chemical source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under paragraph (7). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of recycling used.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate.

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraph [2] (1) and (2) for the two calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific

industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to accommodate individual industries for use on a voluntary basis.

(6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

(7) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processes during the reporting year.

(8) The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year. For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA provisions

The provisions of sections 11042, 11045(c), and 11046 of this title shall apply to the reporting requirements of this section in the same manner as to the reports required under section 11023 of this title. The Administrator may modify the form required for purposes of reporting information under section 11023 of this title to the extent he deems necessary to include the additional information required under this section.

(d) Additional optional information

Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other pollution control techniques in earlier years.

(e) Availability of data

Subject to section 11042 of this title, the Administrator shall make data collected under this section publicly available in the same manner as the data collected under section 11023 of this title.

(Pub. L. 101–508, title VI, §6607, Nov. 5, 1990, 104 Stat. 1388–324.)

EDITORIAL NOTES

REFERENCES IN TEXT

SARA, referred to in the heading of subsec. (c), means the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499, Oct. 17, 1986, 100 Stat. 1613, as amended. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 9601 of this title and Tables.

[1] So in original. Probably should be "preceding".

[2] So in original. Probably should be "paragraphs".

§13107. EPA report

(a) Biennial reports

The Administrator shall provide Congress with a report within eighteen months after November 5, 1990, and biennially thereafter, containing a detailed description of the actions taken to implement the strategy to promote source reduction developed under section 13103(b) [1] of this title and of the results of such actions. The report shall include an assessment of the effectiveness of the clearinghouse and grant program established under this chapter in promoting the goals of the

strategy, and shall evaluate data gaps and data duplication with respect to data collected under Federal environmental statutes.

(b) Subsequent reports

Each biennial report submitted under subsection (a) after the first report shall contain each of the following:

(1) An analysis of the data collected under section 13106 of this title on an industry-by-industry basis for not less than five SIC codes or other categories as the Administrator deems appropriate. The analysis shall begin with those SIC codes or other categories of facilities which generate the largest quantities of toxic chemical waste. The analysis shall include an evaluation of trends in source reduction by industry, firm size, production, or other useful means. Each such subsequent report shall cover five SIC codes or other categories which were not covered in a prior report until all SIC codes or other categories have been covered.

(2) An analysis of the usefulness and validity of the data collected under section 13106 of this title for measuring trends in source reduction and the adoption of source reduction by business.

(3) Identification of regulatory and nonregulatory barriers to source reduction, and of opportunities for using existing regulatory programs, and incentives and disincentives to promote and assist source reduction.

(4) Identification of industries and pollutants that require priority assistance in multi-media source reduction [2]

(5) Recommendations as to incentives needed to encourage investment and research and development in source reduction.

(6) Identification of opportunities and development of priorities for research and development in source reduction methods and techniques.

(7) An evaluation of the cost and technical feasibility, by industry and processes, of source reduction opportunities and current activities and an identification of any industries for which there are significant barriers to source reduction with an analysis of the basis of this identification.

(8) An evaluation of methods of coordinating, streamlining, and improving public access to data collected under Federal environmental statutes.

(9) An evaluation of data gaps and data duplication with respect to data collected under Federal environmental statutes.

In the report following the first biennial report provided for under this subsection, paragraphs (3) through (9) may be included at the discretion of the Administrator.

(Pub. L. 101–508, title VI, §6608, Nov. 5, 1990, 104 Stat. 1388–326.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13103(b) of this title, referred to in subsec. (a), was in the original "section 4(b)" and was translated as reading "section 6604(b)", meaning section 6604(b) of Pub. L. 101–508, because Pub. L. 101–508 has no section 4 but section 6604(b) of Pub. L. 101–508 relates to development of a strategy to promote source reduction.

[1] See References in Text note below.

[2] So in original. Probably should be followed by a period.

§13108. Savings provisions

(a) Nothing in this chapter shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986 [42 U.S.C. 11001 et seq.].

(b) Nothing contained in this chapter shall be construed, interpreted or applied to supplant, displace, preempt or otherwise diminish the responsibilities and liabilities under other State or Federal law, whether statutory or common.

(Pub. L. 101–508, title VI, §6609, Nov. 5, 1990, 104 Stat. 1388–327.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title III of the Superfund Amendments and Reauthorization Act of 1986, referred to in subsec. (a), is title III of Pub. L. 99–499, Oct. 17, 1986, 100 Stat. 1728, known as the Emergency Planning and Community Right-To-Know Act of 1986, which is classified generally to chapter 116 (§11001 et seq.) of this title. For complete classification of title III to the Code, see Short Title note set out under section 11001 of this title and Tables.

§13109. Authorization of appropriations

There is authorized to be appropriated to the Administrator $8,000,000 for each of the fiscal years 1991, 1992, and 1993 for functions carried out under this chapter (other than State Grants),[1] and $8,000,000 for each of the fiscal years 1991, 1992, and 1993, for grant programs to States issued pursuant to section 13104 of this title.

(Pub. L. 101–508, title VI, §6610, Nov. 5, 1990, 104 Stat. 1388–327.)

[1] *So in original. Probably should not be capitalized.*

CHAPTER 134—ENERGY POLICY

Sec.

§13201. "Secretary" defined

For purposes of this Act, the term "Secretary" means the Secretary of Energy.

(Pub. L. 102–486, §2, Oct. 24, 1992, 106 Stat. 2782.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 102–486, §1(a), Oct. 24, 1992, 106 Stat. 2776, provided that: "This Act [see Tables for classification] may be cited as the 'Energy Policy Act of 1992'."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13211. ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE

Ex. Ord. No. 13211, May 18, 2001, 66 F.R. 28355, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to appropriately weigh and consider the effects of the Federal Government's regulations on the supply, distribution, and use of energy, it is hereby ordered as follows:

SECTION 1. *Policy*. The Federal Government can significantly affect the supply, distribution, and use of energy. Yet there is often too little information regarding the effects that governmental regulatory action can have on energy. In order to provide more useful energy-related information and hence improve the quality of agency decisionmaking, I am requiring that agencies shall prepare a Statement of Energy Effects when undertaking certain agency actions. As described more fully below, such Statements of Energy Effects shall describe the effects of certain regulatory actions on energy supply, distribution, or use.

SEC. 2. *Preparation of a Statement of Energy Effects*. (a) To the extent permitted by law, agencies shall prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for those matters identified as significant energy actions.

(b) A Statement of Energy Effects shall consist of a detailed statement by the agency responsible for the significant energy action relating to:

(i) any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposal be implemented, and

(ii) reasonable alternatives to the action with adverse energy effects and the expected effects of such alternatives on energy supply, distribution, and use.

(c) The Administrator of the Office of Information and Regulatory Affairs shall provide guidance to the agencies on the implementation of this order and shall consult with other agencies as appropriate in the implementation of this order.

SEC. 3. *Submission and Publication of Statements*. (a) Agencies shall submit their Statements of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, whenever they present the related submission under Executive Order 12866 of September 30, 1993 [5 U.S.C. 601 note], or any successor order.

(b) Agencies shall publish their Statements of Energy Effects, or a summary thereof, in each related Notice of Proposed Rulemaking and in any resulting Final Rule.

SEC. 4. *Definitions*. For purposes of this order:

(a) "Regulation" and "rule" have the same meaning as they do in Executive Order 12866 [5 U.S.C. 601 note] or any successor order.

(b) "Significant energy action" means any action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking:

(1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and

(ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or

(2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

(c) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

SEC. 5. *Judicial Review*. Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13212. ACTIONS TO EXPEDITE ENERGY-RELATED PROJECTS

Ex. Ord. No. 13212, May 18, 2001, 66 F.R. 28357, as amended by Ex. Ord. No. 13286, §10, Feb. 28, 2003, 68 F.R. 10622; Ex. Ord. No. 13302, §1, May 15, 2003, 68 F.R. 27429, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to take additional steps to expedite the increased supply and availability of energy to our Nation, it is hereby ordered as follows:

SECTION 1. *Policy*. The increased production and transmission of energy in a safe and environmentally sound manner is essential to the well-being of the American people. In general, it is the policy of this Administration that executive departments and agencies (agencies) shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy and projects that will strengthen pipeline safety.

SEC. 2. *Actions to Expedite Energy-Related Projects*. For energy-related projects (including pipeline safety projects), agencies shall expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate.

SEC. 3. *Interagency Task Force*. (a) There is established, within the Department of Energy for administrative purposes, an interagency task force (Task Force) to perform the following functions:

(i) monitor and assist the agencies in their efforts to expedite their reviews of permits or similar actions, as necessary, to accelerate the completion of energy-related projects (including pipeline safety projects), increase energy production and conservation, and improve the transmission of energy;

(ii) monitor and assist agencies in setting up appropriate mechanisms to coordinate Federal, State, tribal, and local permitting in geographic areas where increased permitting activity is expected; and

(iii) perform the functions of the interagency committee for which section 60133 of title 49, United States Code, provides.

(b)(i) The Task Force shall consist exclusively of the following members:

(A) in the performance of all Task Force functions set out in sections 3(a)(i) and (ii) of this order, the Secretaries of State, the Treasury, Defense, Agriculture, Housing and Urban Development, Commerce, Transportation, the Interior, Labor, Education, Health and Human Services, Energy, and Veterans Affairs, the Attorney General, the Administrator of the Environmental Protection Agency, the Director of Central Intelligence, the Administrator of General Services, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Assistant to the President for Domestic Policy, the Assistant to the President for Economic Policy, and such other heads of agencies as the Chairman of the Council on Environmental Quality may designate; and

(B) in the performance of the functions to which section 3(a)(iii) of this order refers, the officers listed in section 60133(a)(2)(A)–(H) of title 49, United States Code, and such other representatives of Federal agencies with responsibilities relating to pipeline repair projects as the Chairman of the Council on Environmental Quality may designate.

(ii) A member of the Task Force may designate, to perform the Task Force functions of the member, a full-time officer or employee of that member's agency or office.

(c) The Chairman of the Council on Environmental Quality shall chair the Task Force.

(d) Consultation in the implementation of this order with State and local officials and other persons who are not full-time or permanent part-time employees of the Federal Government shall be conducted in a manner that elicits fully the individual views of each official or other person consulted, without deliberations or efforts

to achieve consensus on advice or recommendations.

(e) This order shall be implemented in a manner consistent with the President's constitutional authority to supervise the unitary executive branch.

SEC. 4. *Judicial Review*. Nothing in this order shall affect any otherwise available judicial review of agency action. This order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE W. BUSH.

EXECUTIVE ORDER NO. 13783

Ex. Ord. No. 13783, Mar. 28, 2017, 82 F.R. 16093, which related to certain regulations promoting energy independence and economic growth, was revoked by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, set out in a note under section 4321 of this title.

EXECUTIVE ORDER NO. 13868

Ex. Ord. No. 13868, Apr. 10, 2019, 84 F.R. 15495, which related to promoting private investment in the Nation's energy infrastructure, was revoked by Ex. Ord. No. 13990, §7(a), Jan. 20, 2021, 86 F.R. 7041, set out in a note under section 4321 of this title.

PROTECTING JOBS, ECONOMIC OPPORTUNITIES, AND NATIONAL SECURITY FOR ALL AMERICANS BY ENSURING APPROPRIATE SUPPORT OF INNOVATIVE TECHNOLOGIES FOR USING OUR DOMESTIC NATURAL RESOURCES

Memorandum of President of the United States, Oct. 31, 2020, 85 F.R. 70039, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of the Interior[,] the Secretary of Agriculture[,] the Secretary of Commerce[,] the Secretary of Labor[,] the Secretary of Transportation[,] the Secretary of Energy[,] the United States Trade Representative[,] the Administrator of the Environmental Protection Agency[,] the Director of the Office of Management and Budget[,] the Assistant to the President for National Security Affairs[,] the Assistant to the President for Economic Policy[,] the Chairman of the Council of Economic Advisers[,] the Director of the Office of Science and Technology Policy[,] the Chairman of the Council on Environmental Quality[, and] the Administrator of the Office of Information and Regulatory Affairs

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Purpose*. This memorandum sets forth policies related to protecting American jobs, economic opportunities, and national security by ensuring appropriate support of hydraulic fracturing and other innovative technologies for the use of domestic natural resources, including energy resources. In support of these policies, this memorandum directs certain officials to assess the potential effects of efforts to ban or restrict the use of such technologies.

SEC. 2. *Background*. Our country has been favored with abundant land, wildlife, and natural resources. Americans have rightly seen this abundance as both an opportunity and a responsibility. Our blessings have rightly been a great source of national pride and gratitude. As we enjoy these bounties, we are also bound by a responsibility of stewardship to use, protect, and preserve them for future generations.

Among the greatest of our blessings are our energy resources, which all too often we take for granted. Our Nation has untold potential to deliver energy to provide us with the necessities—light, heat, cold, food, and water, to say nothing of modern telecommunications—for our daily lives at home and at work, and our travel from place to place. Reliable, affordable energy is essential for running our homes, businesses, farms, factories, health care facilities, and schools, and is critical to every sector of our economy, including our energy-intensive and trade-exposed industries. Access to dependable, inexpensive sources of energy is a cornerstone of our well-being, of our economic strength and global competitiveness, and of our national security.

One of the great success stories of our time has been the development of hydraulic fracturing (often known as "fracking") and other technologies to facilitate the extraction of natural resources from the earth. Hydraulic fracturing is a process that provides access to reservoirs of natural gas and petroleum by opening rocks deep underground. When coupled with horizontal drilling and other new technologies, fracking has opened up new sources of inexpensive, reliable, abundant energy for our country. It has also produced jobs and economic opportunities for many Americans.

In a report issued in October 2019, the Council of Economic Advisers (CEA) estimated that by lowering energy prices, the use of fracking and other innovations had saved United States consumers $203 billion per

year, or $2,500 in annual savings for a family of four. These savings disproportionately benefit low-income households, which spend a larger share of their income on energy bills, representing 6.8 percent of income for the poorest fifth of households compared to 1.3 percent for the richest fifth of households. The CEA estimated that greater productivity had reduced the domestic price of natural gas by 63 percent as of 2018; had led to a 45 percent decrease in the wholesale price of electricity; and had reduced the global price of oil by 10 percent as of 2019.

The transformation wrought by technologies such as fracking is not only the result of America's natural abundance and Americans' capacity for scientific discovery and practical invention. It is also a testament to our Nation's greatest resource: our hardworking men and women. Energy workers have dedicated their lives to an industry that is essential to the modern world, and their labors have demonstrated their talent, perseverance, and courage. Even in the midst of this unprecedented pandemic, essential energy workers have continued to ensure that our Nation has the energy that it needs to survive and to flourish. We owe these workers our gratitude. We also owe them appropriate respect and support for their careers, their livelihoods, and their families.

It should be emphasized that technologies such as fracking—when used lawfully and responsibly, with appropriate attention to environmental, health, and safety protections—are vital not just to our domestic prosperity but also to our national security. Shortly after I entered office, I issued Executive Order 13783 of March 28, 2017 (Promoting Energy Independence and Economic Growth) [42 U.S.C. 13201 note], which directed an immediate review of all agency actions that potentially burdened the development or use of domestic energy resources. That order also rescinded certain actions of the previous Administration that, in my judgment, were not consistent with the national interest and the Nation's geopolitical security. As a result of new technologies and my Administration's continued push for energy independence, our country recently became a net energy exporter for the first time since 1952, as well as the leading producer of oil and natural gas in the world. We are no longer beholden to foreign countries upon which we had depended for decades for the survival of our way of life. This achievement is a great accomplishment for our country, which should not be taken for granted.

Now that we have achieved a dominant position in energy production, powerful voices in the United States, echoed by countries such as China and Russia, are clamoring for policies that would undermine that position, forgetting the very real costs and risks of energy dependence. Some of these voices call for using legislative or regulatory mechanisms to ban, or sharply restrict, the use of fracking and other technologies. In my view, such proposals are not responsible and would be harmful to the economic and national security of the United States.

SEC. 3. *Policy*. It is the policy of the Federal Government to aggressively protect and enhance American jobs, economic opportunities, and national security for all Americans by ensuring appropriate support of innovative technologies for using our domestic natural resources more efficiently and responsibly, including environmental protection and restoration technologies. Before taking actions that may jeopardize such innovation, responsible officials should carefully consider the impacts on American citizens.

SEC. 4. *Assessing the Domestic and Economic Impacts of Undermining Hydraulic Fracturing and Other Technologies*. (a) Within 70 days of the date of this memorandum [Oct. 31, 2020], the Secretary of Energy, in consultation with the United States Trade Representative, shall submit a report to the President, through the Assistant to the President for Economic Policy (who shall act in coordination with the Assistant to the President for National Security Affairs), assessing:

(i) the economic impacts of prohibiting, or sharply restricting, the use of hydraulic fracturing and other technologies, including the following:

(A) any loss of jobs, wages, benefits, and other economic opportunities by Americans who work in or are indirectly benefited by the energy industry and other industries (including mining for sand and other minerals);

(B) any increases in energy prices (including the prices of gasoline, electricity, heating, and air conditioning) for Americans (including senior citizens and other persons on fixed incomes) and businesses;

(C) any decreases in property values and in the royalties and other revenues that are currently available to private property owners; and

(D) any decreases in tax revenues, impact fees, royalties, and other revenues currently available to the Federal Government, to State and local governments, and to civic institutions (including public schools, trade and vocational schools, community colleges, and other educational and training institutions; hospitals; and medical clinics);

(ii) the trade impacts of prohibiting, or sharply restricting, the use of hydraulic fracturing and other technologies, including impacts on United States exports of liquefied natural gas (LNG) and other energy products, as well as exports of other commodities that may be affected by increases in transportation costs; and

(iii) such other domestic or economic impacts as the Secretary of Energy deems appropriate.

(b) In preparing the report described in subsection (a) of this section, the Secretary of Energy and the United States Trade Representative shall consult with the Secretary of the Treasury, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Chairman of CEA, the Chairman of the Council on Environmental Quality, and such other officials as the Secretary of Energy and the United States Trade Representative deem appropriate.

SEC. 5. *Assessing the National Security Impacts of Undermining Hydraulic Fracturing and Other Technologies*. Within 70 days of the date of this memorandum, the Secretary of Energy shall submit a report to the President, through the Assistant to the President for National Security Affairs (who shall act in coordination with the Assistant to the President for Economic Policy), assessing the national security impacts of prohibiting, or sharply restricting, the use of hydraulic fracturing and other technologies. This report shall include an assessment of potential impacts on Russian and Chinese energy production, consumption, and trade activities, and on the energy security of United States allies, that may be attributable to changes in United States exports of LNG and other energy products. In preparing this report, the Secretary of Energy shall consult with the Secretary of State, the Secretary of Defense, the United States Trade Representative, and such other officials as the Secretary of Energy deems appropriate. This report may be combined, as appropriate, with the report required by section 4 of this memorandum, in which case the combined report shall be submitted to the President through the Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy.

SEC. 6. *Reinforcing Executive Order 13211*. (a) Executive Order 13211 of May 18, 2001 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) [42 U.S.C. 13201 note] provides that agencies "shall prepare" detailed Statements of Energy Effects when undertaking certain agency actions that are likely to have a significant adverse impact on the supply, distribution, or use of energy. Such Statements "shall describe" "any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposal be implemented" and "reasonable alternatives to the action with adverse energy effects and the expected effects of such alternatives on energy supply, distribution, and use." In order to enhance compliance with Executive Order 13211, I direct the Director of the Office of Management and Budget (OMB), through the Administrator of the Office of Information and Regulatory Affairs (OIRA), to review the record of compliance with that order by agencies (as defined in that order) and to provide new guidance, as appropriate, concerning the implementation of and compliance with that order.

(b) Within 30 days of the date of this memorandum, the Director of OMB shall, as appropriate, identify for the President, through the Assistant to the President for Economic Policy (who shall act in coordination with the Assistant to the President for National Security Affairs), agencies on which the Administrator of OIRA intends to focus attention to ensure robust compliance with Executive Order 13211.

SEC. 7. *Definition*. For purposes of this memorandum, the terms "hydraulic fracturing" and "fracking" shall have the meaning assigned to "hydraulic fracturing" in 40 C.F.R. 60.5430.

SEC. 8. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Energy is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

SUBCHAPTER I—ALTERNATIVE FUELS—GENERAL

§13211. Definitions

For purposes of this subchapter, subchapter II, and subchapter III (unless otherwise specified)—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas, including liquid fuels domestically produced from natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) ALTERNATIVE FUELED VEHICLE.—

(A) IN GENERAL.—The term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(B) INCLUSIONS.—The term "alternative fueled vehicle" includes—

(i) a new qualified fuel cell motor vehicle (as defined in section 30B(b)(3) of title 26);

(ii) a new advanced lean burn technology motor vehicle (as defined in section 30B(c)(3) of that title);

(iii) a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of that title); and

(iv) any other type of vehicle that the Administrator demonstrates to the Secretary would achieve a significant reduction in petroleum consumption.[1]

(4) the term "comparable conventionally fueled motor vehicle" means a motor vehicle which is, as determined by the Secretary—

(A) commercially available at the time the comparability of the vehicle is being assessed;

(B) powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source; and

(C) provides passenger capacity or payload capacity the same or similar to the alternative fueled vehicle to which it is being compared;

(5) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more; and

(B) at least 50 motor vehicles within the United States;

(6) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 32901(a)(7) [2] of title 49; or

(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

(7) the term "domestic" means derived from resources within the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, including the outer Continental Shelf, as such term is defined in the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], or from resources within a Nation with which there is in effect a free trade agreement requiring national treatment for trade;

(8) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 32901(a)(8) [2] of title 49; or

(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel

and is capable of operating on gasoline or diesel fuel;

(9) the term "fleet" means a group of 20 or more light duty motor vehicles, used primarily in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a governmental entity or other person who owns, operates, leases, or otherwise controls 50 or more such vehicles, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person, except that such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement motor vehicles;

(E) emergency motor vehicles, including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary;

(F) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) nonroad vehicles, including farm and construction motor vehicles; or

(H) motor vehicles which under normal operations are garaged at personal residences at night;

(10) the term "fuel supplier" means—

(A) any person engaged in the importing, refining, or processing of crude oil to produce motor fuel;

(B) any person engaged in the importation, production, storage, transportation, distribution, or sale of motor fuel; and

(C) any person engaged in generating, transmitting, importing, or selling at wholesale or retail electricity;

(11) the term "light duty motor vehicle" means a light duty truck or light duty vehicle, as such terms are defined under section 7550(7) of this title, of less than or equal to 8,500 pounds gross vehicle weight rating;

(12) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle;

(13) the term "motor vehicle" has the meaning given such term under section 7550(2) of this title; and

(14) the term "replacement fuel" means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, coal derived liquid fuels, fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar energy), ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

(Pub. L. 102–486, title III, §301, Oct. 24, 1992, 106 Stat. 2866; Pub. L. 106–554, §1(a)(4) [div. B, title I, §122], Dec. 21, 2000, 114 Stat. 2763, 2763A–229; Pub. L. 109–58, title VII, §707, Aug. 8, 2005, 119 Stat. 818; Pub. L. 110–181, div. B, title XXVIII, §2862, Jan. 28, 2008, 122 Stat. 559.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in introductory provisions, was in the original "this title", meaning title III of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2866, which enacted this subchapter, amended section 6374 of this title, and repealed provisions set out as a note under section 6374 of this title. For complete classification of

title III to the Code, see Tables.

Subchapter II, referred to in introductory provisions, was in the original "title IV", meaning title IV of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2875, which enacted subchapter II (§13231 et seq.) of this chapter, amended sections 6374a and 6374b and former section 6374c of this title and sections 717, 717a, 2001, 2002, 2006, and 2013 of Title 15, Commerce and Trade, enacted provisions set out as notes under former section 79b and section 717 of Title 15, and repealed provisions set out as a note under section 717c of Title 15. For complete classification of title IV to the Code, see Tables.

Paragraphs (7) and (8) of section 32901(a) of title 49, referred to in pars. (6)(A) and (8)(A), were redesignated as pars. (8) and (9), respectively, and a new par. (7) was enacted by Pub. L. 110–140, title I, §103(a)(2), (3), Dec. 19, 2007, 121 Stat. 1501.

The Outer Continental Shelf Lands Act, referred to in par. (7), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

CODIFICATION

In pars. (6)(A) and (8)(A), "section 32901(a)(7) of title 49" substituted for "section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act" and "section 32901(a)(8) of title 49" substituted for "section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

AMENDMENTS

2008—Par. (3). Pub. L. 110–181 designated existing provisions as subpar. (A), inserted par. and subpar. headings, substituted "The term" for "the term", and added subpar. (B).

2005—Par. (9)(E). Pub. L. 109–58 inserted ", including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary" before semicolon at end.

2000—Par. (2). Pub. L. 106–554 inserted ", including liquid fuels domestically produced from natural gas" after "natural gas".

[1] So in original. The period probably should be a semicolon.

[2] See References in Text note below.

§13212. Minimum Federal fleet requirement

(a) General requirements

(1) The Federal Government shall acquire at least—

(A) 5,000 light duty alternative fueled vehicles in fiscal year 1993;

(B) 7,500 light duty alternative fueled vehicles in fiscal year 1994; and

(C) 10,000 light duty alternative fueled vehicles in fiscal year 1995.

(2) The Secretary shall allocate the acquisitions necessary to meet the requirements under paragraph (1).

(b) Percentage requirements

(1) Of the total number of vehicles acquired by a Federal fleet, at least—

(A) 25 percent in fiscal year 1996;

(B) 33 percent in fiscal year 1997;

(C) 50 percent in fiscal year 1998; and

(D) 75 percent in fiscal year 1999 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary, in consultation with the Administrator of General Services where appropriate,

may permit a Federal fleet to acquire a smaller percentage than is required in paragraph (1), so long as the aggregate percentage acquired by all Federal fleets is at least equal to the required percentage.

(3) For purposes of this subsection, the term "Federal fleet" means 20 or more light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by or assigned to any Federal executive department, military department, Government corporation, independent establishment, or executive agency, the United States Postal Service, the Congress, the courts of the United States, or the Executive Office of the President. Such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(C) law enforcement vehicles;

(D) emergency vehicles;

(E) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons; or

(F) nonroad vehicles, including farm and construction vehicles.

(c) Allocation of incremental costs

The General Services Administration and any other Federal agency that procures motor vehicles for distribution to other Federal agencies shall allocate the incremental cost of alternative fueled vehicles over the cost of comparable gasoline vehicles across the entire fleet of motor vehicles distributed by such agency.

(d) Application of requirements

The provisions of section 6374 of this title relating to the Federal acquisition of alternative fueled vehicles shall apply to the acquisition of vehicles pursuant to this section.

(e) Resale

The Administrator of General Services shall take all feasible steps to ensure that all alternative fueled vehicles sold by the Federal Government shall remain alternative fueled vehicles at time of sale.

(f) Vehicle emission requirements

(1) Definitions

In this subsection:

(A) Federal agency

The term "Federal agency" does not include any office of the legislative branch, except that it does include the House of Representatives with respect to an acquisition described in paragraph (2)(C).

(B) Medium duty passenger vehicle

The term "medium duty passenger vehicle" has the meaning given that term [1] section 523.2 of title 49 of the Code of Federal Regulations, as in effect on December 19, 2007.

(C) Member's Representational Allowance

The term "Member's Representational Allowance" means the allowance described in section 5341(a) of title 2.

(2) Prohibition

(A) In general

Except as provided in subparagraph (B), no Federal agency shall acquire a light duty motor vehicle or medium duty passenger vehicle that is not a low greenhouse gas emitting vehicle.

(B) Exception

The prohibition in subparagraph (A) shall not apply to acquisition of a vehicle if the head of the agency certifies in writing, in a separate certification for each individual vehicle purchased, either—

(i) that no low greenhouse gas emitting vehicle is available to meet the functional needs of the agency and details in writing the functional needs that could not be met with a low greenhouse gas emitting vehicle; or

(ii) that the agency has taken specific alternative more cost-effective measures to reduce petroleum consumption that—

(I) have reduced a measured and verified quantity of greenhouse gas emissions equal to or greater than the quantity of greenhouse gas reductions that would have been achieved through acquisition of a low greenhouse gas emitting vehicle over the lifetime of the vehicle; or

(II) will reduce each year a measured and verified quantity of greenhouse gas emissions equal to or greater than the quantity of greenhouse gas reductions that would have been achieved each year through acquisition of a low greenhouse gas emitting vehicle.

(C) Special rule for vehicles provided by funds contained in Members' Representational Allowance

This paragraph shall apply to the acquisition of a light duty motor vehicle or medium duty passenger vehicle using any portion of a Member's Representational Allowance, including an acquisition under a long-term lease.

(3) Guidance

(A) In general

Each year, the Administrator of the Environmental Protection Agency shall issue guidance identifying the makes and model numbers of vehicles that are low greenhouse gas emitting vehicles.

(B) Consideration

In identifying vehicles under subparagraph (A), the Administrator shall take into account the most stringent standards for vehicle greenhouse gas emissions applicable to and enforceable against motor vehicle manufacturers for vehicles sold anywhere in the United States.

(C) Requirement

The Administrator shall not identify any vehicle as a low greenhouse gas emitting vehicle if the vehicle emits greenhouse gases at a higher rate than such standards allow for the manufacturer's fleet average grams per mile of carbon dioxide-equivalent emissions for that class of vehicle, taking into account any emissions allowances and adjustment factors such standards provide.

(g) Authorization of appropriations

There are authorized to be appropriated for carrying out this section, such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

(Pub. L. 102–486, title III, §303, Oct. 24, 1992, 106 Stat. 2871; Pub. L. 109–58, title VII, §702, Aug. 8, 2005, 119 Stat. 815; Pub. L. 110–140, title I, §141, Dec. 19, 2007, 121 Stat. 1517.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsecs. (f), (g). Pub. L. 110–140 added subsec. (f) and redesignated former subsec. (f) as (g).
2005—Subsec. (c). Pub. L. 109–58 substituted "shall" for "may".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 12844

Ex. Ord. No. 12844, Apr. 21, 1993, 58 F.R. 21885, as amended by Ex. Ord. No. 12974, §3(b), Sept. 29, 1995, 60 F.R. 51876, which required the Federal Government to institute a Federal fleet vehicle acquisition program and established the Federal Fleet Conversion Task Force to advise on implementation of the program, was revoked by Ex. Ord. No. 13031, §9, Dec. 13, 1996, 61 F.R. 66531, formerly set out below.

EXECUTIVE ORDER NO. 13031

Ex. Ord. No. 13031, Dec. 13, 1996, 61 F.R. 66529, which provided that the Federal Government exercise leadership in the use of alternative fueled vehicles, was revoked by Ex. Ord. No. 13149, §501, Apr. 21, 2000, 65 F.R. 24610, formerly set out below.

EXECUTIVE ORDER NO. 13149

Ex. Ord. No. 13149, Apr. 21, 2000, 65 F.R. 24607, which directed the Federal Government to exercise leadership in the reduction of petroleum consumption through improvements in fleet fuel efficiency and the use of alternative fuel vehicles and alternative fuels, was revoked by Ex. Ord. No. 13423, §11(a)(v), Jan. 24, 2007, 72 F.R. 3923, formerly set out in a note under section 4321 of this title.

[1] *So in original. The word "in" probably should appear after "term".*

§13213. Refueling

(a) In general

Federal agencies shall, to the maximum extent practicable, arrange for the fueling of alternative fueled vehicles acquired under section 13212 of this title at commercial fueling facilities that offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fueled vehicles purchased under section 13212 of this title, Federal agencies are authorized to enter into commercial arrangements for the purposes of fueling Federal alternative fueled vehicles, including, as appropriate, purchase, lease, contract, construction, or other arrangements in which the Federal Government is a participant.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

(Pub. L. 102–486, title III, §304, Oct. 24, 1992, 106 Stat. 2872.)

§13214. Federal agency promotion, education, and coordination

(a) Promotion and education

The Secretary, in cooperation with the Administrator of General Services, shall promote programs and educate officials and employees of Federal agencies on the merits of alternative fueled vehicles. The Secretary, in cooperation with the Administrator of General Services, shall provide and disseminate information to Federal agencies on—

(1) the location of refueling and maintenance facilities available to alternative fueled vehicles in the Federal fleet;

(2) the range and performance capabilities of alternative fueled vehicles;

(3) State and local government and commercial alternative fueled vehicle programs;

(4) Federal alternative fueled vehicle purchases and placements;

(5) the operation and maintenance of alternative fueled vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 13215 [1] and 13216 of this title.

(b) Assistance in procurement and placement

The Secretary, in cooperation with the Administrator of General Services, shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fueled vehicles purchased through the Administrator of General Services. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 13212 of this title.

(Pub. L. 102–486, title III, §305, Oct. 24, 1992, 106 Stat. 2872.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13215 of this title, referred to in subsec. (a)(6), was omitted from the Code since the section ceased to be effective after Oct. 24, 1995.

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

§13215. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 102–486, title III, §306, Oct. 24, 1992, 106 Stat. 2873, which related to incentives for Federal agencies to encourage and promote use of alternative fueled vehicles, ceased to be effective after Oct. 24, 1995.

§13216. Recognition and incentive awards program

(a) Awards program

The Administrator of General Services shall establish annual awards program to recognize those Federal employees who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

(b) Criteria

The Administrator of General Services shall provide annual awards to Federal employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fueled vehicle program through—

(A) exemplary promotion of alternative fueled vehicle use within Federal agencies;

(B) proper alternative fueled vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts;

(D) innovative alternative fueled vehicle procurement, refueling, and maintenance arrangements with commercial entities;

(E) making regular requests for alternative fueled vehicles for agency use; and

(F) maintaining a high number of alternative fueled vehicles used relative to comparable conventionally fueled motor vehicles used; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance, and other

conservation and awareness measures.

(c) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out this section not more than $35,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(Pub. L. 102–486, title III, §307, Oct. 24, 1992, 106 Stat. 2873.)

§13217. Measurement of alternative fuel use

The Administrator of General Services shall use such means as may be necessary to measure the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services. Not later than one year after October 24, 1992, the Secretary, in consultation with the Administrator of General Services, shall issue guidelines to Federal agencies for use in measuring the aggregate percentage of alternative fuel use in dual-fueled vehicles in their fleets.

(Pub. L. 102–486, title III, §308, Oct. 24, 1992, 106 Stat. 2874.)

§13218. Reports

(a) Omitted

(b) Compliance report

(1) In general

Not later than February 15, 2006, and annually thereafter for the next 14 years, the head of each Federal agency which is subject to this Act and Executive Order No. 13031 shall prepare, and submit to Congress, a report that—

(A) summarizes the compliance by such Federal agency with the alternative fuel purchasing requirements for Federal fleets under this Act and Executive Order No. 13031; and

(B) includes a plan of compliance that contains specific dates for achieving compliance using reasonable means.

(2) Contents

(A) In general

Each report submitted under paragraph (1) shall include—

(i) any information on any failure to meet statutory requirements or requirements under Executive Order No. 13031;

(ii)(I) any plan of compliance that the agency head is required to submit under Executive Order No. 13031; or

(II) if a plan of compliance referred to in subclause (I) does not contain specific dates by which the Federal agency is to achieve compliance, a revised plan of compliance that contains specific dates for achieving compliance; and

(iii) any related information the agency head is required to submit to the Director of the Office of Management and Budget under Executive Order No. 13031.

(B) Penultimate report

The penultimate report submitted under paragraph (1) shall include an announcement that the report for the next year shall be the final report submitted under paragraph (1).

(3) Public dissemination of report

Each report submitted under paragraph (1) shall be made public, including—

(A) placing such report on a publicly available website on the Internet; and

(B) publishing the availability of the report, including such website address, in the Federal Register.

(Pub. L. 102–486, title III, §310, Oct. 24, 1992, 106 Stat. 2874; Pub. L. 105–388, §8(a), Nov. 13, 1998, 112 Stat. 3481; Pub. L. 109–58, title VII, §705, Aug. 8, 2005, 119 Stat. 817.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is Pub. L. 102–486, Oct. 24, 1992, 102 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

Executive Order No. 13031, referred to in subsec. (b)(1), (2)(A), was Ex. Ord. No. 13031, Dec. 13, 1996, 61 F.R. 66529, which was set out as a note under section 13212 of this title prior to revocation by Ex. Ord. No. 13149, §501, Apr. 21, 2000, 65 F.R. 24610, formerly set out as a note under section 13212 of this title.

CODIFICATION

Subsec. (a) of this section, which required the Administrator of General Services to report biennially to Congress on the General Services Administration's alternative fueled vehicle program under the Energy Policy Act of 1992, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 4th item on page 173 of House Document No. 103–7.

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–58 substituted "February 15, 2006" for "1 year after November 13, 1998" in introductory provisions.

1998—Pub. L. 105–388 substituted "Reports" for "General Services Administration report" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§13219. United States Postal Service

(a) Omitted

(b) Coordination

To the maximum extent practicable, the Postmaster General shall coordinate the Postal Service's alternative fueled vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator of General Services, and heads of appropriate Federal agencies.

(c) Program criteria

The Postmaster General shall consider the following criteria in the procurement and placement of alternative fueled vehicles:

(1) The procurement plans of State and local governments and other public and private institutions.

(2) The current and future availability of refueling and repair facilities.

(3) The reduction in emissions of the Postal fleet.

(4) Whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act Amendments of 1990.

(5) The operational requirements of the Postal fleet.

(6) The contribution to the reduction in the consumption of oil in the transportation sector.

(Pub. L. 102–486, title III, §311, Oct. 24, 1992, 106 Stat. 2874.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act Amendments of 1990, referred to in subsec. (c)(4), probably means Pub. L. 101–549, Nov. 15, 1990, 104 Stat. 2399. For complete classification of this Act to the Code, see Short Title of 1990

Amendment note set out under section 7401 of this title and Tables.

CODIFICATION

Subsec. (a) of this section, which required the Postmaster General to biennially submit to Congress a report on the Postal Service's alternative fueled vehicle program, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 15th item on page 194 of House Document No. 103–7.

§13220. Biodiesel fuel use credits

(a) Allocation of credits

(1) In general

The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of the biodiesel component of fuel containing at least 20 percent biodiesel by volume purchased after the date of the enactment of this section, for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

(2) Exceptions

No credits shall be allocated under paragraph (1) for a purchase of biodiesel—

(A) for use in alternative fueled vehicles; or

(B) that is required by Federal or State law.

(3) Authority to modify percentage

The Secretary may, by rule, lower the 20 percent biodiesel volume requirement in paragraph (1) for reasons related to cold start, safety, or vehicle function considerations.

(4) Documentation

A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under paragraph (1).

(b) Use of credits

(1) In general

At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this subchapter, subchapter II, or subchapter III.

(2) Limitation

Credits allocated under subsection (a) may not be used to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this subchapter, subchapter II, and subchapter III. This paragraph shall not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 13251(a)(2)(A) of this title.

(c) Credit not a section 13258 credit

A credit under this section shall not be considered a credit under section 13258 of this title.

(d) Issuance of rule

The Secretary shall, before January 1, 1999, issue a rule establishing procedures for the implementation of this section.

(e) Collection of data

The Secretary shall collect such data as are required to make a determination described in subsection (f)(2)(B).

(f) Definitions

For purposes of this section—

(1) the term "biodiesel"—

(A) means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 7545 of this title;

(B) includes biodiesel derived from—

(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

(ii) municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater; and

(2) the term "qualifying volume" means—

(A) 450 gallons; or

(B) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.

(Pub. L. 102–486, title III, §312, as added Pub. L. 105–277, div. A, §101(a) [title XII, §1201(a)], Oct. 21, 1998, 112 Stat. 2681, 2681–48; Pub. L. 105–388, §7(a), Nov. 13, 1998, 112 Stat. 3480; Pub. L. 109–58, title XV, §1515, Aug. 8, 2005, 119 Stat. 1091.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(1), probably means October 21, 1998, the date of the enactment of this section by Pub. L. 105–277, rather than Nov. 13, 1998, the date of the enactment of this section by Pub. L. 105–388.

This subchapter, referred to in subsec. (b), was in the original "this title", meaning title III of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2866, which enacted this subchapter, amended section 6374 of this title, and repealed provisions set out as a note under section 6374 of this title. For complete classification of title III to the Code, see Tables.

Subchapter II, referred to in subsec. (b), was in the original "title IV", meaning title IV of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2875, which enacted subchapter II (§13231 et seq.) of this chapter, amended sections 6374a and 6374b and former section 6374c of this title and sections 717, 717a, 2001, 2002, 2006, and 2013 of Title 15, Commerce and Trade, enacted provisions set out as notes under former section 79b and section 717 of Title 15, and repealed provisions set out as a note under section 717c of Title 15. For complete classification of title IV to the Code, see Tables.

CODIFICATION

Pub. L. 105–277 and Pub. L. 105–388 enacted identical sections.

AMENDMENTS

2005—Subsec. (f)(1). Pub. L. 109–58 inserted dash after " 'biodiesel' ", designated remainder of existing provisions as subpar. (A), and added subpar. (B).

SUBCHAPTER II—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

§13231. Public information program

The Secretary, in consultation with appropriate Federal agencies and individuals and organizations with practical experience in the production and use of alternative fuels and alternative fueled vehicles, shall, for the purposes of promoting the use of alternative fuels and alternative fueled vehicles, establish a public information program on the benefits and costs of the use of alternative

fuels in motor vehicles. Within 18 months after October 24, 1992, the Secretary shall produce and make available an information package for consumers to assist them in choosing among alternative fuels and alternative fueled vehicles. Such information package shall provide relevant and objective information on motor vehicle characteristics and fuel characteristics as compared to gasoline, on a life cycle basis, including environmental performance, energy efficiency, domestic content, cost, maintenance requirements, reliability, and safety. Such information package shall also include information with respect to the conversion of conventional motor vehicles to alternative fueled vehicles. The Secretary shall include such other information as the Secretary determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles. Such information package shall be updated annually to reflect the most recent available information.

(Pub. L. 102–486, title IV, §405, Oct. 24, 1992, 106 Stat. 2880.)

§13232. Labeling requirements

(a) Establishment of requirements

The Federal Trade Commission, in consultation with the Secretary, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, shall, within 18 months after October 24, 1992, issue a notice of proposed rulemaking for a rule to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles, including requirements for appropriate information with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons. Required labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer. In formulating the rule, the Federal Trade Commission shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors. The Commission shall obtain the views of affected industries, consumer organizations, Federal and State agencies, and others in formulating the rule. A final rule shall be issued within 1 year after the notice of proposed rulemaking is issued. Such rule shall be updated periodically to reflect the most recent available information.

(b) Technical assistance and coordination

The Secretary shall provide technical assistance to the Federal Trade Commission in developing labeling requirements under subsection (a). The Secretary shall coordinate activities under this section with activities under section 13231 of this title.

(Pub. L. 102–486, title IV, §406, Oct. 24, 1992, 106 Stat. 2880.)

§13233. Data acquisition program

(a) Not later than one year after October 24, 1992, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) the projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) cost, performance, environmental, energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

(Pub. L. 102–486, title IV, §407, Oct. 24, 1992, 106 Stat. 2881.)

§13234. Federal Energy Regulatory Commission authority to approve recovery of certain expenses in advance

(a) Natural gas motor vehicles

The Federal Energy Regulatory Commission may, under section 717c of title 15, allow recovery of expenses in advance by natural-gas companies for research, development, and demonstration activities by the Gas Research Institute for projects on the use of natural gas, including fuels derived from natural gas, for transportation, and projects on the use of natural gas to control pollutants and to control emissions from the combustion of other fuels, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to such projects, the Commission shall ensure that the costs of such activities shall be provided in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(b) Electric motor vehicles

The Federal Energy Regulatory Commission may, under section 824d of title 16, allow recovery of expenses in advance by electric utilities for research, development, and demonstration activities by the Electric Power Research Institute for projects on electric motor vehicles, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(Pub. L. 102–486, title IV, §408, Oct. 24, 1992, 106 Stat. 2881.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 408 of Pub. L. 102–486. Subsec. (c) of section 408 of Pub. L. 102–486 repealed provisions of title III of Pub. L. 102–104, formerly set out as a note under section 717c of Title 15, Commerce and Trade.

§13235. State and local incentives programs

(a) Establishment of program

(1) The Secretary shall, within one year after October 24, 1992, issue regulations establishing guidelines for comprehensive State alternative fuels and alternative fueled vehicle incentives and program plans designed to accelerate the introduction and use of such fuels and vehicles. Such guideline [1] shall address the development, modification, and implementation of such State plans and shall describe those program elements, as described in paragraph (3), to be addressed in such plans.

(2) The Secretary, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall invite the Governor of each State to submit to the

Secretary a State plan within one year after the effective date of the regulations issued under paragraph (1). Such plan shall include—

(A) provisions designed to result in scheduled progress toward, and achievement of, the goal of introducing substantial numbers of alternative fueled vehicles in such State by the year 2000; and

(B) a detailed description of the requirements, including the estimated cost of implementation, of such plan.

(3) Each proposed State plan, in order to be eligible for Federal assistance under this section, shall describe the manner in which coordination shall be achieved with Federal and local governmental entities in implementing such plan, and shall include an examination of—

(A) exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fueling facilities;

(B) the introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(C) special parking at public buildings and airport and transportation facilities;

(D) programs of public education to promote the use of alternative fueled vehicles;

(E) the treatment of sales of alternative fuels for use in alternative fueled vehicles;

(F) methods by which State and local governments might facilitate—

(i) the availability of alternative fuels; and

(ii) the ability to recharge electric motor vehicles at public locations;

(G) allowing public utilities to include in rates the incremental cost of—

(i) new alternative fueled vehicles;

(ii) converting conventional vehicles to operate on alternative fuels; and

(iii) installing alternative fuel fueling facilities,

but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect inclusion of such costs would have on rates, service, and reliability to other utility customers;

(H) such other programs and incentives as the State may describe;

(I) whether accomplishing any of the goals in this subsection would require amendment to State law or regulation, including traffic safety prohibitions;

(J) services provided by municipal, county, and regional transit authorities; and

(K) effects of such plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act.

(b) Federal assistance to States

(1) Upon request of the Governor of any State with a plan approved under this section, the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to alternative fueled vehicles;

(B) grants of Federal financial assistance for the purpose of assisting such State in the implementation of such plan or any part thereof; and

(C) grants of Federal financial assistance for the acquisition of alternative fueled vehicles.

(2) In determining whether to approve a State plan submitted under subsection (a), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this subsection, the Secretary shall take into account—

(A) the energy-related and environmental-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the plan compared to conventional motor vehicles;

(B) the number of alternative fueled vehicles likely to be introduced by the year 2000, as a result of successful implementation of the plan; and

(C) such other factors as the Secretary considers appropriate.

(3) The Secretary, in consultation with the Administrator of General Services, shall provide assistance to States in procuring alternative fueled vehicles, including coordination with Federal procurements of such vehicles.

(4) The Secretary may not approve a State plan submitted under subsection (a) unless the State agrees to provide at least 20 percent of the cost of activities for which assistance is provided under paragraph (1).

(c) General provisions

(1) In carrying out this section, the Secretary shall consult with the Secretary of Transportation on matters relating to transportation and with other appropriate Federal and State departments and agencies.

(2) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this section. Such report shall include—

(A) an estimate of the number of alternative fueled vehicles in use in each State;

(B) the degree of each State's participation in the program;

(C) a description of Federal, State, and local programs undertaken in the various States, whether pursuant to a State plan under this section or not, to provide incentives for introduction of alternative fueled vehicles;

(D) an estimate of the energy and environmental benefits of the program; and

(E) the recommendations of the Secretary, if any, for additional action by the Federal Government.

(d) Definitions

For the purposes of this section, the following definitions apply:

(1) Governor

The term "Governor" means the chief executive of a State.

(2) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(e) Authorization of appropriations

There are authorized to be appropriated for carrying out this section, $10,000,000 for each of the 5 fiscal years beginning after October 24, 1992.

(Pub. L. 102–486, title IV, §409, Oct. 24, 1992, 106 Stat. 2882.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(3)(K), is Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(2) of this section relating to annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 8th item on page 86 of House Document No. 103–7.

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

§13236. Alternative fuel bus program

(a) Cooperative agreements and joint ventures

(1) The Secretary of Transportation, in consultation with the Secretary, may enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility of commercial application, including safety of specific vehicle design, of using alternative fuels for urban buses and other motor vehicles used for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(3) Federal assistance provided under cooperative agreements and joint ventures entered into under paragraph (1) to demonstrate the feasibility of commercial application of using alternative fuels for urban buses shall be in addition to Federal assistance provided under any other law for such purpose.

(b) Limitations

(1) The Secretary of Transportation may not enter into cooperative agreement or joint venture under subsection (a) with any municipal, county, or regional transit authority, unless such government body agrees to provide 20 percent of the costs of such demonstration.

(2) The Secretary of Transportation may grant such priority under this section to any entity that demonstrates that the use of alternative fuels for transportation would have a significant beneficial effect on the environment.

(c) School buses

The Secretary of Transportation may also provide, in accordance with such rules as he may prescribe, financial assistance to any agency, municipality, or political subdivision in an urban area referred to in subsection (a), of any State or the District of Columbia for the purpose of meeting the incremental costs of school buses that are dedicated vehicles and used regularly for such transportation during the school term. Such costs may include the purchase and installation of alternative fuel refueling facilities to be used for school bus refueling, and the conversion of school buses to dedicated vehicles. The Secretary of Transportation may provide such assistance directly to a person who is a contractor of such agency, municipality, or political subdivision, upon the request of the agency, municipality, or political subdivision, and who, under such contract, provides for such transportation. Any conversion under this subsection shall comply with the warranty and safety requirements for alternative fuel conversions contained in section 7587 [1] of this title.

(d) Authorization of appropriations

There are authorized to be appropriated not more than $30,000,000 for each of the fiscal years 1993, 1994, and 1995 for purposes of this section.

(Pub. L. 102–486, title IV, §410, Oct. 24, 1992, 106 Stat. 2884.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 7587 of this title, referred to in subsec. (c), was in the original "section 247 of the Clean Air Act Amendments of 1990", Pub. L. 101–549, and was translated as reading "section 247 of the Clean Air Act", meaning section 247 of act July 14, 1955, ch. 360, title II, as added Nov. 15, 1990, Pub. L. 101–549, title II, §229(a), 104 Stat. 2523, to reflect the probable intent of Congress, because the Clean Air Act Amendments of 1990 does not contain a section 247, and section 247 of the Clean Air Act relates to alternate fuel conversions for vehicles.

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

§13237. Certification of training programs

The Secretary shall ensure that the Federal Government establishes and carries out a program for the certification of training programs for technicians who are responsible for motor vehicle installation of equipment that converts gasoline or diesel-fueled motor vehicles into dedicated vehicles or dual fueled vehicles, and for the maintenance of such converted motor vehicles. A training program shall not be certified under the program established under this section unless it provides technicians with instruction on the proper and safe installation procedures and techniques, adherence to specifications (including original equipment manufacturer specifications), motor vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these motor vehicle conversions. The Secretary shall ensure that, in the development of the program required under this section, original equipment manufacturers, fuel suppliers, companies that convert conventional vehicles to use alternative fuels, and other affected persons are consulted.

(Pub. L. 102–486, title IV, §411, Oct. 24, 1992, 106 Stat. 2885.)

§13238. Alternative fuel use in nonroad vehicles and engines

(a) Nonroad vehicles and engines

(1) The Secretary shall conduct a study to determine whether the use of alternative fuels in nonroad vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed, and the results thereof reported to Congress, within 2 years after October 24, 1992.

(2) The study shall assess the potential of nonroad vehicles and engines to run on alternative fuels. Taking into account the nonroad vehicles and engines for which running on alternative fuels is feasible, the study shall assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) The report required under paragraph (1) may include the Secretary's recommendations for encouraging or requiring nonroad vehicles and engines which can feasibly be run on alternative fuels, to utilize such alternative fuels.

(b) Definition of nonroad vehicles and engines

Nonroad vehicles and engines, for purposes of this section, shall include nonroad vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

(c) Designation

Upon completion of the study required pursuant to subsection (a) of this section, the Secretary may designate such vehicles and engines as qualifying for loans pursuant to section 13239 of this title.

(Pub. L. 102–486, title IV, §412, Oct. 24, 1992, 106 Stat. 2886.)

§13239. Low interest loan program

(a) Establishment

Within 1 year after October 24, 1992, the Secretary shall establish a program for making low interest loans, giving preference to small businesses that own or operate fleets, for—

(1) the conversion of motor vehicles to operation on alternative fuels;

(2) covering the incremental costs of the purchase of motor vehicles which operate on

alternative fuels, when compared with purchase costs of comparable conventionally fueled motor vehicles; or

(3) covering the incremental costs of purchase of non-road vehicles and engines designated by the Secretary pursuant to section 13238(c) of this title.

(b) Loan terms

The Secretary, to the extent practicable, shall establish reasonable terms for loans made under this subsection, with preference given to repayment schedules that enable such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the motor vehicle operates.

(c) Criteria

In deciding to whom loans shall be made under this subsection, the Secretary shall consider—

(1) the financial need of the applicant;

(2) the goal of assisting the greatest number of applicants; and

(3) the ability of an applicant to repay the loan, taking into account the fuel cost savings likely to accrue to the applicant.

(d) Priorities

Priority shall be given under this section to fleets where the use of alternative fuels would have a significant beneficial effect on energy security and the environment.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section, $25,000,000 for each of the fiscal years 1993, 1994, and 1995.

(Pub. L. 102–486, title IV, §414, Oct. 24, 1992, 106 Stat. 2886.)

SUBCHAPTER III—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

§13251. Mandate for alternative fuel providers

(a) In general

(1) The Secretary shall, before January 1, 1994, issue regulations requiring that of the new light duty motor vehicles acquired by a covered person described in paragraph (2), the following percentages shall be alternative fueled vehicles for the following model years:

(A) 30 percent for model year 1996.

(B) 50 percent for model year 1997.

(C) 70 percent for model year 1998.

(D) 90 percent for model year 1999 and thereafter.

(2) For purposes of this section, a person referred to in paragraph (1) is—

(A) a covered person whose principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity;

(B) a non-Federal covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity; or

(C) a covered person—

(i) who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) a substantial portion of whose business is producing alternative fuels.

(3)(A) In the case of a covered person described in paragraph (2) with more than one affiliate, division, or other business unit, only an affiliate, division, or business unit which is substantially engaged in the alternative fuels business (as determined by the Secretary by rule) shall be subject to this subsection.

(B) No covered person or affiliate, division, or other business unit of such person whose principal business is—

(i) transforming alternative fuels into a product that is not an alternative fuel; or

(ii) consuming alternative fuels as a feedstock or fuel in the manufacture of a product that is not an alternative fuel,

shall be subject to this subsection.

(4) The vehicles purchased pursuant to this section shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(5) Regulations issued under paragraph (1) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, from the requirements of paragraph (1) of any covered person, in whole or in part, if such person demonstrates to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of that person are not reasonably available for acquisition; or

(B) alternative fuels that meet the normal requirements and practices of the principal business of that person are not available in the area in which the vehicles are to be operated.

(b) Revisions and extensions

With respect to model years 1997 and thereafter, the Secretary may—

(1) revise the percentage requirements under subsection (a)(1) downward, except that under no circumstances shall the percentage requirement for a model year be less than 20 percent; and

(2) extend the time under subsection (a)(1) for up to 2 model years.

(c) Option for electric utilities

The Secretary shall, within 1 year after October 24, 1992, issue regulations requiring that, in the case of a covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the requirements of subsection (a)(1) shall not apply until after December 31, 1997, with respect to electric motor vehicles. Any covered person described in this subsection which plans to acquire electric motor vehicles to comply with the requirements of this section shall so notify the Secretary before January 1, 1996.

(d) Report to Congress

The Secretary shall, before January 1, 1998, submit a report to the Congress providing detailed information on actions taken to carry out this section, and the progress made and problems encountered thereunder.

(Pub. L. 102–486, title V, §501, Oct. 24, 1992, 106 Stat. 2887.)

§13252. Replacement fuel supply and demand program

(a) Establishment of program

The Secretary shall establish a program to promote the development and use in light duty motor vehicles of domestic replacement fuels. Such program shall promote the replacement of petroleum motor fuels with replacement fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels that will have the greatest impact in reducing oil imports, improving the health of our Nation's economy and reducing greenhouse gas emissions.

(b) Development plan and production goals

Under the program established under subsection (a), the Secretary, before October 1, 1993, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the domestic and nondomestic production capacity for replacement fuels and alternative fueled vehicles needed to implement this section;

(2) determine the technical and economic feasibility of achieving the goals of producing sufficient replacement fuels to replace, on an energy equivalent basis—

(A) at least 10 percent by the year 2000; and

(B) at least 30 percent by the year 2010,

of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;

(3) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles in a manner that would meet the program goals described in subsection (a);

(4) identify ways to encourage the development of reliable replacement fuels and alternative fueled vehicle industries in the United States, and the technical, economic, and institutional barriers to such development; and

(5) determine the greenhouse gas emission implications of increasing the use of replacement fuels, including an estimate of the maximum feasible reduction in such emissions from the use of replacement fuels.

The Secretary shall publish in the Federal Register the results of actions taken under this subsection, and provide for an opportunity for public comment.

(Pub. L. 102–486, title V, §502, Oct. 24, 1992, 106 Stat. 2888.)

§13253. Replacement fuel demand estimates and supply information

(a) Estimates

Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) the number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) the probable geographic distribution of such vehicles;

(3) the amount and distribution of each type of replacement fuel; and

(4) the greenhouse gas emissions likely to result from replacement fuel use.

(b) Information

Beginning on October 1, 1994, the Secretary shall annually require—

(1) fuel suppliers to report to the Secretary on the amount of each type of replacement fuel that such supplier—

(A) has supplied in the previous calendar year; and

(B) plans to supply for the following calendar year;

(2) suppliers of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) has made available in the previous calendar year; and

(B) plans to make available for the following calendar year; and

(3) such fuel suppliers to provide the Secretary information necessary to determine the

greenhouse gas emissions from the replacement fuels used, taking into account the entire fuel cycle.

(c) Protection of information

Information provided to the Secretary under subsection (b) shall be subject to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18.

(Pub. L. 102–486, title V, §503, Oct. 24, 1992, 106 Stat. 2889.)

§13254. Modification of goals; additional rulemaking authority

(a) Examination of goals

Within 3 years after October 24, 1992, and periodically thereafter, the Secretary shall examine the goals established under section 13252(b)(2) of this title, in the context of the program goals stated under section 13252(a) of this title, to determine if the goals under section 13252(b)(2) of this title, including the applicable percentage requirements and dates, should be modified under this section. The Secretary shall publish in the Federal Register the results of each examination under this subsection and provide an opportunity for public comment.

(b) Modification of goals

If, after analysis of information obtained in connection with carrying out subsection (a) or section 13252 of this title, or other information, and taking into account the determination of technical and economic feasibility made under section 13252(b)(2) of this title, the Secretary determines that goals described in section 13252(b)(2) of this title, including the percentage requirements or dates, are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for purposes of this subchapter. The modification of goals under this section may include changing the target dates specified in section 13252(b)(2) of this title.

(c) Additional rulemaking authority

If the Secretary determines that the achievement of goals described in section 13252(b)(2) of this title would result in a significant and correctable failure to meet the program goals described in section 13252(a) of this title, the Secretary shall issue such additional regulations as are necessary to remedy such failure. The Secretary shall have no authority under this Act to mandate the production of alternative fueled vehicles or to specify, as applicable, the models, lines, or types of, or marketing or pricing practices, policies, or strategies for, vehicles subject to this Act. Nothing in this Act shall be construed to give the Secretary authority to mandate marketing or pricing practices, policies, or strategies for alternative fuels or to mandate the production or delivery of such fuels.

(Pub. L. 102–486, title V, §504, Oct. 24, 1992, 106 Stat. 2890.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

§13255. Voluntary supply commitments

The Secretary shall, by January 1, 1994, and thereafter, undertake to obtain voluntary commitments in geographically diverse regions of the United States—

(1) from fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) from owners of 10 or more motor vehicles to acquire and use alternative fueled vehicles and

alternative fuels; and

(3) from suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services,

in sufficient volume to achieve the goals described in section 13252(b)(2) of this title or as modified under section 13254 of this title, and in order to meet any fleet requirement program established by rule under this subchapter. The Secretary shall periodically report to the Congress on the results of efforts under this section. All voluntary commitments obtained pursuant to this section shall be available to the public, except to the extent provided in applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18.

(Pub. L. 102–486, title V, §505, Oct. 24, 1992, 106 Stat. 2890.)

§13256. Technical and policy analysis

(a) Requirement

Not later than March 1, 1995, and March 1, 1997, the Secretary shall prepare and transmit to the President and the Congress a technical and policy analysis under this section. The Secretary shall utilize the analytical capability and authorities of the Energy Information Administration and such other offices of the Department of Energy as the Secretary considers appropriate.

(b) Purposes

The technical and policy analysis prepared under this section shall be based on the best available data and information obtainable by the Secretary under section 13253 of this title, or otherwise, and on experience under this subchapter and other provisions of law in the development and use of replacement fuels and alternative fueled vehicles, and shall evaluate—

(1) progress made in achieving the goals described in section 13252(b)(2) of this title, as modified under section 13254 of this title;

(2) the actual and potential role of replacement fuels and alternative fueled vehicles in significantly reducing United States reliance on imported oil to the extent of the goals referred to in paragraph (1); and

(3) the actual and potential availability of various domestic replacement fuels and dedicated vehicles and dual fueled vehicles.

(c) Publication

The Secretary shall publish a proposed version of each analysis under this section in the Federal Register for public comment before transmittal to the President and the Congress. Public comment received in response to such publication shall be preserved for use in rulemaking proceedings under section 13257 of this title.

(Pub. L. 102–486, title V, §506, Oct. 24, 1992, 106 Stat. 2891.)

§13257. Fleet requirement program

(a) Fleet program purchase goals

(1) Except as provided in paragraph (2), the following percentages of new light duty motor vehicles acquired in each model year for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person subject to section 13251 of this title, shall be alternative fueled vehicles:

(A) 20 percent of the motor vehicles acquired in model years 1999, 2000, and 2001;

(B) 30 percent of the motor vehicles acquired in model year 2002;

(C) 40 percent of the motor vehicles acquired in model year 2003;

(D) 50 percent of the motor vehicles acquired in model year 2004;

(E) 60 percent of the motor vehicles acquired in model year 2005; and
(F) 70 percent of the motor vehicles acquired in model year 2006 and thereafter.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (b), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 1998 (or model year 1999) for initiating the fleet requirements under paragraph (1).
(3) The Secretary shall publish an advance notice of proposed rulemaking for the purpose of—
(A) evaluating the progress toward achieving the goals of replacement fuel use described in section 13252(b)(2) of this title, as modified under section 13254 of this title;
(B) identifying the problems associated with achieving those goals;
(C) assessing the adequacy and practicability of those goals; and
(D) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.
(4) After the completion of such advance notice of proposed rulemaking, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (b), and shall provide for a public comment period, with hearings, of not less than 90 days.

(b) Early rulemaking

(1) Not earlier than 1 year after October 24, 1992, and after carrying out the requirements of subsection (a), the Secretary shall initiate a rulemaking to determine whether a fleet requirement program to begin in calendar year 1998 (when model year 1999 begins), or such other later date as he may select pursuant to subsection (a), is necessary under this section. Such rule, consistent with subsection (a)(1), shall establish the annual applicable model year percentage. No rule under this subsection may be promulgated after December 15, 1996, and be enforceable. A fleet requirement program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—
(A) the goal of replacement fuel use described in section 13252(b)(2)(B) of this title, as modified under section 13254 of this title, is not expected to be actually achieved by 2010, or such other date as is established under section 13254 of this title, by voluntary means or pursuant to this subchapter or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 13252(b)(2)(A) of this title, as modified under section 13254 of this title;
(B) such goal is practicable and actually achievable within periods specified in section 13252(b)(2) of this title, as modified under section 13254 of this title, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals; and
(C) by 1998 (when model year 1999 begins) or the date specified by the Secretary in such rule for initiating a fleet requirement program—
(i) there exists sufficient evidence to ensure that the fuel and the needed infrastructure, including the supply and deliverability systems, will be installed and located at convenient places in the fleet areas subject to the rule and will be fully operational when the rule is effective to offer a reliable and timely supply of the applicable alternative fuel at reasonable costs (as compared to conventional fuels) to meet the fleet requirement program, as demonstrated through use of the provisions of section 13255(1) of this title regarding voluntary commitments or other adequate, reliable, and convincing forms of agreements, arrangements, or representations that such fuels and infrastructure are in existence or will exist when the rule is effective and will be expanded as the percentages increase annually;
(ii) there will be a sufficient number of new alternative fueled vehicles from original equipment manufacturers that comply with all applicable requirements of the Clean Air Act [42

U.S.C. 7401 et seq.] and chapter 301 of title 49;

(iii) such new vehicles will meet the applicable non-Federal and non-State fleet performance requirements of such fleets (including range, passenger or cargo-carrying capacity, reliability, refueling capability, vehicle mix, and economical operation and maintenance); and

(iv) establishment of a fleet requirement program by rule under this subsection will not result in unfair competitive advantages or disadvantages, or result in undue economic hardship, to the affected fleets.

(2) The Secretary shall not promulgate a rule under this subsection if he is unable to make affirmative findings in the case of each of the subparagraphs under paragraph (1), and each of the clauses under subparagraph (C) of paragraph (1).

(3) If the Secretary does not determine that such program is necessary under this subsection, the provisions of subsection (e) shall apply to the consideration in the future of any fleet requirement program. The record of this rulemaking, including the Secretary's findings, shall be incorporated into a rulemaking under that subsection. If the Secretary determines under this subsection that such program is necessary, the Secretary shall not initiate the later rulemaking under subsection (e).

(c) Advance notice of proposed rulemaking

Not later than April 1, 1998, the Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(1) evaluating the progress toward achieving the goals of replacement fuel use described in section 13252(b)(2) of this title, as modified under section 13254 of this title;

(2) identifying the problems associated with achieving those goals;

(3) assessing the adequacy and practicability of those goals; and

(4) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

(d) Proposed rule

Before May 1, 1999, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (g), and shall provide for a public comment period, with hearings, of not less than 90 days.

(e) Determination

(1) Not later than January 1, 2000, the Secretary shall, through the rule required under subsection (g), determine whether a fleet requirement program is necessary under this section. Such a program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 13252(b)(2)(B) of this title, as modified under section 13254 of this title, is not expected to be actually achieved by 2010, or such other date as is established under section 13254 of this title, by voluntary means or pursuant to this subchapter or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 13252(b)(2)(A) of this title, as modified under section 13254 of this title; and

(B) such goal is practicable and actually achievable within periods specified in section 13252(b)(2) of this title, as modified under section 13254 of this title, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals.

(2) The rule under subsection (b) or (g) shall also modify the goal described in section 13252(b)(2)(B) of this title and establish a revised goal pursuant to section 13254 of this title if the

Secretary determines, based on the proceeding required under subsection (a) or (c), that the goal in effect at the time of that proceeding is inadequate or impracticable, and not expected to be achievable. Such goal as modified and established shall be applicable in making the findings described in paragraph (1). If the Secretary modifies the goal under this paragraph, he may also modify the percentages stated in subsection (a)(1) or (g)(1) and the minimum percentage stated in subsection (a)(2) or (g)(2) shall be not less than 10 percent.

(f) Explanation of determination that fleet requirement program is not necessary

If the Secretary determines, based on findings under subsection (b) or (e), that a fleet requirement program under this section is not necessary, the Secretary shall—

(1) by December 15, 1996, with respect to a rulemaking under subsection (b); and

(2) by January 1, 2000, with respect to a rulemaking under subsection (e),

publish such determination in the Federal Register as a final agency action, including an explanation of the findings on which such determination is made and the basis for the determination.

(g) Fleet requirement program

(1) If the Secretary determines under subsection (e) that a fleet requirement program is necessary, the Secretary shall, by January 1, 2000, by rule require that, except as provided in paragraph (2), of the total number of new light duty motor vehicles acquired for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person under section 13251 of this title—

(A) 20 percent of the motor vehicles acquired in model year 2002;

(B) 40 percent of the motor vehicles acquired in model year 2003;

(C) 60 percent of the motor vehicles acquired in model year 2004; and

(D) 70 percent of the motor vehicles acquired in model year 2005 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (g), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 2002 (when model year 2003 begins) for initiating the fleet requirements under paragraph (1).

(3) Nothing in this subchapter shall be construed as requiring any fleet to acquire alternative fueled vehicles or alternative fuels that do not meet the normal business requirements and practices and needs of that fleet.

(4) A vehicle operating only on gasoline that complies with applicable requirements of the Clean Air Act [42 U.S.C. 7401 et seq.] shall not be considered an alternative fueled vehicle under subsection (b) or this subsection, except that the Secretary, as part of the rule under subsection (b) or this subsection, may determine that such vehicle should be treated as an alternative fueled vehicle for purposes of this section, for fleets subject to part C of title II of the Clean Air Act [42 U.S.C. 7581 et seq.], taking into consideration the impact on energy security and the goals stated in section 13252(a) of this title.

(h) Extension of deadlines

The Secretary may, by notice published in the Federal Register, extend the deadlines established under subsections (e), (f)(2), and (g) for an additional 90 days if the Secretary is unable to meet such deadlines. Such extension shall not be reviewable.

(i) Exemptions

(1) A rule issued under subsection (b), (g), or (o) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, of any fleet from the requirements of subsection (b), (g), or (o), in whole or in part, if it is demonstrated to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of the fleet owner are not reasonably available for acquisition;

(B) alternative fuels that meet the normal requirements and practices of the principal business of the fleet owner are not available in the area in which the vehicles are to be operated; or

(C) in the case of State and local government entities, the application of such requirements would pose an unreasonable financial hardship.

(2) In the case of private fleets, if the motor vehicles, when under normal operations, are garaged at personal residences at night, such motor vehicles shall be exempt from the requirements of subsections (b) and (g).

(j) Conversions

Nothing in this subchapter or the amendments made by this subchapter shall require a fleet owner to acquire conversion vehicles.

(k) Inclusion of law enforcement vehicles and urban buses

(1) If the Secretary determines, by rule, that the inclusion of fleets of law enforcement motor vehicles in the fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 13252(b)(2)(B) of this title, as modified under section 13254 of this title, and the Secretary finds that such inclusion would not hinder the use of the motor vehicles for law enforcement purposes, the Secretary may include such fleets in such program. The Secretary may only initiate one rulemaking under this paragraph.

(2) If the Secretary determines, by rule, that the inclusion of new urban buses, as defined by the Administrator under title II of the Clean Air Act [42 U.S.C. 7521 et seq.], in a fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 13252(b)(2)(B) of this title, as modified under section 13254 of this title, the Secretary may include such urban buses in such program, if the Secretary finds that such application will be consistent with energy security goals and the needs and objectives of encouraging and facilitating the greater use of such urban buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (g), but may not occur unless a rulemaking is carried out under subsection (g).

(l) Consideration of factors

In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers (including users of the alternative fuel for purposes such as for residences, agriculture, process use, and non-fuel purposes) and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(m) Consultation and participation of other Federal agencies

In carrying out this section and section 13256 of this title, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

(n) Petitions

As part of the rule promulgated either pursuant to subsection (b) or (g) of this section, the Secretary shall establish procedures for any fleet owner or operator or motor vehicle manufacturer to request that the Secretary modify or suspend a fleet requirement program established under either subsection nationally, by region, or in an applicable fleet area because, as demonstrated by the petitioner, the infrastructure or fuel supply or distribution system for an applicable alternative fuel is inadequate to meet the needs of a fleet. In the event that the Secretary determines that a modification or suspension of the fleet requirement program on a regional basis would detract from the nationwide character of any fleet requirement program established by rule or would sufficiently diminish the

economies of scale for the production of alternative fueled vehicles or alternative fuels and thereafter the practicability and effectiveness of such program, the Secretary may only modify or suspend the program nationally. The procedures shall include provisions for notice and public hearings. The Secretary shall deny or grant the petition within 180 days after filing.

(o) Mandatory State fleet programs

(1) Pursuant to a rule promulgated by the Secretary, beginning in calendar year 1995 (when model year 1996 begins), the following percentages of new light duty motor vehicles acquired annually for State government fleets, including agencies thereof, but not municipal fleets, shall be alternative fueled vehicles:

(A) 10 percent of the motor vehicles acquired in model year 1996;
(B) 15 percent of the motor vehicles acquired in model year 1997;
(C) 25 percent of the motor vehicles acquired in model year 1998;
(D) 50 percent of the motor vehicles acquired in model year 1999;
(E) 75 percent of the motor vehicles acquired in model year 2000 and thereafter.

(2)(A) The Secretary shall within 18 months after October 24, 1992, promulgate a rule providing that a State may submit a plan within 12 months after such promulgation containing a light duty alternative fueled vehicle plan for State fleets to meet the annual percentages established under paragraph (1) for the acquisition of light duty motor vehicles. The plan shall provide for the voluntary conversion or acquisition or combination thereof, beyond any acquisition required by this subchapter, of such motor vehicles by State, local, or private fleets, in numbers greater than or equal to the number of State alternative fueled vehicles required pursuant to paragraph (1).

(B) The plan, if approved by the Secretary, would be in lieu of the State meeting such annual percentages solely through purchases of new State-owned vehicles. All conversions or acquisitions or combinations thereof of any alternative fueled vehicles under the plan must be voluntary and must conform with the requirements of section 247 of the Clean Air Act [42 U.S.C. 7587] and must comply with applicable safety requirements. The Secretary of Transportation shall within 3 years after enactment promulgate rules setting forth safety standards in accordance with chapter 301 of title 49 applicable to all conversions.

(Pub. L. 102–486, title V, §507, Oct. 24, 1992, 106 Stat. 2891.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(1)(C)(ii), (g)(4), and (k)(2), 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. Title II of the Act, known as the National Emission Standards Act, is classified generally to subchapter II (§7521 et seq.) of chapter 85 of this title. Part C of title II of the Act is classified generally to part C (§7581 et seq.) of chapter 85 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.

This subchapter, referred to in subsecs. (b)(1)(A), (e)(1)(A), (g)(3), (j), and (o)(2)(A), was in the original "this title" meaning title V of Pub. L. 102–486, Oct. 24, 1992, 102 Stat. 2887, which is classified generally to this subchapter.

CODIFICATION

In subsecs. (b)(1)(C)(ii) and (o)(2)(B), "chapter 301 of title 49" substituted for "the National Traffic and Motor Vehicle Safety Act of 1966 [15 U.S.C. 1381 et seq.]" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§13258. Credits

(a) Definitions

In this section:

(1) Fuel cell electric vehicle

The term "fuel cell electric vehicle" means an on-road or non-road vehicle that uses a fuel cell (as defined in section 16152 of this title).

(2) Hybrid electric vehicle

The term "hybrid electric vehicle" means a new qualified hybrid motor vehicle (as defined in section 30B(d)(3) of title 26).

(3) Medium- or heavy-duty electric vehicle

The term "medium- or heavy-duty electric vehicle" means an electric, hybrid electric, or plug-in hybrid electric vehicle with a gross vehicle weight of more than 8,501 pounds.

(4) Neighborhood electric vehicle

The term "neighborhood electric vehicle" means a 4-wheeled on-road or nonroad vehicle that—

(A) has a top attainable speed in 1 mile of more than 20 mph and not more than 25 mph on a paved level surface; and

(B) is propelled by an electric motor and on-board, rechargeable energy storage system that is rechargeable using an off-board source of electricity.

(5) Plug-in electric drive vehicle

The term "plug-in electric drive vehicle" means a vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy duty motor vehicle or nonroad vehicle (as those terms are defined in section 7550 of this title).

(b) In general

(1) Allocation

The Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this subchapter, if that fleet or person acquires an alternative fueled vehicle in excess of the number that fleet or person is required to acquire under this subchapter or acquires an alternative fueled vehicle before the date that fleet or person is required to acquire an alternative fueled vehicle under such subchapter.

(2) Electric vehicles

Not later than January 31, 2009, the Secretary shall—

(A) allocate credit in an amount to be determined by the Secretary for—

(i) acquisition of—

(I) a hybrid electric vehicle;

(II) a plug-in electric drive vehicle;

(III) a fuel cell electric vehicle;

(IV) a neighborhood electric vehicle; or

(V) a medium- or heavy-duty electric vehicle; and

(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

(i) a reduction in petroleum demand;

(ii) technological advancement; and

(iii) a reduction in vehicle emissions.

(c) Allocation

In allocating credits under subsection (b), the Secretary shall allocate one credit for each

alternative fueled vehicle the fleet or covered person acquires that exceeds the number of alternative fueled vehicles that fleet or person is required to acquire under this subchapter or that is acquired before the date that fleet or person is required to acquire an alternative fueled vehicle under such subchapter. In the event that a vehicle is acquired before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is acquired before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier acquired vehicle.

(d) Use of credits

At the request of a fleet or covered person allocated a credit under this section, the Secretary shall treat the credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by that fleet or person when determining whether that fleet or person has complied with this subchapter in the year designated. A credit may be counted toward compliance for only one year.

(e) Transferability

A fleet or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another fleet or person who is required to comply with this subchapter. At the request of the fleet or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by the fleet or person to whom the credit is transferred when determining whether that fleet or person has complied with this subchapter in the year designated. A transferred credit may be counted toward compliance for only one year. In the case of the alternative fuel provider program under section 13251 of this title, a transferred credit may be counted toward compliance only if the requirement of section 13251(a)(4) of this title is met.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2013.

(Pub. L. 102–486, title V, §508, Oct. 24, 1992, 106 Stat. 2897; Pub. L. 110–140, title I, §133, Dec. 19, 2007, 121 Stat. 1511.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–140, §133(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 110–140, §133(1), (3), redesignated subsec. (a) as (b), designated existing provisions as par. (1), inserted par. heading, and added par. (2). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 110–140, §133(1), (4), redesignated subsec. (b) as (c) and substituted "subsection (b)" for "subsection (a)". Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 110–140, §133(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively.

Subsec. (f). Pub. L. 110–140, §133(5), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§13259. Secretary's recommendations to Congress

(a) Recommendations to require availability or acquisition

If the Secretary determines, under section 13257(f) of this title, that a fleet requirement program under section 13257 of this title is not necessary, the Secretary shall so notify the Congress. If the

Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

(1) fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) Fair and equitable application

In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel suppliers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

(Pub. L. 102–486, title V, §509, Oct. 24, 1992, 106 Stat. 2898.)

§13260. Effect on other laws

(a) In general

Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act [42 U.S.C. 7401 et seq.], or regulations issued thereunder.

(b) Compliance by alternative fueled vehicles

Alternative fueled vehicles, whether dedicated vehicles or dual fueled vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act [42 U.S.C. 7401 et seq.] applicable to such vehicles and fuels.

(Pub. L. 102–486, title V, §510, Oct. 24, 1992, 106 Stat. 2898.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

The Clean Air Act, referred to in text, 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.

§13261. Prohibited acts

It shall be unlawful for any person to violate any provision of section 13251, 13253(b), 13257, or 13263a of this title, or any regulation issued under such sections.

(Pub. L. 102–486, title V, §511, Oct. 24, 1992, 106 Stat. 2899; Pub. L. 109–58, title VII, §703(b), Aug. 8, 2005, 119 Stat. 816.)

EDITORIAL NOTES

AMENDMENTS

2005—Pub. L. 109–58 substituted "13257, or 13263a" for "or 13257".

§13262. Enforcement

(a) Violation

Whoever violates section 13261 of this title shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Willful violation

Whoever willfully violates section 13261 of this title shall be fined not more than $10,000 for each violation.

(c) Knowing and willful violation following prior violation and penalty

Any person who knowingly and willfully violates section 13261 of this title after having been subjected to a civil penalty for a prior violation of section 13261 of this title shall be fined not more than $50,000.

(Pub. L. 102–486, title V, §512, Oct. 24, 1992, 106 Stat. 2899.)

§13263. Powers of Secretary

For the purpose of carrying out subchapter I, subchapter II, this subchapter, and subchapter IV, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 32910(a)(1) of title 49.

(Pub. L. 102–486, title V, §513, Oct. 24, 1992, 106 Stat. 2899.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter I, referred to in text, was in the original "title III" meaning title III of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2866, which enacted subchapter I of this chapter, amended section 6374 of this title, and repealed provisions set out as a note under section 6374 of this title.

Subchapter II, referred to in text, was in the original "title IV" meaning title IV of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2875, which enacted subchapter II of this chapter, amended sections 6374a to 6374c of this title and sections 717, 717a, 2001, 2002, 2006, and 2013 of Title 15, Commerce and Trade, enacted provisions set out as notes under sections 79b and 717 of Title 15, and repealed provisions set out as a note under section 717c of Title 15.

CODIFICATION

In text, "section 32910(a)(1) of title 49" substituted for "section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1))" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§13263a. Alternative compliance

(a) Application for waiver

Any covered person subject to section 13251 of this title and any State subject to section 13257(o) of this title may petition the Secretary for a waiver of the applicable requirements of section 13251 or 13257(o) of this title.

(b) Grant of waiver

The Secretary shall grant a waiver of the requirements of section 13251 or 13257(o) of this title on a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered

person—

(1) will achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—

(A) the reduction in consumption of petroleum that would result from 100 percent cumulative compliance with the fuel use requirements of section 13251 of this title; or

(B) in the case of an entity covered under section 13257(o) of this title, a reduction equal to the annual consumption by the State entity of alternative fuels if all of the cumulative alternative fuel vehicles of the State entity given credit under section 13258 of this title were to use alternative fuel 100 percent of the time; and

(2) is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) Reporting requirement

Not later than December 31 of a model year, any State or covered person granted a waiver under this section for the preceding model year shall submit to the Secretary an annual report that—

(1) certifies the quantity of the petroleum motor fuel reduction of the State or covered person during the preceding model year; and

(2) projects the baseline quantity of the petroleum motor fuel reduction of the State or covered person during the following model year.

(d) Revocation of waiver

If a State or covered person that receives a waiver under this section fails to comply with this section, the Secretary—

(1) shall revoke the waiver; and

(2) may impose on the State or covered person a penalty under section 13262 of this title.

(Pub. L. 102–486, title V, §514, as added Pub. L. 109–58, title VII, §703(a)(2), Aug. 8, 2005, 119 Stat. 815.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(2), 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.

PRIOR PROVISIONS

A prior section 514 of Pub. L. 102–486 was renumbered 515 and is classified to section 13264 of this title.

§13264. Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this subchapter $10,000,000 for each of the fiscal years 1993 through 1997, and such sums as may be necessary for fiscal years 1998 through 2000.

(Pub. L. 102–486, title V, §515, formerly §514, Oct. 24, 1992, 106 Stat. 2899; renumbered §515, Pub. L. 109–58, title VII, §703(a)(1), Aug. 8, 2005, 119 Stat. 815.)

SUBCHAPTER IV—ELECTRIC MOTOR VEHICLES

§13271. Definitions

For the purposes of this subchapter—

(1) the term "antitrust laws" means the Acts set forth in section 12 of title 15;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "discount payment" means the amount determined pursuant to section 13283 of this title;

(4) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle;

(5) the term "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electric source of power;

(6) the term "eligible metropolitan area" means any Metropolitan Area (as such term is defined by the Office of Management and Budget pursuant to section 3504 of title 44) with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this subchapter, except that the Secretary may designate an area with a 1990 population of 50,000 or more as an eligible metropolitan area;

(7) the term "infrastructure and support systems" includes support and maintenance services and facilities, electricity delivery mechanisms and methods, regulatory treatment of investment in electric motor vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling, and disposal, that may be required to enable electric utilities, manufacturers, and others to support the operation and maintenance of electric motor vehicles and associated equipment;

(8) the term "motor vehicle" has the meaning given such term under section 7550(2) of this title;

(9) the term "non-Federal person" means an entity not part of the Federal Government that is either—

(A) organized under the laws of the United States or the laws of a State of the United States; or

(B) a unit of State or local government;

(10) the term "proposer" means a non-Federal person that submits a proposal to conduct a demonstration project under this subchapter;

(11) the term "price differential" means—

(A) in the case of a purchased electric motor vehicle, the difference between the manufacturer's suggested retail price of such electric motor vehicle and the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(B) in the case of a leased electric motor vehicle, the difference between the monthly lease payment of such electric motor vehicle over the life of the lease and the monthly lease payment of a comparable conventionally fueled motor vehicle over the life of the lease; and

(12) the term "user" means a person or entity that purchases or leases an electric motor vehicle.

(Pub. L. 102–486, title VI, §601, Oct. 24, 1992, 106 Stat. 2899.)

PART A—ELECTRIC MOTOR VEHICLE COMMERCIAL DEMONSTRATION PROGRAM

§13281. Program and solicitation

(a) Program

The Secretary shall conduct a program to demonstrate electric motor vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, manufacturers, the electric utility industry, and such other persons as the Secretary considers appropriate. Such program shall be—

(1) designed to accelerate the development and use of electric motor vehicles; and

(2) structured to evaluate the performance of such electric motor vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure.

(b) Solicitation

(1) Not later than 18 months after October 24, 1992, the Secretary shall solicit proposals to demonstrate electric motor vehicles and associated equipment in one or more eligible metropolitan areas. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this part.

(2)(A) Solicitations for proposals under this subsection shall require the proposer to include a description, including the manufacturer or manufacturers of the electric motor vehicles; the proposed users of the electric motor vehicles; the eligible metropolitan area or areas involved; the number of electric motor vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; the domestic content of the electric motor vehicles and associated equipment; and any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric motor vehicles or associated equipment.

(3) The solicitation for proposals under this subsection shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

(Pub. L. 102–486, title VI, §611, Oct. 24, 1992, 106 Stat. 2900.)

§13282. Selection of proposals

(a) Selection

(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall, not later than 120 days after the closing date, as established by the Secretary, for receipt of proposals under section 13281 of this title, select at least one, but not more than 10, proposals to receive financial assistance under section 13283 of this title.

(2) The Secretary may select more than 10 proposals under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

(3) Any proposal selected under paragraph (1) must satisfy the limitations set forth in section 13283(c) of this title.

(4) No one project selected under this section shall receive more than 25 percent of the funds authorized under section 13286 of this title.

(5) A demonstration project may not include electric motor vehicles in more than one eligible metropolitan area, unless the total number of electric motor vehicles in that project is equal to, or greater than, 100.

(b) Criteria

In selecting a proposal and in negotiating financial assistance under this section, the Secretary shall consider—

(1) the ability of the manufacturer, directly, indirectly, or in combination with the proposer, to

develop, assist in the demonstration of, manufacture, distribute, sell, provide warranties for, service, and ensure the continued availability of parts for, electric motor vehicles in the demonstration project;

(2) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken, when considered in combination with other proposals and other selected demonstration projects;

(3) the long-term technical and competitive viability of the electric motor vehicles;

(4) the suitability of the electric motor vehicles for their intended uses;

(5) the environmental effects of the use of the proposed electric motor vehicles;

(6) the price differential and the proposed discount payment;

(7) the extent of involvement of State or local government and other persons in the demonstration project, and whether such involvement will—

(A) permit a reduction of the Federal cost share per vehicle; or

(B) otherwise be used to allow the Federal contribution to be provided for a greater number of electric motor vehicles;

(8) the proportion of domestic content of the electric motor vehicles and associated equipment;

(9) the safety of the electric motor vehicles; and

(10) such other criteria as the Secretary considers appropriate.

(c) Conditions

The Secretary shall require that—

(1) as a part of a demonstration project, the user or users of the electric motor vehicles will provide to the proposer and the manufacturer information regarding the operation, maintenance, performance, and use of the electric motor vehicles for 5 years after the beginning of the demonstration project;

(2) the proposer shall provide to the Secretary such information regarding the operation, maintenance, performance, and use of the electric motor vehicles as the Secretary may request during the period of the demonstration project;

(3) in the case of a demonstration project including automobiles or light duty trucks, the number of electric motor vehicles to be included in the demonstration project shall be no less than 50, except that the Secretary may select a demonstration project with fewer than 50 electric motor vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity among the proposals selected and that an adequate demonstration to accelerate the development and use of electric motor vehicles can be undertaken with fewer than 50 electric motor vehicles; and

(4) the procurement practices of the manufacturer do not discriminate against United States producers of vehicle parts.

(Pub. L. 102–486, title VI, §612, Oct. 24, 1992, 106 Stat. 2901.)

§13283. Discount payments

(a) Certification

The Secretary shall provide a discount payment to a proposer of a proposal selected under this part for purposes of reimbursing the proposer for a discount provided to the users if the proposer certifies to the Secretary that—

(1) the electric motor vehicles have been purchased or leased by a user or users in accordance with the requirements of this part; and

(2) the proposer has provided to the user or users a discount payment in accordance with the requirements of this part.

(b) Payment

Not later than 30 days after receipt from the proposer of certification that the Secretary determines

satisfies the requirements of subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment, to the extent provided in advance in appropriations Acts.

(c) Calculations of discount payments

(1) The discount payment shall be no greater than—

(A) the price differential; or

(B) the price of the comparable conventionally fueled motor vehicle.

(2) The purchase price of the electric motor vehicle, less the discount payment and less any additional reduction in the purchase price of the electric motor vehicle that may result from contributions provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle.

(3) The maximum discount payment shall be no greater than $10,000 per electric motor vehicle.

(Pub. L. 102–486, title VI, §613, Oct. 24, 1992, 106 Stat. 2902.)

§13284. Cost-sharing

(a) Requirement

The Secretary shall require at least 50 percent of the costs directly and specifically related to any project under this part to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(b) Reduction

The Secretary may reduce the amount of costs required to be provided by non-Federal sources under subsection (a) if the Secretary determines that the reduction is necessary and appropriate—

(1) considering the technological risks involved in the project; and

(2) in order to meet the objectives of this part.

(Pub. L. 102–486, title VI, §614, Oct. 24, 1992, 106 Stat. 2903.)

§13285. Reports to Congress

(a) Progress reports

The Secretary shall report annually to Congress on the progress being made, through demonstration projects supported under this part, to accelerate the development and use of electric motor vehicles.

(b) Report on encouraging purchase and use of electric motor vehicles

Within 18 months after October 24, 1992, the Secretary shall submit to the Congress a report on methods for encouraging the purchase and use of electric motor vehicles. Such report shall—

(1) address the potential cost of purchasing and maintaining electric motor vehicles, including the initial cost of the batteries and the cost of replacement batteries;

(2) identify methods for reducing, subsidizing, or sharing such costs; and

(3) include recommendations for legislative and administrative measures to encourage the purchase and use of electric motor vehicles.

(Pub. L. 102–486, title VI, §615, Oct. 24, 1992, 106 Stat. 2903.)

§13286. Authorization of appropriations

There are authorized to be appropriated to the Secretary for purposes of this part $50,000,000 for the 10-year period beginning with the first full fiscal year after October 24, 1992, to remain available until expended.

(Pub. L. 102–486, title VI, §616, Oct. 24, 1992, 106 Stat. 2903.)

PART B—ELECTRIC MOTOR VEHICLE INFRASTRUCTURE AND SUPPORT SYSTEMS DEVELOPMENT PROGRAM

§13291. General authority

(a) Program

The Secretary shall undertake a program with one or more non-Federal persons, including fleet operators, for cost-shared research, development, demonstration, or commercial application of an infrastructure and support systems program.

(b) Eligibility

A non-Federal person shall be eligible to receive financial assistance under this part only if such person demonstrates, to the satisfaction of the Secretary, that the person will conduct a substantial portion of activities under the project in the United States using domestic labor and materials.

(c) Coordination

Activities under this part shall be coordinated with activities under part A.

(Pub. L. 102–486, title VI, §621, Oct. 24, 1992, 106 Stat. 2904.)

§13292. Proposals

(a) Solicitation

Not later than one year after October 24, 1992, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, for projects under this part. Within 240 days after proposals have been solicited, the Secretary shall select proposals.

(b) Criteria

(1) The Secretary shall provide financial assistance to no more than 10 projects under this part, unless the Secretary determines that the total amount of available funds is not likely to be otherwise used.

(2) The proposals selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(3) The aggregate Federal financial assistance for each project under this part may not exceed $4,000,000.

(c) Projects

The infrastructure and support systems programs for which projects are selected under this part may address—

(1) the ability to service electric motor vehicles and to provide or service associated equipment;

(2) the installation of charging facilities;

(3) rates and cost recovery for electric utilities who invest in infrastructure capital-related expenditures;

(4) the development of safety and health procedures and guidelines related to battery charging, watering, and emissions;

(5) the conduct of information dissemination programs; and

(6) such other subjects as the Secretary considers necessary in order to address the infrastructure and support systems needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric motor vehicles.

(Pub. L. 102–486, title VI, §622, Oct. 24, 1992, 106 Stat. 2904.)

§13293. Protection of proprietary information

(a) In general

In the case of activities, including joint venture activities, under this subchapter, and in the case of any existing or future activities, including joint venture activities, related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research and development activities conducted pursuant to such activities, including joint venture activities, is for the benefit of the participants (particularly domestic companies) that provide financial resources to a project under this subchapter, the Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this subchapter; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a participant,

shall, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of title 18 shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress.

(b) "Domestic companies" defined

For purposes of subsection (a), the term "domestic companies" means entities which are substantially involved in the United States in the domestic production of motor vehicles for sale in the United States and have a substantial percentage of their production facilities in the United States.

(Pub. L. 102–486, title VI, §623, Oct. 24, 1992, 106 Stat. 2904.)

§13294. Compliance with existing law

Nothing in this subchapter shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law.

(Pub. L. 102–486, title VI, §624, Oct. 24, 1992, 106 Stat. 2905.)

§13295. Repealed. Pub. L. 105–362, title IV, §401(b), Nov. 10, 1998, 112 Stat. 3282

Section, Pub. L. 102–486, title VI, §625, Oct. 24, 1992, 106 Stat. 2905, related to electric utility participation study.

§13296. Authorization of appropriations

There are authorized to be appropriated to the Secretary for purposes of this part $40,000,000 for the 5-year period beginning with the first full fiscal year after October 24, 1992, to remain available until expended.

(Pub. L. 102–486, title VI, §626, Oct. 24, 1992, 106 Stat. 2905.)

SUBCHAPTER V—RENEWABLE ENERGY

§13311. Purposes

The purposes of this subchapter are to promote—

(1) increases in the production and utilization of energy from renewable energy resources;

(2) further advances of renewable energy technologies; and

(3) exports of United States renewable energy technologies and services.

(Pub. L. 102–486, title XII, §1201, Oct. 24, 1992, 106 Stat. 2956.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title" meaning title XII of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2956, which enacted this subchapter and amended sections 6276, 12001 to 12003, 12005, and 12006 of this title.

§13312. Renewable energy export technology training

(a) Establishment of program

The Secretary, through the Agency for International Development, shall establish a program for the training of individuals from developing countries in the operation and maintenance of renewable energy and energy efficiency technologies in accordance with this section. The Secretary and the Administrator of the Agency for International Development shall, within one year after October 24, 1992, enter into a written agreement to carry out this program.

(b) Purpose

The purpose of the program established under this section shall be to train appropriate persons in the system design, operation, and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping, heating and purification, and the production of electric power in remote areas.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1994, 1995, and 1996, to carry out this section.

(Pub. L. 102–486, title XII, §1203, Oct. 24, 1992, 106 Stat. 2961.)

§13313. Renewable Energy Advancement Awards

(a) Authority

The Secretary shall make Renewable Energy Advancement Awards in recognition of developments that advance the practical application of biomass, geothermal, hydroelectric, photovoltaic, solar thermal, ocean thermal, and wind technologies to consumer, utility, or industrial uses, in accordance with this section. Except as provided in subsection (f), Renewable Energy Advancement Awards shall include a cash award.

(b) Selection criteria

The Secretary, in consultation with the Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this section referred to as the "Advisory Committee"), under section 12005 of this title, shall develop criteria to be applied in the selection of award recipients under this section. Such criteria shall include the following:

(1) The degree to which the technological development increases the utilization of renewable energy.

(2) The degree to which the development will have a significant impact, by benefitting a large number of people, by reducing the costs of an important industrial process or commercial product or service, or otherwise.

(3) The ingenuity of the development.

(4) Whether the application has significant export potential.

(5) The environmental soundness of the development.

(c) Selection

Beginning in fiscal year 1994, and annually thereafter for a period of 10 years, the Secretary, in consultation with the Advisory Committee, shall select developments described in subsection (a) that are worthy of receiving an award under this section, and shall make such awards.

(d) Eligibility

Awards may be made under this section only to individuals who are United States nationals or permanent resident aliens, or to non-Federal organizations that are organized under the laws of the United States or the laws of a State of the United States.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary $50,000 for each of the fiscal years 1994, 1995, and 1996 for carrying out this section.

(f) Awards made in absence of appropriations

The Secretary shall make honorary awards under this section if sufficient funds are not available for financial awards in any fiscal year.

(Pub. L. 102–486, title XII, §1204, Oct. 24, 1992, 106 Stat. 2961.)

§13314. Study of tax and rate treatment of renewable energy projects

(a) The Secretary, in conjunction with State regulatory commissions, shall undertake a study to determine if conventional taxation and ratemaking procedures result in economic barriers to or incentives for renewable energy power plants compared to conventional power plants.

(b) Within 1 year after October 24, 1992, the Secretary shall submit a report to the Congress on the results of the study undertaken under subsection (a).

(Pub. L. 102–486, title XII, §1205, Oct. 24, 1992, 106 Stat. 2962.)

§13315. Data system and energy technology evaluation

The Secretary of Commerce, in his or her role as a member of the interagency working group established under section 6276 of this title, shall—

(1) develop 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, that will provide information on the specific energy technology needs of foreign countries, and the technical and economic competitiveness of various renewable energy and energy efficiency products and technologies;

(2) make such information available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary of Commerce considers necessary; and

(3) prepare and transmit to the Congress not later than June 1, 1993, and biennially thereafter, a comprehensive report evaluating the full range of energy and environmental technologies necessary to meet the energy needs of foreign countries, including—

(A) information on the specific energy needs of foreign countries;

(B) an inventory of United States technologies and services to meet those needs;

(C) an update on the status of ongoing bilateral and multilateral programs which promote

United States exports of renewable energy and energy efficiency products and technologies; and

(D) an evaluation of current programs (and recommendations for future programs) that develop and promote energy efficiency and sustainable use of indigenous renewable energy resources in foreign countries to reduce the generation of greenhouse gases.

(Pub. L. 102–486, title XII, §1209, Oct. 24, 1992, 106 Stat. 2964.)

§13316. Innovative renewable energy technology transfer program

(a) Establishment of program

The Secretary, through the Agency for International Development, and in consultation with the other members of the interagency working group established under section 6276(d) of this title (in this section referred to as the "interagency working group"), shall establish a renewable energy technology transfer program to carry out the purposes described in subsection (b). 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 Federal 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) reduce the United States balance of trade deficit through the export of United States renewable 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 renewable energy technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from renewable resources;

(4) develop markets for United States renewable energy technologies 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) ensure the introduction of United States firms and expertise in foreign countries;

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

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

(9) 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), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, 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), 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 renewable energy technologies, and services related thereto, in developing countries;

(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.

(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 in the development of innovative financing packages for renewable energy technology projects that utilize other financial assistance programs available through the Federal Government.

(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), 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) which propose to utilize a United States renewable energy 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 renewable energy technology, including services related thereto, 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), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) 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), the Secretary, through the Agency for International Development, and in consultation with the working group, shall—

(1) establish eligibility criteria for host countries;

(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), 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), 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 purposes stated in section 13311(b) [1] 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 make greater use of indigenous renewable energy resources.

(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), 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 renewable energy technologies into foreign countries.

(l) Definitions

For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed renewable energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country.

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(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 XII, §1211, Oct. 24, 1992, 106 Stat. 2965.)

[1] *So in original. Probably should be section "13316(b)".*

§13317. Renewable energy production incentive

(a) Incentive payments

(1) For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility.

(2) The amount of such payment made to any such owner or operator shall be as determined under subsection (e).

(3) Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment.

(4)(A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign—

(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, marine energy (as defined in section 17211 of this title), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

(ii) 40 percent of appropriated funds for the fiscal year to other projects.

(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).

(b) Qualified renewable energy facility

For purposes of this section, a qualified renewable energy facility is a facility which is owned by a not-for-profit electric cooperative, a public utility described in section 115 of title 26, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 1602 of title 43), and which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, landfill gas, livestock methane, marine energy (as defined in section 17211 of this title), or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) Eligibility window

Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used before October 1, 2016.

(d) Payment period

A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments, or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility.

(e) Amount of payment

(1) In general

Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, landfill gas, livestock methane, marine energy (as defined in section 17211 of this title), or geothermal energy during the payment period referred to in subsection (d). For any facility, the amount of such payment shall be 1.5 cents per kilowatt hour, adjusted as provided in paragraph (2).

(2) Adjustments

The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of title 26,[1] except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) Sunset

No payment may be made under this section to any facility after September 30, 2026, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2026, to remain available until expended.

(Pub. L. 102–486, title XII, §1212, Oct. 24, 1992, 106 Stat. 2969; Pub. L. 109–58, title II, §202, Aug. 8, 2005, 119 Stat. 651; Pub. L. 116–260, div. Z, title III, §3006(c), Dec. 27, 2020, 134 Stat. 2513.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 29 of title 26, referred to in subsec. (e)(2), was renumbered section 45K of title 26 by Pub. L.

109–58, title XIII, §1322(a)(1), Aug. 8, 2005, 119 Stat. 1011.

AMENDMENTS

2020—Subsec. (a)(4)(A)(i). Pub. L. 116–260, §3006(c)(1), substituted "marine energy (as defined in section 17211 of this title)" for "ocean (including tidal, wave, current, and thermal)".

Subsec. (b). Pub. L. 116–260, §3006(c)(2), in introductory provisions, substituted "marine energy (as defined in section 17211 of this title)" for "ocean (including tidal, wave, current, and thermal)".

Subsec. (e)(1). Pub. L. 116–260, §3006(c)(3), substituted "marine energy (as defined in section 17211 of this title)" for "ocean (including tidal, wave, current, and thermal)".

2005—Subsec. (a). Pub. L. 109–58, §202(a), designated first, second, and third sentences as pars. (1) to (3), respectively, in par. (3) struck out "and which satisfies such other requirements as the Secretary deems necessary" after "receive such payment", struck out at end "Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.", and added par. (4).

Subsec. (b). Pub. L. 109–58, §202(b), in introductory provisions, substituted "a not-for-profit electric cooperative, a public utility described in section 115 of title 26, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 1602 of title 43)," for "a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision), by any corporation or association which is wholly owned, directly or indirectly, by one or more of the foregoing, or by a nonprofit electrical cooperative" and inserted "landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal)," after "wind, biomass,".

Subsec. (c). Pub. L. 109–58, §202(c), substituted "before October 1, 2016" for "during the 10-fiscal year period beginning with the first full fiscal year occurring after October 24, 1992".

Subsec. (d). Pub. L. 109–58, §202(d), inserted ", or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility" after "eligible for such payments".

Subsec. (e)(1). Pub. L. 109–58, §202(e), inserted "landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal)," after "wind, biomass,".

Subsec. (f). Pub. L. 109–58, §202(f), substituted "September 30, 2026" for "the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after October 24, 1992".

Subsec. (g). Pub. L. 109–58, §202(g), added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows: "There are authorized to be appropriated to the Secretary for fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section."

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

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 section [1] 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 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), 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.)

EDITORIAL NOTES

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

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

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

§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) 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 hydropyrolysis 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) 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) 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), the Secretary may solicit proposals for underground coal gasification technology projects to fulfill the goal and objective of subsection (a).

(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 application 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), 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) 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.)

§13344. Rare earth elements

(a) Research program

(1) In general

The Secretary of Energy, acting through the Assistant Secretary for Fossil Energy (referred to in this section as the "Secretary"), shall conduct a program of research and development—

(A) to develop and assess advanced separation technologies for the extraction and recovery of rare earth elements and other critical materials from coal and coal byproducts; and

(B) to determine if there are, and mitigate, any potential environmental or public health impacts that could arise from the recovery of rare earth elements from coal-based resources.

(2) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program described in paragraph (1)—

(A) $23,000,000 for each of fiscal years 2021 and 2022;
(B) $24,200,000 for fiscal year 2023;
(C) $25,400,000 for fiscal year 2024;
(D) $26,600,000 for fiscal year 2025; and
(E) $27,800,000 for fiscal year 2026.

(b) Report

Not later than 1 year after December 27, 2020, and annually thereafter while the facility established under subsection (c) remains in operation, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Science, Space, and Technology and Energy and Commerce of the House of Representatives a report evaluating the development of advanced separation technologies for the extraction and recovery of rare earth elements and other critical materials from coal and coal byproducts, including acid mine drainage from coal mines.

(c) Rare earth demonstration facility

(1) Establishment

In coordination with the research program under subsection (a)(1)(A), the Secretary shall fund, through an agreement with an academic partner, the design, construction, and build-out of a facility to demonstrate the commercial feasibility of a full-scale integrated rare earth element extraction and separation facility and refinery.

(2) Facility activities

The facility established under paragraph (1) shall—

(A) provide environmental benefits through use of feedstock derived from acid mine

drainage, mine waste, or other deleterious material;

(B) separate mixed rare earth oxides into pure oxides of each rare earth element;

(C) refine rare earth oxides into rare earth metals; and

(D) provide for separation of rare earth oxides and refining into rare earth metals at a single site.

(3) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $140,000,000 for fiscal year 2022, to remain available until expended.

(d) Critical material

In this section, the term "critical material" has the meaning given the term in section 1606 of title 30.

(Pub. L. 116–260, div. Z, title VII, §7001, Dec. 27, 2020, 134 Stat. 2561; Pub. L. 117–58, div. D, title II, §40205, Nov. 15, 2021, 135 Stat. 960.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 1992 which comprises this chapter.

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §40205(1), inserted "and annually thereafter while the facility established under subsection (c) remains in operation," after "December 27, 2020,"

Subsecs. (c), (d). Pub. L. 117–58, §40205(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

PART B—CLEAN COAL TECHNOLOGY PROGRAM

§13351. Additional clean coal technology solicitations

(a) Program design

Additional clean coal technology solicitations described in subsection (b) 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.)

EDITORIAL NOTES

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 Promotion 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.)

EDITORIAL NOTES

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.

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

§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). 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) 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), 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), 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), 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) 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), 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) 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), 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), 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), 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), 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 13362 [1] 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.)

EDITORIAL NOTES

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.

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

§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.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

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

§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—

(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), 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) 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), 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) 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), 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 determination 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). 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 platted 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) establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (k). 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).

(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).

(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] 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 forseeably [3] 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.)

EDITORIAL NOTES

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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

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)."

[1] *See Codification note below.*

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

[3] *So in original. Probably should be "foreseeably".*

§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) by the dates established in subsection (c), 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). 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) 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.)

EDITORIAL NOTES

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".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

§13370. Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this part, other than section 13362 [1] 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.)

EDITORIAL NOTES

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.

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

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);

(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, hydropower, 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).

(d) Priorities

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

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(e) Assumptions

The Secretary shall include in the least-cost energy strategy an identification of all of the assumptions used in developing the strategy and priorities thereunder, and the reasons for such assumptions.

(f) Preference

When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever all direct and quantifiable net costs for the resource over its available life are equal to the estimated cost of the energy resource.

(g) Public review and comment

The Secretary shall provide for a period of public review and comment of the least-cost energy strategy, for a period of at least 30 days, to be completed at least 60 days before the issuance of such strategy. The Secretary shall also provide for public review and comment before the issuance of any update to the least-cost energy strategy required under this section.

(Pub. L. 102–486, title XVI, §1602, Oct. 24, 1992, 106 Stat. 2999.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this title" meaning title XVI of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2999, which enacted this subchapter and repealed sections 7361 to 7364 of this title.

§13383. Director of Climate Protection

Within 6 months after October 24, 1992, the Secretary shall establish, within the Department of Energy, a Director of Climate Protection (in this section referred to as the "Director"). The Director shall—

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change, including the activities of the Committee on Earth and Environmental Sciences as established by the Global Change Research Act of 1990

(Public Law 101–606) [15 U.S.C. 2921 et seq.] and the Policy Coordinating Committee Working Group on Climate Change;

(2) monitor, in cooperation with other Federal agencies, domestic and international policies for their effects on the generation of greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Department of Energy programs.

(Pub. L. 102–486, title XVI, §1603, Oct. 24, 1992, 106 Stat. 3001.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Global Change Research Act of 1990, referred to in par. (1), is Pub. L. 101–606, Nov. 16, 1990, 104 Stat. 3096, which is classified generally to chapter 56A (§2921 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2921 of Title 15 and Tables.

§13384. Assessment of alternative policy mechanisms for addressing greenhouse gas emissions

Not later than 18 months after October 24, 1992, the Secretary shall transmit a report to Congress containing a comparative assessment of alternative policy mechanisms for reducing the generation of greenhouse gases. Such assessment shall include a short-run and long-run analysis of the social, economic, energy, environmental, competitive, and agricultural costs and benefits, including costs and benefits for jobs and competition, and the practicality of each of the following policy mechanisms:

(1) Various systems for controlling the generation of greenhouse gases, including caps for the generation of greenhouse gases from major sources and emissions trading programs.

(2) Federal standards for energy efficiency for major sources of greenhouse gases, including efficiency standards for power plants, industrial processes, automobile fuel economy, appliances, and buildings, and for emissions of methane.

(3) Various Federal and voluntary incentives programs.

(Pub. L. 102–486, title XVI, §1604, Oct. 24, 1992, 106 Stat. 3002.)

§13385. National inventory and voluntary reporting of greenhouse gases

(a) National inventory

Not later than one year after October 24, 1992, the Secretary, through the Energy Information Administration, shall develop, based on data available to, and obtained by, the Energy Information Administration, an inventory of the national aggregate emissions of each greenhouse gas for each calendar year of the baseline period of 1987 through 1990. The Administrator of the Energy Information Administration shall annually update and analyze such inventory using available data. This subsection does not provide any new data collection authority.

(b) Voluntary reporting

(1) Issuance of guidelines

Not later than 18 months after October 24, 1992, the Secretary shall, after opportunity for public comment, issue guidelines for the voluntary collection and reporting of information on sources of greenhouse gases. Such guidelines shall establish procedures for the accurate voluntary reporting of information on—

(A) greenhouse gas emissions—

(i) for the baseline period of 1987 through 1990; and

(ii) for subsequent calendar years on an annual basis;

(B) annual reductions of greenhouse gas emissions and carbon fixation achieved through any measures, including fuel switching, forest management practices, tree planting, use of renewable energy, manufacture or use of vehicles with reduced greenhouse gas emissions, appliance efficiency, energy efficiency, methane recovery, cogeneration, chlorofluorocarbon capture and replacement, and power plant heat rate improvement;

(C) reductions in greenhouse gas emissions achieved as a result of—

(i) voluntary reductions;

(ii) plant or facility closings; and

(iii) State or Federal requirements; and

(D) an aggregate calculation of greenhouse gas emissions by each reporting entity.

Such guidelines shall also establish procedures for taking into account the differential radiative activity and atmospheric lifetimes of each greenhouse gas.

(2) Reporting procedures

The Administrator of the Energy Information Administration shall develop forms for voluntary reporting under the guidelines established under paragraph (1), and shall make such forms available to entities wishing to report such information. Persons reporting under this subsection shall certify the accuracy of the information reported.

(3) Confidentiality

Trade secret and commercial or financial information that is privileged or confidential shall be protected as provided in section 552(b)(4) of title 5.

(4) Establishment of data base

Not later than 18 months after October 24, 1992, the Secretary, through the Administrator of the Energy Information Administration, shall establish a data base comprised of information voluntarily reported under this subsection. Such information may be used by the reporting entity to demonstrate achieved reductions of greenhouse gases.

(c) Consultation

In carrying out this section, the Secretary shall consult, as appropriate, with the Administrator of the Environmental Protection Agency.

(Pub. L. 102–486, title XVI, §1605, Oct. 24, 1992, 106 Stat. 3002.)

§13386. Export of domestic energy resource technologies to developing countries

The Secretary, through the Trade Promotion Coordinating Council, shall develop policies and programs to encourage the export and promotion of domestic energy resource technologies, including renewable energy, energy efficiency, and clean coal technologies, to developing countries.

(Pub. L. 102–486, title XVI, §1607, Oct. 24, 1992, 106 Stat. 3003.)

§13387. Innovative environmental technology transfer program

(a) Establishment of program

The Secretary, through the Agency for International Development, and in consultation with the interagency working group established under section 6276(d) of this title (in this section referred to as the "interagency working group",[1] shall establish a technology transfer program to carry out the purposes described in subsection (b). 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 Federal 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) 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 technologies that substantially reduce environmental pollutants, including greenhouse gases;

(4) develop markets for United States technologies, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, that meet 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;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of technologies or services that substantially reduce environmental pollutants, including greenhouse gases; and

(8) 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), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries that substantially reduce environmental pollutants, including greenhouse gases, 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), 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, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases in foreign countries;

(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.

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

(A) provided in combination with other forms of financial assistance, including non-Federal funding that may be available for the project; and

(B) utilized in conjunction with 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), 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) which propose to utilize a United States technology or service. 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 technology, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, 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), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) 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), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, 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) Eligible technologies

Not later than 6 months after October 24, 1992, the Secretary shall prepare a list of eligible technologies and services under this section. In preparing such a list, the Secretary shall consider fuel cell powerplants, aeroderivitive gas turbines and catalytic combustion technologies for aeroderivitive gas turbines, ocean thermal energy conversion technology, anaerobic digester and storage tanks, and other renewable energy and energy efficiency technologies.

(i) Selection of projects

(1) Pursuant to the agreements under subsection (a), 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), 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 purposes of this section;

(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 or service 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 the following criteria:

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

(B) 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.

(C) It will increase the overall efficiency of energy use.

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

(j) United States-Asia Environmental Partnership

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

(k) Buy America

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

(l) Report 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 innovative energy technologies, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, into foreign countries.

(m) Definitions

For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed innovative energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country; and

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(n) 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 XVI, §1608, Oct. 24, 1992, 106 Stat. 3003.)

[1] *So in original. Probably should be preceded by a closing parenthesis.*

§13388. Global Climate Change Response Fund

(a) Establishment of Fund

The Secretary of the Treasury, in consultation with the Secretary of State, shall establish a Global Climate Change Response Fund to act as a mechanism for United States contributions to assist global efforts in mitigating and adapting to global climate change.

(b) Restrictions on deposits

No deposits shall be made to the Global Climate Change Response Fund until the United States has ratified the United Nations Framework Convention on Climate Change.

(c) Use of Fund

Moneys deposited into the Fund shall be used by the President, to the extent authorized and appropriated under section 2222 of title 22, solely for contributions to a financial mechanism negotiated pursuant to the United Nations Framework Convention on Climate Change, including all protocols or agreements related thereto.

(d) Authorization of appropriations

There are authorized to be appropriated for deposit in the Fund to carry out the purposes of this section, $50,000,000 for fiscal year 1994 and such sums as may be necessary for fiscal years 1995 and 1996.

(Pub. L. 102–486, title XVI, §1609, Oct. 24, 1992, 106 Stat. 3007.)

§13389. Greenhouse gas intensity reducing strategies

(a) Definitions

In this section:

(1) Advisory Committee

The term "Advisory Committee" means the Climate Change Technology Advisory Committee established under subsection (f)(1).

(2) Carbon sequestration

The term "carbon sequestration" means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the

atmosphere.

(3) Committee

The term "Committee" means the Committee on Climate Change Technology established under subsection (b)(1).

(4) Developing country

The term "developing country" has the meaning given the term in section 13387(m) of this title.

(5) Greenhouse gas

The term "greenhouse gas" means—

(A) carbon dioxide;
(B) methane;
(C) nitrous oxide;
(D) hydrofluorocarbons;
(E) perfluorocarbons; and
(F) sulfur hexafluoride.

(6) Greenhouse gas intensity

The term "greenhouse gas intensity" means the ratio of greenhouse gas emissions to economic output.

(7) National Laboratory

The term "National Laboratory" has the meaning given the term in section 15801(3) [1] of this title.

(b) Committee on Climate Change Technology

(1) In general

Not later than 180 days after August 8, 2005, the President shall establish a Committee on Climate Change Technology to—

(A) integrate current Federal climate reports; and
(B) coordinate Federal climate change technology activities and programs carried out in furtherance of the strategy developed under subsection (c)(1).

(2) Membership

The Committee shall be composed of at least 7 members, including—

(A) the Secretary, who shall chair the Committee;
(B) the Secretary of Commerce;
(C) the Chairman of the Council on Environmental Quality;
(D) the Secretary of Agriculture;
(E) the Administrator of the Environmental Protection Agency;
(F) the Secretary of Transportation;
(G) the Director of the Office of Science and Technology Policy; and
(H) other representatives as may be determined by the President.

(3) Staff

The members of the Committee shall provide such personnel as are necessary to enable the Committee to perform its duties.

(c) National climate change technology policy

(1) In general

Not later than 18 months after August 8, 2005, the Committee shall, based on applicable Federal climate reports, submit to the Secretary and the President a national strategy to promote the deployment and commercialization of greenhouse gas intensity reducing technologies and

practices developed through research and development programs conducted by the National Laboratories, other Federal research facilities, institutions of higher education, and the private sector.

(2) Updates

The Committee shall—

(A) at the time of submission of the strategy to the President under paragraph (1), also make the strategy available to the public; and

(B) update the strategy every 5 years, or more frequently as the Committee determines to be necessary.

(d) Climate Change Technology Program

Not later than 180 days after the date on which the Committee is established under subsection (b)(1), the Secretary, in consultation with the Committee, shall establish within the Department of Energy the Climate Change Technology Program to—

(1) assist the Committee in the interagency coordination of climate change technology research, development, demonstration, and deployment to reduce greenhouse gas intensity; and

(2) carry out the programs authorized under this section.

(e) Technology inventory

(1) In general

The Secretary shall conduct and make public an inventory and evaluation of greenhouse gas intensity reducing technologies that have been developed, or are under development, by the National Laboratories, other Federal research facilities, institutions of higher education, and the private sector to determine which technologies are suitable for commercialization and deployment.

(2) Report

Not later than 180 days after the completion of the inventory under paragraph (1), the Secretary shall submit to Congress a report that includes the results of the completed inventory and any recommendations of the Secretary.

(3) Use

The Secretary shall use the results of the inventory as guidance in the commercialization and deployment of greenhouse gas intensity reducing technologies.

(4) Updated inventory

The Secretary shall—

(A) periodically update the inventory under paragraph (1), including when determined necessary by the Committee; and

(B) make the updated inventory available to the public.

(f) Climate Change Technology Advisory Committee

(1) In general

The Secretary, in consultation with the Committee, may establish under section 7234 of this title a Climate Change Technology Advisory Committee to identify statutory, regulatory, economic, and other barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices in the United States.

(2) Composition

The Advisory Committee shall be composed of the following members, to be appointed by the Secretary, in consultation with the Committee:

(A) 1 representative shall be appointed from each National Laboratory.

(B) 3 members shall be representatives of energy-producing trade organizations.

(C) 3 members shall represent energy-intensive trade organizations.

(D) 3 members shall represent groups that represent end-use energy and other consumers.

(E) 3 members shall be employees of the Federal Government who are experts in energy

technology, intellectual property, and tax.

(F) 3 members shall be representatives of institutions of higher education with expertise in energy technology development that are recommended by the National Academy of Engineering.

(3) Report

Not later than 1 year after August 8, 2005, and annually thereafter, the Advisory Committee shall submit to the Committee a report that describes—

(A) the findings of the Advisory Committee; and

(B) any recommendations of the Advisory Committee for the removal or reduction of barriers to commercialization, deployment, and increasing the use of greenhouse gas intensity reducing technologies and practices.

(g) Greenhouse gas intensity reducing technology deployment

(1) In general

Based on the strategy developed under subsection (c)(1), the technology inventory conducted under subsection (e)(1), the greenhouse gas intensity reducing technology study report submitted under subsection (e)(2), and reports under subsection (f)(3), if any, the Committee shall develop recommendations that would provide for the removal of domestic barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices.

(2) Requirements

In developing the recommendations under paragraph (1), the Committee shall consider in the aggregate—

(A) the cost-effectiveness of the technology;

(B) fiscal and regulatory barriers;

(C) statutory and other barriers; and

(D) intellectual property issues.

(3) Demonstration projects

In developing recommendations under paragraph (1), the Committee may identify the need for climate change technology demonstration projects.

(4) Report

Not later than 18 months after August 8, 2005, the Committee shall submit to the President and Congress a report that—

(A) identifies, based on the report submitted under subsection (f)(3), any barriers to, and commercial risks associated with, the deployment of greenhouse gas intensity reducing technologies; and

(B) includes a plan for carrying out demonstration projects.

(5) Updates

The Committee shall—

(A) at the time of submission of the report to Congress under paragraph (4), also make the report available to the public; and

(B) update the report every 5 years, or more frequently as the Committee determines to be necessary.

(h) Procedures for calculating, monitoring, and analyzing greenhouse gas intensity

The Secretary, in collaboration with the Committee and the National Institute of Standards and Technology, and after public notice and opportunity for comment, shall develop standards and best practices for calculating, monitoring, and analyzing greenhouse gas intensity.

(i) Demonstration projects

(1) In general

The Secretary shall, subject to the availability of appropriations, support demonstration projects that—

(A) increase the reduction of the greenhouse gas intensity to levels below that which would be achieved by technologies being used in the United States as of August 8, 2005;

(B) maximize the potential return on Federal investment;

(C) demonstrate distinct roles in public-private partnerships;

(D) produce a large-scale reduction of greenhouse gas intensity if commercialization occurred; and

(E) support a diversified portfolio to mitigate the uncertainty associated with a single technology.

(2) Cost sharing

In supporting a demonstration project under this subsection, the Secretary shall require cost-sharing in accordance with section 16352 of this title.

(3) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(j) Cooperative research and development agreements

In carrying out greenhouse gas intensity reduction research and technology deployment activities under this subtitle,[2] the Secretary may enter into cooperative research and development agreements under section 3710a of title 15.

(Pub. L. 102–486, title XVI, §1610, as added Pub. L. 109–58, title XVI, §1601, Aug. 8, 2005, 119 Stat. 1109.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 15801(3) of this title, referred to in subsec. (a)(7), was in the original "section 3(3) of the Energy Policy Act of 2005" and was translated as meaning section 2(3) of that Act to reflect the probable intent of Congress, because the Energy Policy Act of 2005 does not contain a section 3 and section 2(3) defines "National Laboratory".

This subtitle, referred to in subsec. (j), appearing in the original, is unidentifiable because title XVI of Pub. L. 102–486, of which this section is a part, does not contain subtitles.

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

[2] *So in original. See References in Text note below.*

SUBCHAPTER VIII—REDUCTION OF OIL VULNERABILITY

§13401. Goals

It is the goal of the United States in carrying out energy supply and energy conservation research and development—

(1) to strengthen national energy security by reducing dependence on imported oil;

(2) to increase the efficiency of the economy by meeting future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving comparable consideration to technologies that enhance energy supply and technologies that improve the efficiency of energy end uses;

(3) to reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and utilization, through the

development of an environmentally sustainable energy system;

(4) to maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced materials and technologies;

(5) to foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(6) to consider the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(7) to consider the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies; and

(8) to consider the contribution of a given activity to fundamental scientific knowledge.

(Pub. L. 102–486, title XX, §2001, Oct. 24, 1992, 106 Stat. 3057.)

PART A—OIL AND GAS SUPPLY ENHANCEMENT

§13411. Enhanced oil recovery

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, on technologies to increase the recoverability of domestic oil resources to—

(1) improve reservoir characterization;

(2) improve analysis and field verification;

(3) field test and demonstrate enhanced oil recovery processes, including advanced processes, in reservoirs the Secretary considers to be of high priority, ranked primarily on the basis of oil recovery potential and risk of abandonment;

(4) transfer proven recovery technologies to producers and operators of wells, including stripper wells, that would otherwise be likely to be abandoned in the near term due to declining production;

(5) improve enhanced oil recovery process technology for more economic and efficient oil production;

(6) identify and develop new recovery technologies;

(7) study reservoir properties and how they affect oil recovery from porous media;

(8) improve techniques for meeting environmental requirements;

(9) improve data bases of reservoir and environmental conditions; and

(10) lower lifting costs on stripper wells by utilizing advanced renewable energy technologies such as small wind turbines and others.

(b) Program goals

(1) Near-term priorities

The near-term priorities of the program include preserving access to high potential reservoirs, identifying available technologies that can extend the lifetime of wells and of stripper well property, and developing environmental field operations for waste disposal and injection practices.

(2) Mid-term priorities

The mid-term priorities of the program include developing and testing identified but unproven technologies, and transferring those technologies for widespread use.

(3) Long-term priorities

The long-term priorities of the program include developing advanced techniques to recover oil not recoverable by other techniques.

(c) Accelerated program plan

Within 180 days after October 24, 1992, the Secretary shall prepare and submit to the Congress a plan for carrying out under this section the accelerated field testing of technologies to achieve the priorities stated in subsection (b). In preparing the plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, and with the Advisory Board established under section 13522 of this title.

(d) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(e) Consultation

In carrying out the provisions of this section, the Secretary shall consult representatives of the oil and gas industry with respect to innovative research and development proposals to improve oil and gas recovery and shall consider relevant technical data from industry and other research and information centers and institutes.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section, including advanced extraction and process technology, $57,250,000 for fiscal year 1993 and $70,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XX, §2011, Oct. 24, 1992, 106 Stat. 3057.)

§13412. Oil shale

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, on oil shale extraction and conversion, including research and development on both eastern and western shales, as provided in this section.

(b) Program goals

The goals of the program established under this section include—

(1) supporting the development of economically competitive and environmentally acceptable technologies to produce domestic supplies of liquid fuels from oil shale;

(2) increasing knowledge of environmentally acceptable oil shale waste disposal technologies and practices;

(3) increasing knowledge of the chemistry and kinetics of oil shale retorting;

(4) increasing understanding of engineering issues concerning the design and scale-up of oil shale extraction and conversion technologies;

(5) improving techniques for oil shale mining systems; and

(6) providing for cooperation with universities and other private sector entities.

(c) Eastern oil shale program

(1) As part of the program authorized by this section, the Secretary shall carry out a program on oil shale that includes applied research, in cooperation with universities and the private sector, on eastern oil shale that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized by this subsection, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are, as of October 24, 1992, engaged in research on eastern oil shale retorting and associated processes.

(3) The program carried out under this subsection shall be cost-shared with universities and the private sector to the maximum extent possible.

(d) Western oil shale program

As part of the program authorized by this section, the Secretary shall carry out a program on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities. Sixty days prior to establishing any such field testing center, the Secretary shall submit a report to Congress on the center to be established.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $5,250,000 for fiscal year 1993 and $6,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XX, §2012, Oct. 24, 1992, 106 Stat. 3058.)

§13413. Natural gas supply

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, to increase the recoverable natural gas resource base including, but not limited to—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) the extraction of natural gas from tight gas sands and devonian shales or other unconventional sources;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(c) Cofiring of natural gas and coal

(1) Program

The Secretary shall establish and carry out a 5-year program, in accordance with sections 13541 and 13542 of this title, on cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(2) Financial assistance

The Secretary shall enter into agreements with, and provide financial assistance to, appropriate parties for application of cofiring technologies to boilers to demonstrate this technology.

(3) Report to Congress

The Secretary shall, before December 31, 1995, submit to the Congress a report on the progress made in carrying out this subsection.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section and sections 13414 and 13415 of this title, $29,745,000 for fiscal year 1993 and $45,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XX, §2013, Oct. 24, 1992, 106 Stat. 3059.)

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13605. SUPPORTING SAFE AND RESPONSIBLE DEVELOPMENT OF UNCONVENTIONAL DOMESTIC NATURAL GAS RESOURCES

Ex. Ord. No. 13605, Apr. 13, 2012, 77 F.R. 23107, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to coordinate the efforts of Federal agencies responsible for overseeing the safe and responsible development of unconventional domestic natural gas resources and associated infrastructure and to help reduce our dependence on oil, it is hereby ordered as follows:

SECTION 1. *Policy*. In 2011, natural gas provided 25 percent of the energy consumed in the United States. Its production creates jobs and provides economic benefits to the entire domestic production supply chain, as well as to chemical and other manufacturers, who benefit from lower feedstock and energy costs. By helping to power our transportation system, greater use of natural gas can also reduce our dependence on oil. And with appropriate safeguards, natural gas can provide a cleaner source of energy than other fossil fuels.

For these reasons, it is vital that we take full advantage of our natural gas resources, while giving American families and communities confidence that natural and cultural resources, air and water quality, and public health and safety will not be compromised.

While natural gas production is carried out by private firms, and States are the primary regulators of onshore oil and gas activities, the Federal Government has an important role to play by regulating oil and gas activities on public and Indian trust lands, encouraging greater use of natural gas in transportation, supporting research and development aimed at improving the safety of natural gas development and transportation activities, and setting sensible, cost-effective public health and environmental standards to implement Federal law and augment State safeguards.

Because efforts to promote safe, responsible, and efficient development of unconventional domestic natural gas resources are underway at a number of executive departments and agencies (agencies), close interagency coordination is important for effective implementation of these programs and activities. To formalize and promote ongoing interagency coordination, this order establishes a high-level, interagency working group that will facilitate coordinated Administration policy efforts to support safe and responsible unconventional domestic natural gas development.

SEC. 2. *Interagency Working Group to Support Safe and Responsible Development of Unconventional Domestic Natural Gas Resources*. There is established an Interagency Working Group to Support Safe and Responsible Development of Unconventional Domestic Natural Gas Resources (Working Group), to be chaired by the Director of the Domestic Policy Council, or a designated representative.

(a) *Membership*. In addition to the Chair, the Working Group shall include deputy-level representatives or equivalent officials, designated by the head of the respective agency or office, from:

(i) the Department of Defense;

(ii) the Department of the Interior;

(iii) the Department of Agriculture;

(iv) the Department of Commerce;

(v) the Department of Health and Human Services;

(vi) the Department of Transportation;

(vii) the Department of Energy;

(viii) the Department of Homeland Security;

(ix) the Environmental Protection Agency;

(x) the Council on Environmental Quality;

(xi) the Office of Science and Technology Policy;

(xii) the Office of Management and Budget;

(xiii) the National Economic Council; and

(xiv) such other agencies or offices as the Chair may invite to participate.

(b) *Functions*. Consistent with the authorities and responsibilities of participating agencies and offices, the Working Group shall support the safe and responsible production of domestic unconventional natural gas by performing the following functions:

(i) coordinate agency policy activities, ensuring their efficient and effective operation and facilitating cooperation among agencies, as appropriate;

(ii) coordinate among agencies the sharing of scientific, environmental, and related technical and economic information;

(iii) engage in long-term planning and ensure coordination among the appropriate Federal entities with respect to such issues as research, natural resource assessment, and the development of infrastructure;

(iv) promote interagency communication with stakeholders; and

(v) consult with other agencies and offices as appropriate.

SEC. 3. *General Provisions*. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§13414. Natural gas end-use technologies

The Secretary shall carry out a 5-year program, in accordance with sections 13541 and 13542 of this title, on new and advanced natural gas utilization technologies including, but not limited to—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, cogeneration, and waste fuels; and

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers, and on-site storage at major energy consuming facilities.

(Pub. L. 102–486, title XX, §2014, Oct. 24, 1992, 106 Stat. 3060.)

§13415. Midcontinent Energy Research Center

(a) Finding

Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) Purposes

The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) Establishment

The Secretary may establish the Midcontinent Energy Research Center (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) Research

(1) In general

In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) Programs

Research programs conducted by the Center may include—

(A) data base development and transfer of technology;

(B) reservoir management;

(C) reservoir characterization;

(D) advanced recovery methods; and

(E) development of new technology.

(Pub. L. 102–486, title XX, §2015, Oct. 24, 1992, 106 Stat. 3060.)

PART B—OIL AND GAS DEMAND REDUCTION AND SUBSTITUTION

§13431. General transportation

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, on cost effective technologies to reduce the demand for oil in the transportation sector for all motor vehicles, including existing vehicles, through increased energy efficiency and the use of alternative fuels. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 13401 of this title. Such program shall include the activities required under sections 13432 through 13437 of this title, and ongoing activities of a similar nature at the Department of Energy.

(b) Program plan

Within 180 days after October 24, 1992, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this part. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(d) "Alternative fuels" defined

For purposes of this part, the term "alternative fuels" includes natural gas, liquefied petroleum gas, hydrogen, fuels other than alcohol that are derived from biological materials, and any fuel the content of which is at least 85 percent by volume methanol, ethanol, or other alcohol.

(e) Authorization of appropriations

(1) There are authorized to be appropriated to the Secretary for carrying out this part, including all transportation sector energy conservation research and development (other than activities under section 13435 of this title) and all transportation sector biofuels energy systems under solar energy, $119,144,000 for fiscal year 1993 and $160,000,000 for fiscal year 1994.

(2) There are authorized to be appropriated to the Secretary for carrying out section 13435 of this title—

(A) $60,300,000 for fiscal year 1993;
(B) $75,000,000 for fiscal year 1994;
(C) $80,000,000 for fiscal year 1995;
(D) $80,000,000 for fiscal year 1996;
(E) $90,000,000 for fiscal year 1997; and
(F) $100,000,000 for fiscal year 1998.

(Pub. L. 102–486, title XX, §2021, Oct. 24, 1992, 106 Stat. 3061.)

§13432. Advanced automotive fuel economy

(a) Program direction

The Secretary shall conduct a program, in accordance with sections 13541 and 13542 of this title, to supplement ongoing research activities of a similar nature at the Department of Energy, to accelerate the near-term and mid-term development of advanced technologies to improve the fuel

economy of light-duty passenger vehicles powered by a piston engine, and hybrid vehicles powered by a combination of piston engine and electric motor.

(b) Program goal

The goal of the program established under subsection (a) shall be to stimulate the development of emerging technologies with the potential to achieve significant improvements in fuel economy while reducing emissions of air pollutants.

(c) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section, making a special effort to involve small businesses in the program.

(Pub. L. 102–486, title XX, §2022, Oct. 24, 1992, 106 Stat. 3061.)

§13433. Alternative fuel vehicle program

(a) Program direction

The Secretary shall carry out a program, in accordance with sections 13541 and 13542 of this title, on techniques related to improving natural gas and other alternative fuel vehicle technology, including—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) Cooperative agreements and assistance

The Secretary may enter into cooperative agreements with, and provide financial assistance to, public or private entities willing to provide 50 percent of the costs of a program to perform activities under subsection (a).

(c) Definitions

For purposes of this section—

(1) the term "alternative fuel vehicle" means a motor vehicle that operates on alternative fuels; and

(2) the term "motor vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

(Pub. L. 102–486, title XX, §2023, Oct. 24, 1992, 106 Stat. 3062.)

§13434. Biofuels user facility

(a) The Secretary shall establish a biofuels user facility to expedite industry adoption of biofuels technologies, including production of alcohol fuels from biomass.

(b) The Secretary, through such universities and colleges as the Secretary determines are qualified,

shall establish a program, in accordance with sections 13541 and 13542 of this title, with respect to the production and use of diesel fuels from vegetable oils or animal fats. The program shall investigate—

(1) the economic feasibility of production of oilseed crops for biofuels purposes; and

(2) the establishment of a mobile small-scale oilseed pressing and esterification unit and a stationary small-scale commercial oilseed pressing and esterification unit.

(Pub. L. 102–486, title XX, §2024, Oct. 24, 1992, 106 Stat. 3062.)

§13435. Electric motor vehicles and associated equipment research and development

(a) General

The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920), a research and development program on electric motor vehicles and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, and automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) Comprehensive plan

(1) The Secretary shall prepare a comprehensive 5-year program plan for carrying out the purposes of this section. Such comprehensive plan shall be updated biennially for a period of not less than 10 years after October 24, 1992.

(2) The comprehensive plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric motor vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary considers appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric motor vehicles, including advanced battery technology;

(B) the program elements, management structure, and activities, including program responsibilities, of Federal agencies;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the comprehensive plan for each of the participating Federal agencies;

(E) a description of the methods of technology transfer;

(F) a proposal for participation by non-Federal entities in the implementation of the comprehensive plan; and

(G) such other information as the Secretary considers appropriate.

(4) Not later than 180 days after October 24, 1992, the Secretary shall transmit the comprehensive plan to the Congress. Biennial updates shall be submitted to the Congress.

(c) Cooperative agreements

The Secretary, consistent with the comprehensive plan under subsection (b), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric motor vehicle range improvement;

(2) light-weight structures for electric motor vehicle weight reduction;

(3) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight, for electric motor vehicle application;

(4) hybrid power trains incorporating an electric motor and recyclable battery charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining acceleration characteristics comparable to a conventionally fueled vehicle;

(5) batteries and fuel cells for electric-hybrid vehicle application;

(6) fuel cells and fuel cell systems for primary electric motor vehicle power sources; and

(7) photovoltaics for use with electric motor vehicles.

(d) Solicitation of proposals

(1) Within one year after October 24, 1992, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (c).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (c) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric motor vehicles and associated equipment.

(e) Cost-sharing

(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this section, other than a cooperative agreement under subsection (j), to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(2) The Secretary may reduce the amount of costs required to be provided by non-Federal sources under paragraph (1), if the Secretary determines that the reduction is necessary and appropriate—

(A) considering the technological risks involved in the project; and

(B) in order to meet the objectives of this section.

(f) Deployment

(1) The Secretary shall conduct a program designed to accelerate deployment of advanced battery technologies for use with electric motor vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced battery technologies and electric motor vehicle technologies and the commercial capability of such technologies; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies, which may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) Domestic parts manufacturers

In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating electric motor vehicle and associated equipment manufacturers do not discriminate against the United States manufacturers of vehicle parts.

(h) Hold harmless

Nothing in this section shall be construed to alter, affect, modify, or change any activities or agreements initiated prior to October 24, 1992, with domestic motor vehicle manufacturers through joint venture or consortium agreements regarding batteries for electric motor vehicles.

(i) Consultation

The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation in carrying out this section.

(j) Fuel cells for transportation

(1) The Secretary shall develop and implement a comprehensive program of research, development, and demonstration of fuel cells and related systems for transportation applications through the establishment of one or more cooperative programs among industry, government, and research institutions to develop and demonstrate the use of fuel cells as the primary power source for private and mass transit vehicles and other mobile applications.

(2) Research, development, and demonstration activities under this subsection shall be designed to

incorporate one or more of the following priorities:

(A) The potential for near-term to mid-term commercialization.

(B) The ability of the systems to use a variety of renewable and nonfossil fuels.

(C) Emission reduction and energy conservation potential.

(D) The potential to utilize fuel cells and fuel cell systems developed under Department of Defense and National Aeronautics and Space Administration programs.

(E) The potential to take maximum practical advantage of advances made in electric motor vehicle research, stationary source fuel cell research, and other research activities authorized by this subchapter.

(3)(A) Research, development, and demonstration projects selected by the Secretary under this subsection shall apply to—

(i) passenger vehicles;

(ii) vans and utility vehicles;

(iii) light rail systems and locomotives;

(iv) trucks, including long-haul trucks, dump trucks, and garbage trucks;

(v) passenger buses;

(vi) non-chlorofluorocarbon mobile refrigeration systems;

(vii) marine vessels, including recreational marine engines; or

(viii) mobile engines and power generation, including recreational generators, and industrial and construction equipment.

(B) The Secretary shall establish programs to undertake research, development, and demonstration activities for the applications listed in clauses (i) through (viii) of subparagraph (A) in each of fiscal years 1993, 1994, 1995, and 1996, based on the priorities established in paragraph (2), so that by the end of the period, research, development, and demonstration activities are under way for the applications under each such clause. The initiatives authorized and implemented pursuant to this subsection shall be in addition to any other fuel cell programs authorized in existing law.

(k) Definitions

For purposes of this section—

(1) the term "advanced battery technology" means electrochemical storage devices and systems, including fuel cells, and associated technology necessary to charge, discharge, recharge, or regenerate such devices, for use as a source of power for an electric motor vehicle and any other associated equipment;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle; and

(4) the term "electric-hybrid vehicle" means vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current and also relies on a nonelectric source of power that also operates on or is capable of operating on a nonelectrical source of power.

(Pub. L. 102–486, title XX, §2025, Oct. 24, 1992, 106 Stat. 3063; Pub. L. 105–362, title IV, §402(a), Nov. 10, 1998, 112 Stat. 3283.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in subsec. (a), is Pub.

L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–362, §402(a)(1), substituted "biennially" for "annually" in second sentence.

Subsec. (b)(4). Pub. L. 105–362, §402(a)(2), substituted "Biennial updates" for "Annual updates" in second sentence.

§13436. Repealed. Pub. L. 104–271, title I, §103(b)(2), Oct. 9, 1996, 110 Stat. 3306

Section, Pub. L. 102–486, title XX, §2026, Oct. 24, 1992, 106 Stat. 3066; Pub. L. 104–271, title I, §103(b)(1), Oct. 9, 1996, 110 Stat. 3306, related to a 5-year program on renewable hydrogen energy systems.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 104–271, title I, §103(b)(2), Oct. 9, 1996, 110 Stat. 3306, provided that the repeal made by section 103(b)(2) is effective Oct. 1, 1998.

§13437. Advanced diesel emissions program

(a) Program direction

The Secretary shall initiate a 5-year program, in accordance with sections 13541 and 13542 of this title, on diesel engine combustion and engine systems, related advanced materials, and fuels and lubricants to reduce emissions oxides of nitrogen and particulates. Activities conducted under this program shall supplement activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goal stated in subsection (b).

(b) Program goal

The goal of the program established under subsection (a) shall be to accelerate the ability of United States diesel manufacturers to meet current and future oxides of nitrogen and particulate emissions requirements.

(c) Program plan

Within 180 days after October 24, 1992, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. Such plan shall be included as part of the plan required by section 13431(b) of this title.

(d) Solicitation of proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan.

(Pub. L. 102–486, title XX, §2027, Oct. 24, 1992, 106 Stat. 3066.)

§13438. Telecommuting study

(a) Study

The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study

shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) Report to Congress

This study shall be completed no more than one hundred and eighty days after October 24, 1992. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study.

(Pub. L. 102–486, title XX, §2028, Oct. 24, 1992, 106 Stat. 3067.)

SUBCHAPTER IX—ENERGY AND ENVIRONMENT

PART A—IMPROVED ENERGY EFFICIENCY

§13451. General improved energy efficiency

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, on cost effective technologies to improve energy efficiency and increase the use of renewable energy in the buildings, industrial, and utility sectors. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number to prove technical and economic viability to meet the goals stated in section 13401 of this title. Such program shall include the activities required under sections 13452, 13453, 13454, 13455, 13456, and 13457 of this title and section 2106 [1] and ongoing activities of a similar nature at the Department of Energy. Such program shall also include the activities conducted pursuant to the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100–680) [15 U.S.C. 5101 et seq.] and the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101–425) [15 U.S.C. 5301 et seq.].

(b) Program goals

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

(1) in the buildings sector—

(A) to accelerate the development of technologies that will increase energy efficiency;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts;

(2) in the industrial sector—

(A) to accelerate the development of technologies that will increase energy efficiency in order to improve productivity;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts; and

(3) in the utility sector—

(A) to accelerate the development of technologies that will increase energy efficiency; and

(B) to increase the use of integrated resource planning.

(c) Program plan

Within 180 days after October 24, 1992, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this part. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(d) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this part, including all building, industry, and utility sectors energy conservation research and development, and inventions and innovation under energy conservation technical and financial assistance, $178,250,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XXI, §2101, Oct. 24, 1992, 106 Stat. 3067.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2106, referred to in subsec. (a), means section 2106 of Pub. L. 102–486, which amended sections 5103, 5107, 5108, 5110, and 5307 of Title 15, Commerce and Trade.

The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, referred to in subsec. (a), is Pub. L. 100–680, Nov. 17, 1988, 102 Stat. 4073, as amended, which is classified generally to chapter 77 (§5101 et seq.) of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of Title 15 and Tables.

The Department of Energy Metal Casting Competitiveness Research Act of 1990, referred to in subsec. (a), is Pub. L. 101–425, Oct. 15, 1990, 104 Stat. 915, as amended, which is classified generally to chapter 79 (§5301 et seq.) of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 15 and Tables.

This part, referred to in subsecs. (c) and (e), was in the original "this subtitle" meaning subtitle A of title XXI of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 3067, which enacted this part and amended sections 5103, 5107, 5108, 5110, and 5307 of Title 15.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DISTRICT HEATING AND COOLING PROGRAMS

Pub. L. 102–486, title I, §172, Oct. 24, 1992, 106 Stat. 2865, as amended by Pub. L. 109–58, title II, §206(b), Aug. 8, 2005, 119 Stat. 655, provided that:

"(a) IN GENERAL.—The Secretary, in consultation with appropriate industry organizations, shall conduct a study to—

"(1) assess existing district heating and cooling technologies to determine cost-effectiveness, technical performance, energy efficiency, and environmental impacts as compared to alternative methods for heating and cooling buildings;

"(2) estimate the economic value of benefits that may result from implementation of district heating and cooling systems but that are not currently recognized, such as reduced emissions of air pollutants, local economic development, and energy security;

"(3) evaluate the cost-effectiveness, including the economic value referred to in paragraph (2), of cogenerated district heating and cooling technologies compared to other alternatives for generating or conserving electricity;

"(4) assess and make recommendations for reducing institutional and other constraints on the implementation of district heating and cooling systems; and

"(5) evaluate the use of renewable energy systems (as such term is defined in section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c))) in residential buildings.

"(b) REPORT.—Not later than 2 years after the date of the enactment of the Energy Policy Act of 2005 [Aug. 8, 2005], the Secretary shall transmit to the Congress a report containing the findings, conclusions and recommendations, if any, of the Secretary for carrying out Federal, State, and local programs as a result of the study conducted under subsection (a)."

STUDY AND REPORT ON VIBRATION REDUCTION TECHNOLOGIES

Pub. L. 102–486, title I, §173, Oct. 24, 1992, 106 Stat. 2865, as amended by Pub. L. 105–362, title IV, §401(c), Nov. 10, 1998, 112 Stat. 3282, provided that:

"(a) IN GENERAL.—The Secretary shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

"(b) PROCEDURE.—In carrying out such study, the Secretary shall—

"(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand side management; and

"(2) evaluate the cost-effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

"(c) DEMONSTRATION.—The Secretary may, based on the findings and conclusions of the study carried out under this section, conduct at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency."

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

§13452. Natural gas and electric heating and cooling technologies

(a) Program direction

(1) The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, on energy efficient natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall include activities on—

(A) thermally activated heat pumps, including absorption heat pumps and engine-driven heat pumps; and

(B) other advanced natural gas technologies, including fuel cells for residential and commercial applications.

(3) The electric heating and cooling program shall focus on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electric HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) Proposals

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

(Pub. L. 102–486, title XXI, §2102, Oct. 24, 1992, 106 Stat. 3068.)

§13453. Pulp and paper

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of

this title, on advanced pulp and paper technologies. Such program shall include activities on energy generation technologies, boilers, combustion processes, pulping processes (excluding de-inking), chemical recovery, causticizing, source reduction processes, and other related technologies that can improve the energy efficiency of, and reduce the adverse environmental impacts of, pulp and papermaking operations. This section does not authorize projects involving the combustion of waste paper, other than gasification.

(b) Proposals

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

(Pub. L. 102–486, title XXI, §2103, Oct. 24, 1992, 106 Stat. 3069.)

§13454. Advanced buildings for 2005

(a) Program direction

The Secretary shall initiate a 5-year program, in accordance with sections 13541 and 13542 of this title, to increase building energy efficiency, while maintaining affordability, by the year 2005. Such program shall include activities on—

(1) building design, design methods, and construction techniques;
(2) building materials, including recycled materials, and components;
(3) on-site energy supply conversion systems such as photovoltaics;
(4) automated energy management systems;
(5) methods of evaluating performance; and
(6) insulation products manufactured with nonozone depleting materials.

(b) Proposals

(1) Solicitation

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(2) Contents of proposals

Proposals submitted under this subsection shall include and be judged upon—

(A) evidence of knowledge of current building practices in the United States and in other countries;

(B) an explanation of how the proposal will encourage the commercialization of the technologies resulting from activities in subsection (a);

(C) evidence of consideration of collaboration with Department of Energy national laboratories;

(D) evidence of collaboration with relevant industry or other groups or organizations; and

(E) a demonstration of the ability of the proposers to undertake and complete the project proposed.

(Pub. L. 102–486, title XXI, §2104, Oct. 24, 1992, 106 Stat. 3069.)

§13455. Electric drives

(a) Program

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, to increase the efficiency of electric drive technologies, including adjustable speed drives, high speed motors, and high efficiency motors.

(b) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for projects under this

section.

(Pub. L. 102–486, title XXI, §2105, Oct. 24, 1992, 106 Stat. 3070.)

§13456. Improving efficiency in energy-intensive industries

(a) Secretarial action

The Secretary, in accordance with sections 13541 and 13542 of this title, shall—

(1) pursue a research, development, demonstration and commercial application program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) Joint ventures

(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(Pub. L. 102–486, title XXI, §2107, Oct. 24, 1992, 106 Stat. 3070.)

§13457. Energy efficient environmental program

(a) Program direction

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, is authorized to continue to carry out a 5-year program to improve the energy efficiency and cost effectiveness of pollution prevention technologies and processes, including source reduction and waste minimization technologies and processes. The purposes of this section shall be to—

(1) apply a systems approach to minimizing adverse environmental effects of industrial production in the most cost effective and energy efficient manner; and

(2) incorporate consideration of the entire materials and energy cycle with the goal of minimizing adverse environmental impacts.

(b) Identification of opportunities

Within 9 months after October 24, 1992, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall identify opportunities for the demonstration of energy efficient pollution prevention technologies and processes.

(c) Report

Within 1 year after October 24, 1992, the Secretary shall submit a report to Congress evaluating the opportunities identified under subsection (b). Such report shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected schedules of their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

In preparing the report required by this subsection, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary considers necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

(d) Proposals

Within 1 year after October 24, 1992, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall solicit proposals for activities under this section. Proposals selected under this subsection shall demonstrate—

(1) technical viability and cost effectiveness; and

(2) procedures for technology transfer and information outreach during and after completion of the project.

(Pub. L. 102–486, title XXI, §2108, Oct. 24, 1992, 106 Stat. 3071.)

§13458. Energy efficient lighting and building centers

(a) Purpose

The purpose of this section is to encourage energy efficiency in buildings through the establishment of regional centers to promote energy efficient lighting, heating and cooling, and building design.

(b) Grants for establishment

Not later than 18 months after October 24, 1992, the Secretary shall make grants to nonprofit institutions, or to consortiums that may include nonprofit institutions, State and local governments, universities, and utilities, to establish or enhance one regional building energy efficiency center (hereafter in this section referred to as a "regional center") in each of the 10 regions served by a Department of Energy regional support office.

(c) Permitted activities

Each regional center established under this section may—

(1) provide information, training, and technical assistance to building professionals such as architects, designers, engineers, contractors, and building code officials, on building energy efficiency methods and technologies, including lighting, heating and cooling, and passive solar;

(2) operate an outreach program to inform such building professionals of the benefits and opportunities of energy efficiency, and of the services of the center;

(3) provide displays demonstrating building energy efficiency methods and technologies, such as lighting, windows, and heating and cooling equipment;

(4) coordinate its activities and programs with other institutions within the region, such as State and local governments, utilities, and educational institutions, in order to support their efforts to promote building energy efficiency;

(5) serve as a clearinghouse to ensure that information about new building energy efficiency technologies, including case studies of successful applications, is disseminated to end-users in the region;

(6) study the building energy needs of the region and make available region-specific energy efficiency information to facilitate the adoption of cost-effective energy efficiency improvements;

(7) assist educational institutions in establishing building energy efficiency engineering and technical programs and curricula; and

(8) evaluate the performance of the center in promoting building energy efficiency.

(d) Application

Any nonprofit institution or consortium interested in receiving a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. A lighting or building energy center in existence on October 24, 1992, which is owned and operated by a nonprofit institution or a consortium as described in subsection (b) shall be eligible for a grant under this section.

(e) Selection criteria

The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(1) The capability of the grant recipient to establish a board of directors for the regional center composed of representatives from utilities, State and local governments, building trade and professional organizations, manufacturers, and nonprofit energy and environmental organizations.

(2) The demonstrated or potential resources available to the grant recipient for carrying out this subsection.

(3) The demonstrated or potential ability of the grant recipient to promote building energy efficiency by carrying out the activities specified in subsection (c).

(4) The activities which the grant recipient proposes to carry out under the grant.

(f) Requirement of matching funds

(1) Federal share

The Federal share of a grant under this section shall be no more than 50 percent of the costs of establishing, and no more than 25 percent of the cost of operating the regional center.

(2) Non-Federal contributions

No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will provide the necessary non-Federal contributions. Such non-Federal contributions may be provided by utilities, State and local governments, nonprofit institutions, foundations, corporations, and other non-Federal entities.

(g) Task force

The Secretary shall establish a task force to—

(1) advise the Secretary on activities to be carried out by grant recipients;

(2) review and evaluate programs carried out by grant recipients; and

(3) make recommendations regarding the building energy efficiency center grant program.

(h) Membership terms and administration of task force

(1) In general

The task force shall be composed of approximately 20 members, appointed by the Secretary, with expertise in the area of building energy efficiency, including representatives from—

(A) State or local energy offices;

(B) utilities;

(C) building construction trade or professional associations;

(D) architecture, engineering or professional associations;

(E) building component or equipment manufacturers;

(F) from [1] national laboratories;
(G) building code officials or professional associations; and
(H) nonprofit energy or environmental organizations.

(2) Geographic representation

The Secretary shall ensure that there is broad geographical representation among task force members.

(3) Terms

Members shall be appointed for a term of 3 years. A vacancy in the task force shall be filled in the manner in which the original appointment was made.

(4) Pay

Members shall serve without pay. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

(5) Chairperson

The Chairperson and Vice Chairperson of the task force shall be elected by the members.

(6) Meetings

The task force shall meet biannually and at the call of the Chairperson.

(7) Inapplicability of termination date

Section 14 of the Federal Advisory Committee Act shall not apply to the task force.

(i) Omitted

(j) Authorization of appropriations

There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1994, 1995, and 1996.

(Pub. L. 102–486, title I, §103, Oct. 24, 1992, 106 Stat. 2789.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (h)(7), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Subsec. (i) of this section, which required the Secretary to transmit annually to Congress a report on the activities of regional centers established under this section, including the degree to which matching funds are being leveraged from private sources to establish and operate such centers, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the 6th item on page 88 of House Document No. 103–7.

Section was enacted as part of title I of the Energy Policy Act, and not as part of title XXI of that Act which comprises this subchapter.

[1] So in original. The word "from" probably should not appear.

PART B—ELECTRICITY GENERATION AND USE

§13471. Renewable energy

(a) Program direction

The Secretary shall conduct a comprehensive 5-year program, in accordance with sections 13541 and 13542 of this title, to provide cost-effective options for the generation of electricity from renewable energy sources for grid and nongrid application, including field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility for providing cost effective generation and for meeting the goal stated in section 13401(3) of this title and section 13382(a)(4) of this title.

(b) Program plan

Within 180 days after October 24, 1992, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section, including all solar energy programs (other than activities under section 13431 of this title), geothermal systems, electric energy systems, and energy storage systems, $208,975,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XXI, §2111, Oct. 24, 1992, 106 Stat. 3072.)

§13472. High efficiency heat engines

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, to improve the efficiency of heat engines. Such program shall—

(1) include field demonstrations of sufficient scale and number so as to demonstrate technical and economic feasibility;

(2) incorporate materials that increase engine efficiency; and

(3) cover advanced engine designs for electric and industrial power generation for a range of small-, mid-, and large-scale applications, including—

(A) mechanically recuperated gas turbines;

(B) intercooled gas turbines with steam injection or recuperation;

(C) gas turbines utilizing reformed fuels or hydrogen; and

(D) high efficiency, simple cycle gas turbines.

(b) Program goal

The goal of the program established under subsection (a) shall be to develop heat engines that can achieve over 50 percent efficiency in the mid-term.

(c) Program plan

Within 180 days after October 24, 1992, the Secretary shall prepare and submit to the Congress a 5-year program plan, to be included in the plan required under section 13451(c) of this title, to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including the Environmental Protection Agency and national laboratories, and professional and technical societies.

(d) Proposals

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities under this section.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary to be derived from sums authorized under section 13451(e) of this title.

(Pub. L. 102–486, title XXI, §2112, Oct. 24, 1992, 106 Stat. 3072.)

§13473. Civilian nuclear waste

(a) Study

The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of the viability of existing technologies and an assessment of the extent of research and development required for new technologies.

(b) Program

Based on the results of the study required under subsection (a), the Secretary shall prepare and submit to Congress a 5-year program plan for carrying out a program of research and development on new technologies for minimizing the volume and toxic lifetime of, and thereby mitigating hazards associated with, nuclear waste.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $4,700,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

(Pub. L. 102–486, title XXI, §2113, Oct. 24, 1992, 106 Stat. 3073.)

§13474. Fusion energy

(a) Program

The Secretary shall conduct a fusion energy 5-year program, in accordance with sections 13541 and 13542 of this title, that by the year 2010 will result in a technology demonstration which verifies the practicability of commercial electric power production.

(b) Program goals

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

(1) a broad based fusion energy program;

(2) United States participation in the Engineering Design Activity of the International Thermonuclear Experimental Reactor (ITER) program and in the related research and technology development efforts;

(3) the development of technology for fusion power and industrial participation in the development of such technology;

(4) the design and construction of a major new machine for fusion research and technology development consistent with paragraphs (2) and (3); and

(5) research and development for Inertial Confinement Fusion Energy and development of a Heavy Ion Inertial Confinement Fusion experiment.

(c) Management plan

(1) Within 180 days after October 24, 1992, the Secretary shall prepare a comprehensive management plan for the fusion energy program. The plan shall include specific program objectives, milestones and schedules for technology development, and cost estimates and program management resource requirements.

(2) The plan shall also include a description of—

(A) United States participation in the Engineering Design Activity of ITER, including industrial participation;

(B) potential United States participation in the construction and operation of an ITER facility; and

(C) the requirements needed to build and test an inertial fusion energy reactor for the purpose of power production.

(3) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should initiate efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(4) The plan shall also evaluate the extent to which university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(5) The President shall include in the budget submitted to the Congress each year under section 1105 of title 31 a report prepared by the Secretary describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan. Each such report shall also describe the organization of the program, the personnel assigned and funds committed to the program, and expenditures made in carrying out the program objectives. The report shall be submitted with the plan required under section 13523 of this title.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $339,710,000 for fiscal year 1993 and $380,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XXI, §2114, Oct. 24, 1992, 106 Stat. 3073; Pub. L. 104–66, title I, §1052(i), Dec. 21, 1995, 109 Stat. 719.)

EDITORIAL NOTES

AMENDMENTS

1995—Subsec. (c)(5). Pub. L. 104–66 inserted first sentence and struck out former first sentence which read as follows: "Within 1 year after October 24, 1992, and every 2 years thereafter, the Secretary shall issue a report describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan."

§13475. Fuel cells

(a) Program direction

The Secretary shall conduct a 5-year program, in accordance with sections 13541 and 13542 of this title, on efficient and environmentally benign power generation using fuel cells. The program may include activities on molten carbonate, solid oxide, including tubular, monolithic, and planar technologies, and advanced concepts.

(b) Program goal

The goal of the program established under subsection (a) is the development of cost-effective, efficient, and environmentally benign fuel cell systems which will operate on fossil fuels in multiple end use sectors.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $51,555,000 for fiscal year 1993 and $56,000,000 for fiscal year 1994.

(Pub. L. 102–486, title XXI, §2115, Oct. 24, 1992, 106 Stat. 3074.)

§13476. Environmental restoration and waste management program

(a) Authorization of appropriations

There are authorized to be appropriated to the Secretary for fiscal year 1993 $70,000,000 for the Fast Flux Test Facility to maintain the operational status of the reactor, such sums to be derived from amounts appropriated to the Secretary for the environmental restoration and waste management program.

(b) Long-term missions

The Secretary shall aggressively pursue the development and implementation of long-term missions for the Fast Flux Test Facility. Within 6 months after October 24, 1992, the Secretary shall submit to the Congress a report on the progress made in carrying out this subsection.

(Pub. L. 102–486, title XXI, §2116, Oct. 24, 1992, 106 Stat. 3075.)

§13477. High-temperature superconductivity program

(a) Program

The Secretary shall carry out a 5-year program, in accordance with sections 13541 and 13542 of this title, on high-temperature superconducting electric power equipment technologies. Elements of the program shall include, but are not limited to—

(1) activities that address the development of high-temperature superconducting materials that have increased electrical current capacity, which shall be the emphasis of the program for the near-term;

(2) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(3) activities that will improve the efficiency of materials performance of higher temperatures and at all magnetic field orientations;

(4) development of prototypes based on high-temperature superconducting wire, that operate at the highest temperature possible, and refrigeration systems using cryogenics such as nitrogen;

(5) activities that will assist the private sector with designs for more efficient electric power generation and delivery systems which are cost competitive with conventional energy systems; and

(6) development of prototypes that have application in both the commercial and defense sectors.

The Secretary is also encouraged to expedite government, laboratory, industry, and university collaborative agreements under existing mechanisms at the Department of Energy in coordination with other Federal agencies.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $21,900,000 for fiscal year 1993 and such sums as may be necessary for subsequent fiscal years, to be derived from sums authorized under section 13471(c) of this title.

(Pub. L. 102–486, title XXI, §2117, Oct. 24, 1992, 106 Stat. 3075.)

§13478. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 102–486, title XXI, §2118, Oct. 24, 1992, 106 Stat. 3075; Pub. L. 105–23, §1, July 3, 1997, 111 Stat. 237, which authorized the Secretary to establish an electric and magnetic fields research and public information dissemination program, expired on Dec. 31, 1998.

§13479. Spark M. Matsunaga Renewable Energy and Ocean Technology Center

(a) Findings

The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) Purpose

It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) Establishment

The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (in this section referred to as the "Center").

(d) Administration

(1) Not later than 180 days after October 24, 1992, the Secretary may authorize a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) Activities

The Center may carry out research, development, educational, and technology transfer activities on—

(1) renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean research concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) Matching funds

To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 13471(c) of this title.

(Pub. L. 102–486, title XXI, §2119, Oct. 24, 1992, 106 Stat. 3080.)

PART C—ADVANCED NUCLEAR REACTORS

§13491. Purposes and definitions

(a) Purposes

The purposes of this part are—

(1) to require the Secretary to carry out civilian nuclear programs in a way that will lead toward the commercial availability of advanced nuclear reactor technologies; and

(2) to authorize such activities to further the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(b) Definitions

For purposes of this part—

(1) the term "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized reactors with passive safety features for the generation of commercial electric power from nuclear fission; and

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission;

(2) the term "Commission" means the Nuclear Regulatory Commission;

(3) the term "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(4) the term "certification" means approval by the Commission of a standardized design.

(Pub. L. 102–486, title XXI, §2121, Oct. 24, 1992, 106 Stat. 3081.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle" meaning subtitle C of title XXI of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 3081, which enacted this part and amended sections 12003 and 12004 of this title.

§13492. Program, goals, and plan

(a) Program direction

The Secretary shall conduct a program to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.].

(b) Program goals

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

(1) for the near-term—

(A) to facilitate the completion, by September 30, 1996, for certification by the Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a)(1) through (4);

(B) to facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Commission of standardized designs for the modular high-temperature

gas-cooled reactor technology and the liquid metal reactor technology; and

(C) to evaluate by September 30, 1996, actinide burn technology to determine if it can reduce the volume of long-lived fission byproducts;

(2) for the mid-term—

(A) to facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) to develop advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) to complete necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, to complete research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) Program plan

Within 180 days after October 24, 1992, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

(2) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed;

(3) how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) potential alternative funding sources for carrying out this section.

In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall update the program plan annually and submit such update to Congress. Each such update shall describe any activities that are behind schedule, any funding shortfalls, and any other circumstances that might affect the ability of the Secretary to meet the goals set forth in subsection (b).

(Pub. L. 102–486, title XXI, §2122, Oct. 24, 1992, 106 Stat. 3082.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Nuclear Non-Proliferation Act of 1978, referred to in subsec. (a)(4), is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, as amended, which is classified principally to chapter 47 (§3201 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of Title 22 and Tables.

§13493. Commercialization of advanced light water reactor technology

(a) Certification of designs

In order to achieve the goal of certification of completed standardized designs by the Commission by 1996 as set forth in section 13492(b) of this title, the Secretary shall conduct a 5-year program of technical and financial assistance to encourage the development and submission for certification of

advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of fiscal year 1996.

(b) First-of-a-kind engineering

(1) Establishment of program

The Secretary shall conduct a program of Federal financial and technical assistance for the first-of-a-kind engineering design of standardized commercial nuclear powerplants which are included, as of October 24, 1992, in the Department of Energy's program for certification of advanced light water reactor designs.

(2) Selection criteria

In order to be eligible for assistance under this subsection, an entity shall certify to the satisfaction of the Secretary that—

(A) the entity, or its members, are bona fide entities engaged in the design, engineering, manufacture, construction, or operation of nuclear reactors;

(B) the entity, or its members, have the financial resources necessary for, and fully intend to pursue the design, engineering, manufacture, construction, and operation in the United States of nuclear power plants [1] through completion of construction and into operation;

(C) the design proposed is scheduled for certification by the Commission under the Department of Energy's program for certification of light water reactor designs; and

(D) at least 50 percent of the funding for the project shall be obtained from non-Federal sources, and a substantial portion of that non-Federal funding shall be obtained from utilities or entities whose primary purpose is the production of electrical power for public consumption.

(3) Program documents

The Secretary shall prepare and submit to the Congress a program document for each design selected under this subsection, specifying goals and objectives, major milestones for achieving those goals and objectives, and the work products to be provided to the Secretary or made available for inspection.

(4) Funding limitations

(A) Before entering into an agreement with an entity under this subsection, the Secretary shall establish a cost ceiling for the contribution of the Federal Government for the project, and shall report such cost ceiling to the Congress.

(B) No entity shall receive assistance under this subsection for a period greater than 4 years.

(C) The aggregate funding provided by the Secretary for projects under this subsection shall not exceed $100,000,000 for the period encompassing fiscal years 1993 through 1997.

(Pub. L. 102–486, title XXI, §2123, Oct. 24, 1992, 106 Stat. 3083.)

EDITORIAL NOTES

CODIFICATION

Subsec. (b)(5) of this section, which required the Secretary to submit annually to Congress a status report on each project receiving assistance under subsec. (b), terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the last item on page 85 of House Document No. 103–7.

[1] So in original. Probably should be "powerplants".

§13494. Prototype demonstration of advanced nuclear reactor technology

(a) Solicitation of proposals

Within 3 years after October 24, 1992, the Secretary shall solicit proposals for carrying out the

preliminary engineering design of not more than 2 prototype advanced nuclear reactor technologies developed by the Department of Energy, other than advanced light water reactor technologies, necessary to support a decision on whether to recommend construction of a prototype demonstration reactor with the characteristics described in section 13493(a) of this title. Proposals submitted under this subsection shall be for modular design concepts of sufficient size to address requirements related to the certification of a standardized design.

(b) Recommendation to Congress

(1) Not later than September 30, 1998, the Secretary shall submit to Congress recommendations on whether to build one or more prototype demonstration reactors under this section. Such recommendations shall—

(A) specify a preferred technology or technologies;
(B) include detailed information on milestones for construction and operation;
(C) include an estimate of the funding requirements; and
(D) specify the extent and type of non-Federal financial support anticipated.

In developing the recommendations under this paragraph, the Secretary shall provide for public notice and an opportunity for comment, and shall solicit the views of the Commission and other parties with technical expertise the Secretary considers useful in the development of such recommendations.

(2) The prototype demonstration program under this section shall be carried out to the maximum extent practicable with private sector funding. At least 50 percent of the funding for such program shall be non-Federal funding. The extent of non-Federal cost sharing proposed for any demonstration project shall be a criterion for the selection of the project.

(c) Selection of technology

Any technology selected by the Secretary for recommendation for prototype demonstration under this section shall to the maximum extent possible exhibit the characteristics set forth in section 13493(a) of this title.

(Pub. L. 102–486, title XXI, §2124, Oct. 24, 1992, 106 Stat. 3084.)

§13495. Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this part $212,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994. Amounts authorized or otherwise made available for program direction, space reactor power systems, advanced radioisotope power systems, and the space exploration initiative under nuclear energy research and development shall be in addition to the amounts authorized in the preceding sentence.

(Pub. L. 102–486, title XXI, §2126, Oct. 24, 1992, 106 Stat. 3085.)

SUBCHAPTER X—ENERGY AND ECONOMIC GROWTH

§13501. National Advanced Materials Program

(a) Program direction

The Secretary shall establish a 5-year National Advanced Materials Program, in accordance with sections 13541 and 13542 of this title. Such program shall foster the commercialization of techniques for processing, synthesizing, fabricating, and manufacturing advanced materials and associated components. At a minimum, the Program shall expedite the private sector deployment of advanced materials for use in high performance energy efficient and renewable energy technologies in the

industrial, transportation, and buildings sectors that can foster economic growth and competitiveness. The Program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) Program plan

Within 180 days after October 24, 1992, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) Proposals

(1) Solicitation

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) Contents of proposals

Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced materials in energy efficiency or renewable energy in the near-term to mid-term;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) General Services Administration demonstration program

The Secretary, in consultation with the Administrator of General Services, shall establish a program to expedite the use, in goods and services acquired by the General Services Administration, of advanced materials technologies. Such program shall include a demonstration of the use of advanced materials technologies as may be necessary to establish technical and economic feasibility. The Secretary shall transfer funds to the General Services Administration for carrying out this subsection.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived for energy efficient applications from section 13451(e) of this title and for renewable applications from section 13471(c) of this title, including Department of Energy national laboratory participation in proposals submitted under subsection (c), and including transferring funds to the General Services Administration.

(Pub. L. 102–486, title XXII, §2201, Oct. 24, 1992, 106 Stat. 3085.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to the biennial resubmittal of the program plan to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 1st item on page 86 of House Document No. 103–7.

§13502. National Advanced Manufacturing Technologies Program

(a) Program direction

The Secretary shall establish a 5-year National Advanced Manufacturing Technologies Program, in accordance with sections 13541 and 13542 of this title. Such program shall foster the commercialization of advanced manufacturing technologies to improve energy efficiency and productivity in manufacturing. At a minimum, the Program shall expedite the private sector deployment of advanced manufacturing technologies to improve productivity, quality, and control in manufacturing processes that can foster economic growth, energy efficiency, and competitiveness. The program [1] shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) Program plan

Within 180 days after October 24, 1992, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) Proposals

(1) Solicitation

Within 1 year after October 24, 1992, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) Contents of proposals

Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced manufacturing technologies to improve energy efficiency in the building, industry, and transportation sectors;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 13451(e) of this title, including Department of Energy national laboratory participation in proposals submitted under subsection (c).

(Pub. L. 102–486, title XXII, §2202, Oct. 24, 1992, 106 Stat. 3086.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to the biennial resubmittal of the program plan to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 2nd item on page 86 of House Document No. 103–7.

[1] *So in original. Probably should be capitalized.*

§13503. Supporting research and technical analysis

(a) Basic energy sciences

(1) Program direction

The Secretary shall continue to support a vigorous program of basic energy sciences to provide basic research support for the development of energy technologies. Such program shall focus on the efficient production and use of energy, and the expansion of our knowledge of materials, chemistry, geology, and other related areas of advancing technology development.

(2) User facilities

(A) As part of the program referred to in paragraph (1), the Secretary shall carry out planning, construction, and operation of user facilities to provide special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of our Nation's universities, industry, private laboratories, Federal laboratories, and others. Research institutions or individuals from other nations shall be accommodated at such user facilities in cases where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest.

(B) The construction of the Advanced Photon Source at the Argonne National Laboratory is hereby authorized.

(C) The Secretary shall not change the user fee practice in effect as of October 1, 1991, with respect to user facilities unless the Secretary notifies Congress 90 days before the effective date of any change.

(D) The Secretary shall expedite the design for construction of the Advanced Neutron Source at the Oak Ridge National Laboratory, in order to provide critical research capabilities in support of our national research initiatives for advanced materials and biotechnology, as well as a broad range of research. Such action shall be consistent with the Basic Energy Sciences Advisory Committee's Technical Evaluation of accelerator and reactor neutron source technologies. Within 90 days after October 24, 1992, the Secretary shall submit to the Congress a plan for such design, including a schedule for construction.

(3) Cost sharing

The Secretary shall not require cost sharing for research and development pursuant to this subsection, except—

(A) as otherwise provided for in cooperative research and development agreements or other agreements entered into under existing law;

(B) for fees for user facilities, as determined by the Secretary; or

(C) in the case of specific projects, where the Secretary determines that the benefits of such research and development accrue to a specific industry or group of industries, in which case cost sharing under section 13542 of this title shall apply.

(b) University and science education

(1) The Secretary shall support programs for improvements and upgrading of university research reactors and associated instrumentation and equipment. Within 1 year after October 24, 1992, the Secretary shall submit to the Congress a report on the condition and status of university research reactors, which includes a 5-year plan for upgrading and improving such facilities, instrumentation capabilities, and related equipment.

(2) The Secretary shall develop a method to evaluate the effectiveness of science and mathematics education programs provided by the Department of Energy and its laboratories, including specific evaluation criteria.

(3) ESTABLISHED PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—

(A) DEFINITIONS.—In this paragraph:

(i) ELIGIBLE JURISDICTION.—The term "eligible jurisdiction" means a State that is determined to be eligible for a grant under this paragraph in accordance with subparagraph (D).

(ii) EPSCOR.—The term "EPSCoR" means the Established Program to Stimulate Competitive Research operated under subparagraph (B).

(iii) NATIONAL LABORATORY.—The term "National Laboratory" has the meaning given

the term in section 15801 of this title.

(iv) STATE.—The term "State" means—

(I) a State;

(II) the District of Columbia;

(III) the Commonwealth of Puerto Rico;

(IV) Guam; and

(V) the United States Virgin Islands.

(B) PROGRAM OPERATION.—The Secretary shall operate an Established Program to Stimulate Competitive Research.

(C) OBJECTIVES.—The objectives of EPSCoR shall be—

(i) to increase the number of researchers in eligible jurisdictions, especially at institutions of higher education, capable of performing nationally competitive science and engineering research in support of the mission of the Department of Energy in the areas of applied energy research, environmental management, and basic science;

(ii) to improve science and engineering research and education programs at institutions of higher education in eligible jurisdictions and enhance the capabilities of eligible jurisdictions to develop, plan, and execute research that is competitive, including through investing in research equipment and instrumentation; and

(iii) to increase the probability of long-term growth of competitive funding to eligible jurisdictions.

(D) ELIGIBLE JURISDICTIONS.—

(i) IN GENERAL.—The Secretary may establish criteria for determining whether a State is eligible for a grant under this paragraph.

(ii) REQUIREMENT.—Except as provided in clause (iii), in establishing criteria under clause (i), the Secretary shall ensure that a State is eligible for a grant under this paragraph if the State, as determined by the Secretary, is a State that—

(I) historically has received relatively little Federal research and development funding; and

(II) has demonstrated a commitment—

(aa) to develop the research bases in the State; and

(bb) to improve science and engineering research and education programs at institutions of higher education in the State.

(iii) ELIGIBILITY UNDER NSF EPSCOR.—At the election of the Secretary, or if the Secretary declines to establish criteria under clause (i), the Secretary may continue to use the eligibility criteria in use on January 1, 2021, or any successor criteria.

(E) GRANTS IN AREAS OF APPLIED ENERGY RESEARCH, ENVIRONMENTAL MANAGEMENT, AND BASIC SCIENCE.—

(i) IN GENERAL.—EPSCoR shall make grants to eligible jurisdictions to carry out and support applied energy research and research in all areas of environmental management and basic science sponsored by the Department of Energy, including—

(I) energy efficiency, fossil energy, renewable energy, and other applied energy research;

(II) electricity delivery research;

(III) cybersecurity, energy security, and emergency response;

(IV) environmental management; and

(V) basic science research.

(ii) ACTIVITIES.—EPSCoR shall make grants under this subparagraph for activities consistent with the objectives described in subparagraph (C) in the areas of applied energy research, environmental management, and basic science described in clause (i), including—

(I) to support research that is carried out in partnership with the National Laboratories;

(II) to provide for graduate traineeships;
(III) to support research by early career faculty; and
(IV) to improve research capabilities through biennial research implementation grants.

(iii) NO COST SHARING.—EPSCoR shall not impose any cost-sharing requirement with respect to a grant made under this subparagraph, but may require letters of commitment from National Laboratories.

(F) OTHER ACTIVITIES.—EPSCoR may carry out such activities as may be necessary to meet the objectives described in subparagraph (C) in the areas of applied energy research, environmental management, and basic science described in subparagraph (E)(i).

(G) PROGRAM IMPLEMENTATION.—

(i) IN GENERAL.—Not later than 270 days after January 1, 2021, the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Energy and Commerce and Appropriations of the House of Representatives a plan describing how the Secretary shall implement EPSCoR.

(ii) CONTENTS OF PLAN.—The plan described in clause (i) shall include a description of—

(I) the management structure of EPSCoR, which shall ensure that all research areas and activities described in this paragraph are incorporated into EPSCoR;

(II) efforts to conduct outreach to inform eligible jurisdictions and faculty of changes to, and opportunities under, EPSCoR;

(III) how EPSCoR plans to increase engagement with eligible jurisdictions, faculty, and State committees, including by holding regular workshops, to increase participation in EPSCoR; and

(IV) any other issues relating to EPSCoR that the Secretary determines appropriate.

(H) PROGRAM EVALUATION.—

(i) IN GENERAL.—Not later than 5 years after January 1, 2021, the Secretary shall contract with a federally funded research and development center, the National Academy of Sciences, or a similar organization to carry out an assessment of the effectiveness of EPSCoR, including an assessment of—

(I) the tangible progress made towards achieving the objectives described in subparagraph (C);

(II) the impact of research supported by EPSCoR on the mission of the Department of Energy; and

(III) any other issues relating to EPSCoR that the Secretary determines appropriate.

(ii) LIMITATION.—The organization with which the Secretary contracts under clause (i) shall not be a National Laboratory.

(iii) REPORT.—Not later than 6 years after January 1, 2021, the Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Science, Space and Technology and the Committee on Appropriations of the House of Representatives a report describing the results of the assessment carried out under clause (i), including recommendations for improvements that would enable the Secretary to achieve the objectives described in subparagraph (C).

(c) Technology transfer

The Secretary shall support technology transfer activities conducted by the National Laboratories. Within 1 year after October 24, 1992, the Secretary shall submit to the Congress a report on the adequacy of funding for such activities, along with a proposal recommending ways to reduce the length of time required to consummate cooperative research and development agreements.

(d) Facilities support for multiprogram energy laboratories

(1) Facility policy

The Secretary shall develop and implement a least cost strategy for correcting facility problems, closing unneeded facilities, making facility modifications, and building new facilities at multiprogram energy laboratories.

(2) Facility plan

Within 1 year after October 24, 1992, the Secretary shall prepare and submit to the Congress a comprehensive plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at multiprogram energy laboratories. Such plan shall provide for facilities work in accordance with the following priorities, listed in descending order of priority:

(A) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(B) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration.

(C) Providing engineering design and construction services for those facilities which require modification or additions in order to meet the needs of new or expanded programs.

Such plan shall include plans for new facilities and facility modifications which will be required to meet the Department of Energy's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations. Such plan shall address the coordination of modernization and consolidation of facilities in order to meet changing mission requirements, and shall provide for annual reports to Congress on accomplishments, conformance to schedules, commitments, and expenditures.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for Supporting Research and Technical Analysis, including Basic Energy Sciences, Energy Research Analysis, University and Science Education, Technology Transfer, Advisory and Oversight Program Direction, and Facilities Support for Multiprogram Energy Laboratories, $966,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

(Pub. L. 102–486, title XXII, §2203, Oct. 24, 1992, 106 Stat. 3087; Pub. L. 105–245, title III, §309(b)(2)(F), Oct. 7, 1998, 112 Stat. 1853; Pub. L. 116–260, div. Z, title IX, §9011, Dec. 27, 2020, 134 Stat. 2606; Pub. L. 116–283, div. H, title XCIV, §9411, Jan. 1, 2021, 134 Stat. 4815.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(3). Pub. L. 116–283 added par. (3) identical to the par. (3) appearing in the amendment by Pub. L. 116–260. See 2020 Amendment note below.

2020—Subsec. (b)(3). Pub. L. 116–260 added par. (3) and struck out former par. (3) which related to the operation of an Experimental Program to Stimulate Competitive Research (EPSCoR).

1998—Subsec. (b)(3)(A)(i). Pub. L. 105–245 substituted "Office of Science" for "Office of Energy Research".

§13504. Math and science education program

(a) Program

The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 1070d through 1070d–1d of title 20.[1]

(b) Purpose

(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 1070d of title 20 [1] in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) Support

(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) Cooperation with qualified entities

The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) Report

Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) Effect on existing programs

The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) "Qualified entity" defined

For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary, to be derived from section 13503(e) of this title and the Environmental Restoration and Waste Management program, to carry out the purposes of this section.

(Pub. L. 102–486, title XXII, §2204, Oct. 24, 1992, 106 Stat. 3089.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1070d through 1070d–1d of title 20, referred to in subsec. (a), and section 1070d of title 20, referred to in subsec. (b)(1), were repealed by Pub. L. 102–325, title IV, §402(a)(1), July 23, 1992, 106 Stat. 482.

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

§13505. Integration of research and development

Within 180 days after October 24, 1992, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to Congress a 5-year program plan for improving the integration of basic energy research programs with other energy programs within the Department of Energy. Such program plan shall include—

(1) an evaluation of current procedures and mechanisms used to achieve such integration;

(2) an assessment of the role that the Department of Energy national laboratories play in such integration;

(3) an identification and evaluation of models that could enhance such integration;

(4) an identification and evaluation of new programs, mechanisms, and related policy options that could improve the integrating process, including—

(A) set aside funding for matching or leveraging basic and applied programs;

(B) more formal linkages; and

(C) program coordination;

(5) recommendations for expanded research and development and new technology areas; and

(6) budget estimates for activities under this section.

(Pub. L. 102–486, title XXII, §2205, Oct. 24, 1992, 106 Stat. 3091.)

§13506. Definitions

For purposes of this subchapter—

(1) the term "advanced manufacturing technology" means processes, equipment, techniques, practices, and capabilities that are applied for the purpose of—

(A) improving the productivity, quality, or energy efficiency of the design, development, testing, or manufacture of a product; or

(B) expanding the technical capability to design, develop, test, or manufacture a product that is fundamentally different in character from existing products and that will result in improved energy efficiency;

(2) the term "advanced materials" means materials that are processed, synthesized, fabricated, and manufactured to develop high performance properties that exceed the corresponding properties of conventional materials for structural, electronic, magnetic, or photonic applications, or for joining, welding, bonding, or packaging components into complex assemblies, including—

(A) advanced monolithic materials such as metals, ceramics, and polymers;

(B) advanced composite materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, continuous fiber ceramic composite, and carbon matrix composites; and

(C) advanced electronic, magnetic, and photonic materials, including superconducting, semiconductor, electrooptic, magnetooptic, thin-film, and special purpose coating materials used in technologies for energy efficiency, renewable energy, or electric power applications; and

(3) the term "United States" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

(Pub. L. 102–486, title XXII, §2206, Oct. 24, 1992, 106 Stat. 3091.)

SUBCHAPTER XI—POLICY AND ADMINISTRATIVE PROVISIONS

§13521. Policy on major construction projects

(a) Report and management plan

The Secretary shall submit to the Congress a report and management plan for any major construction project involving $100,000,000 or more, prior to the expenditure of those funds.

(b) Congressional review

Expenditure of funds for a project described in subsection (a) may be made after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days prior to a day certain) has passed after receipt of the report and management plan by Congress.

(Pub. L. 102–486, title XXIII, §2301, Oct. 24, 1992, 106 Stat. 3092.)

§13522. Energy Research, Development, Demonstration, and Commercial Application Advisory Board

(a) Establishment

The Secretary shall establish an Energy Research, Development, Demonstration, and Commercial Application Advisory Board (hereafter in this section referred to as the "Advisory Board").

(b) Responsibilities

The Advisory Board shall provide impartial technical advice to the Secretary to assist in the development of energy research, development, demonstration, and commercial application plans and reports under sections 5905 and 5914 [1] of this title, under section 7321 of this title, and as otherwise provided in subchapters VIII through XI of this chapter. The Advisory Board shall also periodically review such plans and reports and their implementation in relation to the goals stated in section 13401 of this title, and report the results of such review to the Secretary and the Congress. Such report shall be included as part of the report required under section 5914 [1] of this title.

(c) Use of existing advisory board

The Secretary may use an existing advisory board to carry out the responsibilities described in subsection (b).

(Pub. L. 102–486, title XXIII, §2302, Oct. 24, 1992, 106 Stat. 3092.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters VIII through XI of this chapter, referred to in subsec. (b), was in the original "titles XX through XXIII of this Act", meaning titles XX through XXIII of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 3057–3092, which enacted subchapters VIII through XI of this chapter and amended sections 5103, 5107, 5108, 5110, 5307, 5905, 12003, 12004, and 12006 of this title.

Section 5914 of this title, referred to in subsec. (b), was omitted from the Code.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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

§13523. Management plan

(a) Plan preparation

The Secretary, in consultation with the Advisory Board established under section 13522 of this title, shall prepare a management plan for the conduct of research, development, demonstration, and commercial application of energy technologies that is consistent with the goals stated in section 13401 of this title.

(b) Contents of plan

The management plan under subsection (a) shall provide for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness.

(c) Energy technology inventory and status report

As part of the management plan, the Secretary, with the advice of the Advisory Board established under section 13522 of this title, shall develop an inventory and status report of technologies to enhance energy supply and to improve the efficiency of energy end uses. The inventory and status report shall include fossil, renewable, nuclear, and energy conservation technologies which have not yet achieved the status of fully reliable and cost-competitive commercial availability, but which the Secretary projects may become available with additional research, development, and demonstration. The inventory and status report shall provide, for each technology—

(1) an assessment of its—

(A) degree of technological maturity; and

(B) principal research, development, and demonstration issues, including—

(i) the barriers posed by capital, operating, and maintenance costs;

(ii) technical performance; and

(iii) potential environmental impacts;

(2) the projected time frame for commercial availability, specifying at a minimum whether the technology will be commercially available in the near-term, mid-term, or long-term, whether there are too many uncertainties to project availability, or whether it is unlikely that the technology will ever be commercial; and

(3) a projection of the future cost-competitiveness of the technology in comparison with alternative technologies to provide the same energy service.

(d) Public comment

The Secretary shall publish the proposed management plan for a written public comment period of at least 90 days. The Secretary shall consider such comments and include a summary thereof in the management plan.

(e) Plan submission

Within one year after October 24, 1992, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially, at the time of submittal of the President's annual budget submission to the Congress.

(Pub. L. 102–486, title XXIII, §2304, Oct. 24, 1992, 106 Stat. 3093.)

§13524. Costs related to decommissioning and storage and disposal of nuclear waste

(a) Award of contracts

(1) Prime contractors

In awarding contracts to perform nuclear hot cell services, the Secretary, in evaluating bids for such contracts, shall exclude from consideration costs related to the decommissioning of nuclear facilities or the storage and disposal of nuclear waste, if—

(A) one or more of the parties bidding to perform such services is a United States company that is subject to such costs; and

(B) one or more of the parties bidding to perform such services is a foreign company that is not subject to comparable costs.

(2) Subcontractors

Any person awarded a contract subject to the restrictions described in paragraph (1) who subcontracts with a person to perform the services described in such paragraph shall be subject to the same restrictions in evaluating bids among potential subcontractors, as the Secretary was subject to in evaluating bids among prime contractors.

(b) Issuance of regulations

The Secretary shall issue regulations not later than 90 days after October 24, 1992, to carry out the requirements of subsection (a).

(c) Definitions

As used in this section—

(1) the term "costs related to decommissioning of nuclear facilities" means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission;

(2) the term "costs related to storage and disposal of nuclear waste" means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste;

(3) the term "nuclear hot cell services" means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation; and

(4) the term "nuclear waste" means any radioactive waste material subject to regulation by the

Nuclear Regulatory Commission or the Department of Energy.

(Pub. L. 102–486, title XXIII, §2305, Oct. 24, 1992, 106 Stat. 3094.)

§13525. Limits on participation by companies

A company shall be eligible to receive financial assistance under subchapters VIII through XI of this chapter only if—

(1) the Secretary finds that the company's participation in any program under such subchapters would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

(Pub. L. 102–486, title XXIII, §2306, Oct. 24, 1992, 106 Stat. 3095.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapters VIII through XI of this chapter, referred to in text, was in the original "titles XX through XXIII of this Act", meaning titles XX through XXIII of Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 3057–3092, which enacted subchapters VIII through XI of this chapter and amended sections 5103, 5107, 5108, 5110, 5307, 5905, 12003, 12004, and 12006 of this title.

This Act, referred to in par. (2)(B), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

§13526. Uncosted obligations

(a) Report

Along with the submission of each of the President's annual budget requests to Congress, the Secretary shall submit to Congress a report which—

(1) identifies the amount of Department of Energy funds that were, as of the end of the previous fiscal year—

(A) committed uncosted obligations; and

(B) uncommitted uncosted obligations;

(2) specifically describes the purposes for which all such funds are intended; and

(3) explains the effect that information contained in the report has had on the annual budget request for the Department of Energy being simultaneously submitted.

(b) Definitions

Within 90 days after October 24, 1992, the Secretary shall submit a report to the Congress containing definitions of the terms "uncosted obligation", "committed uncosted obligation", and "uncommitted uncosted obligation" for purposes of reports to be submitted under subsection (a).

(Pub. L. 102–486, title XXIII, §2307, Oct. 24, 1992, 106 Stat. 3096.)

SUBCHAPTER XII—MISCELLANEOUS

PART A—GENERAL PROVISIONS

§13541. Research, development, demonstration, and commercial application activities

(a) Research, development, and demonstration

(1) Except as otherwise provided in this Act, research, development, and demonstration activities under this Act may be carried out under the procedures of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901–5920), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act. An objective of any demonstration program under this Act shall be to determine the technical and commercial feasibility of energy technologies.

(2) Except as otherwise provided in this Act, in carrying out research, development, and demonstration programs and activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3701 et seq.], grants, joint ventures, and any other form of agreement available to the Secretary.

(b) Commercial application

Except as otherwise provided in this Act, in carrying out commercial application programs and commercial application activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3701 et seq.], grants, joint ventures, and any other form of agreement available to the Secretary. An objective of any commercial application program under this Act shall be to accelerate the transition of technologies from the research and development stage.

(c) "Joint venture" defined

For purposes of this section, the term "joint venture" has the meaning given the term "joint research and development venture" under section 4301(a)(6) and (b) of title 15, except that such term may apply under this section to research, development, demonstration, and commercial application joint ventures.

(d) Protection of information

Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3710a(c)(7)], relating to the protection of information, shall apply to research, development, demonstration, and commercial application programs and activities under this Act.

(e) Guidelines and procedures

The Secretary shall provide guidelines and procedures for the transition, where appropriate, of

energy technologies from research through development and demonstration under subsection (a) to commercial application under subsection (b). Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3701 et seq.], grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application.

(f) Application of section

This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3701 et seq.], grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of October 24, 1992.

(Pub. L. 102–486, title XXX, §3001, Oct. 24, 1992, 106 Stat. 3126.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), and (d), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

The Federal Nonnuclear Research and Development Act of 1974, referred to in subsec. (a)(1), probably means the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (a)(1), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsecs. (a)(2), (b), (e)(1), (2), and (f), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

§13542. Cost sharing

(a) Research and development

Except as otherwise provided in this Act, for research and development programs carried out under this Act, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) Demonstration and commercial application

Except as otherwise provided in this Act, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this Act to be provided from non-Federal sources. The Secretary may reduce the non-Federal

requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(c) Calculation of amount

In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(d) Tennessee Valley Authority

Funds derived by the Tennessee Valley Authority from its power program may be used for all or part of any cost sharing requirements under this section, except to the extent that such funds are provided by annual appropriation Acts.

(Pub. L. 102–486, title XXX, §3002, Oct. 24, 1992, 106 Stat. 3127.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

PART B—OTHER MISCELLANEOUS PROVISIONS

§13551. Repealed. Pub. L. 104–182, title III, §301, Aug. 6, 1996, 110 Stat. 1683

Section, Pub. L. 102–486, title XXX, §3013, Oct. 24, 1992, 106 Stat. 3128, related to geothermal heat pumps.

§13552. Use of energy futures for fuel purchases

(a) Fuel study

The Secretary shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection for Government entities (including Government purchases for military purposes and for the Strategic Petroleum Reserve) and consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk) from unanticipated surges in the price of fuel; and

(2) to ascertain how such Government entities or consumer cooperatives may be educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against unanticipated surges in the price of fuel, and minimize fuel costs.

(b) Pilot program

The Secretary shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b),[1] to educate such governmental entities, consumer cooperatives, or other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section.

(Pub. L. 102–486, title XXX, §3014, Oct. 24, 1992, 106 Stat. 3128; Pub. L. 105–362, title IV, §401(f), Nov. 10, 1998, 112 Stat. 3282.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (b), referred to in subsec. (b), was repealed and subsec. (c) of this section was redesignated (b) by Pub. L. 105–362, title IV, §401(f), Nov. 10, 1998, 112 Stat. 3282. See 1998 Amendment note below.

AMENDMENTS

1998—Subsecs. (b) to (d). Pub. L. 105–362 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out heading and text of former subsec. (b). Text read as follows: "The Secretary, no later than 12 months after October 24, 1992, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate."

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

§13553. Energy subsidy study

(a) In general

The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on October 24, 1992; or

(2) have been in effect prior to October 24, 1992.

(b) Report to Congress

Not later than 18 months after October 24, 1992, the Secretary shall transmit to the Congress,[1] the results of such study to be accompanied by recommendations for legislation, if any.

(c) Contents

(1) In general

The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) Topics for examination

The study shall examine—

(A) fuel and technology choices that are—

(i) available on October 24, 1992; or

(ii) reasonably foreseeable on October 24, 1992;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1993 and 1994.

(Pub. L. 102–486, title XXX, §3015, Oct. 24, 1992, 106 Stat. 3129.)

[1] *So in original. The comma probably should not appear.*

§13554. Tar sands

(a) Policy

It is the policy of the United States to promote the development and production, by all means consistent with sound engineering, economic, and environmental practices, of deposits of tar sands.

(b) "Tar sands" defined

(1) For purposes of this section, the term "tar sands" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either—

(A) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or

(B) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(2) Nothing in this section is intended or shall be construed to affect in any way the definition of the term tar sands under any other provision of Federal law.

(c) Study

The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the House of Representatives and the Committee on Energy and Natural Resources of the Senate within one year after October 24, 1992. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sand sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994 to carry out this section.

(Pub. L. 102–486, title XXX, §3016, Oct. 24, 1992, 106 Stat. 3129.)

§13555. Consultative Commission on Western Hemisphere Energy and Environment

(a) Findings

The Congress finds that—

(1) there is growing mutual economic interdependence among the countries of the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must consider existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these member countries; and

(7) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

(b) "Commission" defined

For purposes of this section, the term "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment.

(c) Negotiations

The President is authorized to direct the United States representative to the Organization of American States to initiate negotiations with the Organization of American States for the establishment of a Consultative Commission on Western Hemisphere Energy and Environment under the auspices of the Organization of American States.

(d) The Commission

In the course of the negotiations, the following shall be pursued:

(1) Objectives

The objectives of the Commission shall be—

(A) to evaluate from the viewpoint of the Western Hemisphere as a whole the energy and environmental situations, trends, and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies, and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world.

(2) Composition of Commission

The Commission shall include representatives of—

(A) the respective foreign energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters; and

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise.

(3) Secretariat

A small secretariat shall be chosen by the participating governments for their expertise in the areas of energy and the environment.

(4) Sunset provision

The Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(e) Report

The President shall, within one year after October 24, 1992, report to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate, on the progress toward the establishment of the Commission and achievement of the purposes of this section.

(Pub. L. 102–486, title XXX, §3020, Oct. 24, 1992, 106 Stat. 3131.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

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

§13556. Disadvantaged business enterprises

(a) General rule

To the extent practicable, the head of each agency shall provide that the obligation of not less than 10 percent of the total combined amounts obligated for contracts and subcontracts by each agency under this Act and amendments made by this Act pursuant to competitive procedures within the meaning of either division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, or chapter 137 legacy provisions (as such term is defined in section 3016 of title 10), shall be expended either with—

(1) small business concerns controlled by socially and economically disadvantaged individuals or women;

(2) historically Black colleges and universities;

(3) colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans; or

(4) qualified HUBZone small business concerns.

(b) Definitions

For purposes of this section, the following definitions shall apply:

(1) The term "small business concern" has the meaning such term has under section 632 of title 15. However, for purposes of contracts and subcontracts requiring engineering services the applicable size standard shall be that established for military and aerospace equipment and military weapons.

(2) The term "socially and economically disadvantaged individuals" has the meaning such term has under section 637(d) of title 15 and relevant subcontracting regulations promulgated pursuant thereto.

(3) The term "qualified HUBZone small business concern" has the meaning given that term in section 632(p) [1] of title 15.

(Pub. L. 102–486, title XXX, §3021, Oct. 24, 1992, 106 Stat. 3133; Pub. L. 105–135, title VI, §604(g), Dec. 2, 1997, 111 Stat. 2634; Pub. L. 117–81, div. A, title XVII, §1702(j)(6), Dec. 27, 2021, 135 Stat. 2159.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

Section 632(p) of title 15, referred to in subsec. (b)(3), was redesignated section 657a(b) of Title 15, Commerce and Trade, by Pub. L. 115–91, div. A, title XVII, §1701(a)(2), Dec. 12, 2017, 131 Stat. 1795.

CODIFICATION

In subsec. (a), "division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle

I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–81 substituted "chapter 137 legacy provisions (as such term is defined in section 3016 of title 10)" for "chapter 137 of title 10".

1997—Subsec. (a)(4). Pub. L. 105–135, §604(g)(1), added par. (4).

Subsec. (b)(3). Pub. L. 105–135, §604(g)(2), added par. (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–135 effective Oct. 1, 1997, see section 3 of Pub. L. 105–135, set out as a note under section 631 of Title 15, Commerce and Trade.

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

§13557. Sense of Congress on risk assessments

It is the sense of Congress that Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound and objective scientific practices in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.

(Pub. L. 102–486, title XXX, §3022, as added Pub. L. 109–58, title XIV, §1401, Aug. 8, 2005, 119 Stat. 1061.)

SUBCHAPTER XIII—CLEAN AIR COAL PROGRAM

§13571. Purposes

The purposes of this subchapter are to—

(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

(2) mitigate financial risks, reduce the cost of clean coal generation, and increase the marketplace acceptance of clean coal generation and pollution control equipment and processes; and

(3) facilitate the environmental performance of clean coal generation.

(Pub. L. 102–486, title XXXI, §3101, as added Pub. L. 109–58, title IV, §421(a), Aug. 8, 2005, 119 Stat. 757.)

§13572. Authorization of program

(a) In general

The Secretary shall carry out a program of financial assistance to—

(1) facilitate the production and generation of coal-based power, through the deployment of clean coal electric generating equipment and processes that, compared to equipment or processes that are in operation on a full scale—

(A) improve—

(i) energy efficiency; or

(ii) environmental performance consistent with relevant Federal and State clean air requirements, including those promulgated under the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) are not yet cost competitive; and

(2) facilitate the utilization of existing coal-based electricity generation plants through projects that—

(A) deploy advanced air pollution control equipment and processes; and

(B) are designed to voluntarily enhance environmental performance above current applicable obligations under the Clean Air Act and State implementation efforts pursuant to such Act.

(b) Financial criteria

As determined by the Secretary for a particular project, financial assistance under this subchapter shall be in the form of—

(1) cost-sharing of an appropriate percentage of the total project cost, not to exceed 50 percent as calculated under section 16352 of this title; or

(2) financial assistance, including grants, cooperative agreements, or loans as authorized under this Act or other statutory authority of the Secretary.

(Pub. L. 102–486, title XXXI, §3102, as added Pub. L. 109–58, title IV, §421(a), Aug. 8, 2005, 119 Stat. 757.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(1)(A)(ii), (2)(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.

This Act, referred to in subsec. (b)(2), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

§13573. Generation projects

(a) Eligible projects

Projects supported under section 13572(a)(1) of this title may include—

(1) equipment or processes previously supported by a Department of Energy program;

(2) advanced combustion equipment and processes that the Secretary determines will be cost-effective and could substantially contribute to meeting environmental or energy needs, including gasification, gasification fuel cells, gasification coproduction, oxidation combustion techniques, ultra-supercritical boilers, and chemical looping; and

(3) hybrid gasification/combustion systems, including systems integrating fuel cells with gasification or combustion units.

(b) Criteria

The Secretary shall establish criteria for the selection of generation projects under section 13572(a)(1) of this title. The Secretary may modify the criteria as appropriate to reflect improvements in equipment, except that the criteria shall not be modified to be less stringent. The selection criteria shall include—

(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas;

(2) prioritization of projects whose installation is likely to result in lower emission rates of pollution;

(3) prioritization of projects that result in the repowering or replacement of older, less efficient units;

(4) documented broad interest in the procurement of the equipment and utilization of the processes used in the projects by owners or operators of facilities for electricity generation;

(5) equipment and processes beginning in 2006 through 2011 that are projected to achieve a thermal efficiency of—

(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values;

(B) 38 percent for coal of 7,000 to 9,000 Btu per pound passed on higher heating values; and

(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values;

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

(6) equipment and processes beginning in 2012 and 2013 that are projected to achieve a thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values;

(B) 44 percent for coal of 7,000 to 9,000 Btu per pound passed on higher heating values; and

(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values;

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph.

(c) Program balance and priority

In carrying out the program under section 13572(a)(1) of this title, the Secretary shall ensure, to the extent practicable, that—

(1) between 25 percent and 75 percent of the projects supported are for the sole purpose of electrical generation; and

(2) priority is given to projects that use electrical generation equipment and processes that have been developed and demonstrated and applied in actual production of electricity, but are not yet cost-competitive, and that achieve greater efficiency and environmental performance.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out section 13572(a)(1) of this title—

(1) $250,000,000 for fiscal year 2007;

(2) $350,000,000 for fiscal year 2008;

(3) $400,000,000 for each of fiscal years 2009 through 2012; and

(4) $300,000,000 for fiscal year 2013.

(e) Applicability

No technology, or level of emission reduction, shall be treated as adequately demonstrated for purpose [1] of section 7411 of this title, achievable for purposes of section 7479 of this title, or achievable in practice for purposes of section 7501 of this title solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under section 13572(a)(1) of this title.

(Pub. L. 102–486, title XXXI, §3103, as added Pub. L. 109–58, title IV, §421(a), Aug. 8, 2005, 119 Stat. 758.)

[1] So in original. Probably should be "purposes".

§13574. Air quality enhancement program

(a) Eligible projects

Projects supported under section 13572(a)(2) of this title shall—

(1) utilize technologies that meet relevant Federal and State clean air requirements applicable to the unit or facility, including being adequately demonstrated for purposes of section 7411 of this title, achievable for purposes of section 7479 of this title, or achievable in practice for purposes of section 7501 of this title; or

(2) utilize equipment or processes that exceed relevant Federal or State clean air requirements applicable to the unit or facilities included in the projects by achieving greater efficiency or environmental performance.

(b) Priority in project selection

In making an award under section 13572(a)(2) of this title, the Secretary shall give priority to—

(1) projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas or substantially reduce the emission level of criteria pollutants and mercury air emissions;

(2) projects for pollution control that result in the mitigation or collection of more than 1 pollutant; and

(3) projects designed to allow the use of the waste byproducts or other byproducts of the equipment.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out section 13572(a)(2) of this title—

(1) $300,000,000 for fiscal year 2007;
(2) $100,000,000 for fiscal year 2008;
(3) $40,000,000 for fiscal year 2009;
(4) $30,000,000 for fiscal year 2010; and
(5) $30,000,000 for fiscal year 2011.

(d) Applicability

No technology, or level of emission reduction under subsection (a)(2) shall be treated as adequately demonstrated for purpose of Section [1] 7411 of this title, achievable for purposes of section 7479 of this title, or achievable in practice for purposes of section 7501 of this title solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under section 13572(a)(2) of this title.

(Pub. L. 102–486, title XXXI, §3104, as added Pub. L. 109–58, title IV, §421(a), Aug. 8, 2005, 119 Stat. 759.)

[1] So in original. Probably should be "purposes of section".

CHAPTER 135—RESIDENCY AND SERVICE REQUIREMENTS IN FEDERALLY ASSISTED HOUSING

SUBCHAPTER I—STANDARDS AND OBLIGATIONS OF RESIDENCY IN FEDERALLY ASSISTED HOUSING

SUBCHAPTER II—AUTHORITY TO PROVIDE PREFERENCES FOR ELDERLY RESIDENTS AND UNITS FOR DISABLED RESIDENTS IN CERTAIN SECTION 8 ASSISTED

SUBCHAPTER I—STANDARDS AND OBLIGATIONS OF RESIDENCY IN FEDERALLY ASSISTED HOUSING

§13601. Compliance by owners as condition of Federal assistance

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 13641(2) of this title), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subchapter.

(Pub. L. 102–550, title VI, §641, Oct. 28, 1992, 106 Stat. 3820.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Chapter applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

§13602. Compliance with criteria for occupancy as requirement for tenancy

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 13603 of this title. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

(Pub. L. 102–550, title VI, §642, Oct. 28, 1992, 106 Stat. 3821.)

§13603. Establishment of criteria for occupancy

(a) Task force

(1) Establishment

To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) Members

The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, persons with disabilities and disabled families, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) Compensation

Members of the task force shall not receive compensation for serving on the task force.

(4) Duties

The task force shall—

(A) review all existing standards, regulations, and guidelines governing occupancy and tenant selection policies in federally assisted housing;

(B) review all existing standards, regulations, and guidelines governing lease provisions and other rules of occupancy for federally assisted housing;

(C) determine whether the standards, regulations, and guidelines reviewed under subparagraphs (A) and (B) provide sufficient guidance to owners and managers of federally assisted housing to—

(i) develop procedures for preselection inquiries sufficient to determine the capacity of applicants to comply with reasonable lease terms and conditions of occupancy;

(ii) utilize leases that prohibit behavior which endangers the health or safety of other tenants or violates the rights of other tenants to peaceful enjoyment of the premises;

(iii) assess the need to provide, and appropriate measures for providing, reasonable accommodations required under the Fair Housing Act [42 U.S.C. 3601 et seq.] and section 794 of title 29 for persons with various types of disabilities; and

(iv) comply with civil rights laws and regulations;

(D) propose criteria for occupancy in federally assisted housing, standards for the reasonable performance and behavior of tenants of federally assisted housing, compliance standards consistent with the reasonable accommodation of the requirements of the Fair Housing Act [42 U.S.C. 3601 et seq.] and section 794 of title 29, standards for compliance with other civil rights laws, and procedures for the eviction of tenants not complying with such standards consistent with sections 1437d and 1437f of this title; and

(E) report to the Congress and the Secretary of Housing and Urban Development pursuant to paragraph (7).

(5) Procedure

In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) Support

The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) Reports

Not later than 3 months after October 28, 1992, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after October 28, 1992, the task force shall submit a report to the Secretary and the Congress, which shall include—

(A) a description of its findings; and

(B) recommendations to revise such standards, regulations, and guidelines to provide accurate and complete guidance to owners and managers of federally assisted housing as determined necessary under paragraph (4).

(b) Rulemaking

(1) Authority

The Secretary shall, by regulation, establish criteria for selection of tenants for occupancy in federally assisted housing and lease provisions for such housing.

(2) Standards

The criteria shall provide sufficient guidance to owners and managers of federally assisted housing to enable them to (A) select tenants capable of complying with reasonable lease terms, (B) utilize leases prohibiting behavior which endangers the health or safety of others or violates the right of other tenants to peaceful enjoyment of the premises, (C) comply with legal requirements to make reasonable accommodations for persons with disabilities, and (D) comply with civil rights laws. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 1437d of this title and section 1437f(d)(1) of this title and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the report of the task force under subsection (a)(7).

(3) Procedure

Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5 (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall not be less than 60 days. The Secretary shall issue final regulations under this subsection not later than the expiration of the 60-day period beginning upon the conclusion of the comment period, which shall take effect upon issuance.

(Pub. L. 102–550, title VI, §643, Oct. 28, 1992, 106 Stat. 3821.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Fair Housing Act, referred to in subsec. (a)(4)(C)(iii), (D), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

§13604. Assisted applications

(a) Authority

The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization, and that the owner shall treat such information as confidential.

(b) Maintenance of information

The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

(c) Limitations

An owner of federally assisted housing may not require any individual or family applying for occupancy in the housing to provide the information described in subsection (a).

(Pub. L. 102–550, title VI, §644, Oct. 28, 1992, 106 Stat. 3823.)

SUBCHAPTER II—AUTHORITY TO PROVIDE PREFERENCES FOR ELDERLY RESIDENTS AND UNITS FOR DISABLED RESIDENTS IN CERTAIN SECTION 8 ASSISTED HOUSING

§13611. Authority

Notwithstanding any other provision of law, an owner of a covered section 8 housing project (as such term is defined in section 13619 of this title) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subchapter.

(Pub. L. 102–550, title VI, §651, Oct. 28, 1992, 106 Stat. 3823.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle D of title VI of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3823, which enacted this subchapter and amended section 1437f of this title.

§13612. Reservation of units for disabled families

(a) Requirement

Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 13611 of this title, such owner shall (subject to sections 13613, 13614, and 13615 of this title) reserve units in the project for occupancy only by disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) Number of units

Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

(1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such disabled families upon October 28, 1992; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

(Pub. L. 102–550, title VI, §652, Oct. 28, 1992, 106 Stat. 3823.)

§13613. Secondary preferences

(a) Insufficient elderly families

If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 13611 of this title determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 13612 of this title, the owner may give preference for occupancy of such units to disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) Insufficient non-elderly disabled families

If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 13611 of this title determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 13612 of this title, the owner may give preference for occupancy of units so reserved to disabled families who are near-elderly families and have applied for occupancy in the housing.

(Pub. L. 102–550, title VI, §653, Oct. 28, 1992, 106 Stat. 3824.)

EDITORIAL NOTES

REFERENCES IN TEXT

Covered section 8 housing, referred to in text, is defined in section 13619 of this title.

§13614. General availability of units

If an owner of a covered section 8 housing project in which disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 13613 of this title determines (in accordance with regulations established by the Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subchapter.

(Pub. L. 102–550, title VI, §654, Oct. 28, 1992, 106 Stat. 3824.)

EDITORIAL NOTES

REFERENCES IN TEXT

Covered section 8 housing, referred to in text, is defined in section 13619 of this title.

§13615. Preference within groups

Among disabled families qualifying for occupancy in units reserved under section 13612 of this title, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 13611 or 13613 of this title, preference for occupancy in units that are assisted

under section 1437f of this title shall be given to disabled families according to any preferences established under any system established under section 1437f(d)(1)(A) of this title by the public housing agency.

(Pub. L. 102–550, title VI, §655, Oct. 28, 1992, 106 Stat. 3824; Pub. L. 104–99, title IV, §402(d)(6)(C), Jan. 26, 1996, 110 Stat. 43; Pub. L. 105–276, title V, §514(b)(2)(B), Oct. 21, 1998, 112 Stat. 2548.)

EDITORIAL NOTES

AMENDMENTS

1998—Pub. L. 105–276 substituted "shall be given to disabled families according to any preferences established under any system established under section 1437f(d)(1)(A) of this title by the public housing agency." for "shall be given to disabled families according to the preferences for occupancy referred to in section 1437f(d)(1)(A)(i) of this title and the first sentence of section 1437f(o)(3)(B) of this title, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively."

1996—Pub. L. 104–99, §402(d)(6)(C), (f), temporarily substituted "any preferences" for "the preferences for occupancy referred to in section 1437f(d)(1)(A)(i) of this title and the first sentence of section 1437f(o)(3)(B) of this title, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively". See Effective and Termination Dates of 1996 Amendment note below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of this title.

§13616. Prohibition of evictions

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 13612 of this title or any preference for occupancy established pursuant to this subchapter, is lawfully residing in a dwelling unit in a covered section 8 housing project, may not be evicted or otherwise required to vacate such unit because of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subchapter.

(Pub. L. 102–550, title VI, §656, Oct. 28, 1992, 106 Stat. 3824.)

EDITORIAL NOTES

REFERENCES IN TEXT

Covered section 8 housing, referred to in text, is defined in section 13619 of this title.

§13617. Treatment of covered section 8 housing not subject to elderly preference

If an owner of any covered section 8 housing project designed primarily for occupancy by elderly families does not give preference in occupancy to elderly families as authorized in this subchapter, then elderly families (as such term was defined in section 1437a of this title before October 28, 1992) shall be eligible for occupancy in such housing to the same extent that such families were eligible before October 28, 1992.

(Pub. L. 102–550, title VI, §657, Oct. 28, 1992, 106 Stat. 3825.)

EDITORIAL NOTES

REFERENCES IN TEXT

Covered section 8 housing, referred to in text, is defined in section 13619 of this title.

§13618. Treatment of other federally assisted housing

(a) Restricted occupancy

An owner of any federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 13641(2) of this title that was designed for occupancy by elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing.

(b) Prohibition of evictions

Any tenant who is lawfully residing in a dwelling unit in a housing project described in subsection (a) may not be evicted or otherwise required to vacate such unit because of any reservation or preferences under this subchapter or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subchapter.

(Pub. L. 102–550, title VI, §658, Oct. 28, 1992, 106 Stat. 3825.)

§13619. "Covered section 8 housing" defined

For purposes of this subchapter, the term "covered section 8 housing" means housing described in section 13641(2)(G) of this title that was originally designed for occupancy by elderly families.

(Pub. L. 102–550, title VI, §659, Oct. 28, 1992, 106 Stat. 3825.)

§13620. Study

The Secretary of Housing and Urban Development shall conduct a study to determine the extent to which Federal housing programs serve elderly families, disabled families, and families with children, in relation to the need of such families who are eligible for assistance under such programs. The Secretary shall submit a report to the Congress describing the study and the findings of the study not later than the expiration of the 1-year period beginning on October 28, 1992.

(Pub. L. 102–550, title VI, §661, Oct. 28, 1992, 106 Stat. 3825.)

SUBCHAPTER III—SERVICE COORDINATORS FOR ELDERLY AND DISABLED RESIDENTS OF FEDERALLY ASSISTED HOUSING

§13631. Requirement to provide service coordinators

(a) In general

To the extent that amounts are made available for providing service coordinators under this section, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise

retaining the services of one or more individuals to coordinate the provision of supportive services for elderly and disabled families residing in the projects (in this section referred to as a "service coordinator"). No such elderly or disabled family may be required to accept services.

(b) Responsibilities

Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle [1] or the amendments made by this subtitle— [1]

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 8011(d)(4) of this title; and

(5) may carry out other appropriate activities for residents of the project.

(c) Included services

Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, education and outreach regarding telemarketing fraud in accordance with the standards issued under subsection (f), and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) Covered federally assisted housing

For purposes of this subtitle,[1] the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 13641(2) of this title), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

(e) Services for low-income elderly or disabled families residing in vicinity of certain projects

To the extent only that this section applies to service coordinators for covered federally assisted housing described in subparagraphs (B), (C), (D), (E), (F), and (G) of section 13641(2) of this title, any reference in this section to elderly or disabled residents of a project shall be construed to include low-income elderly or disabled families living in the vicinity of such project.

(f) Protection against telemarketing fraud

(1) In general

The Secretary, in coordination with the Secretary of Health and Human Services, shall establish standards for service coordinators in federally assisted housing who are providing education and outreach to elderly persons residing in such housing regarding telemarketing fraud. The standards shall be designed to ensure that such education and outreach informs such elderly persons of the dangers of telemarketing fraud and facilitates the investigation and prosecution of telemarketers engaging in fraud against such residents.

(2) Contents

The standards established under this subsection shall require that any such education and outreach be provided in a manner that—

(A) informs such residents of—

(i) the prevalence of telemarketing fraud targeted against elderly persons;

(ii) how telemarketing fraud works;

(iii) how to identify telemarketing fraud;

(iv) how to protect themselves against telemarketing fraud, including an explanation of the dangers of providing bank account, credit card, or other financial or personal information over the telephone to unsolicited callers;

(v) how to report suspected attempts at telemarketing fraud; and

(vi) their consumer protection rights under Federal law;

(B) provides such other information as the Secretary considers necessary to protect such residents against fraudulent telemarketing; and

(C) disseminates the information provided by appropriate means, and in determining such appropriate means, the Secretary shall consider on-site presentations at federally assisted housing, public service announcements, a printed manual or pamphlet, an Internet website, and telephone outreach to residents whose names appear on "mooch lists" confiscated from fraudulent telemarketers.

(Pub. L. 102–550, title VI, §671, Oct. 28, 1992, 106 Stat. 3826; Pub. L. 106–569, title VIII, §851(b), (c)(2), Dec. 27, 2000, 114 Stat. 3024.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (b) and (d), means subtitle E of title VI of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3826, which enacted this subchapter, amended sections 1437f, 1437g, and 8011 of this title and section 1701q of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1701q of Title 12.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–569, §851(b)(1), in first sentence, substituted "for providing service coordinators under this section," for "to carry out this subtitle pursuant to the amendments made by this subtitle,".

Subsec. (c). Pub. L. 106–569, §851(c)(2)(A), in first sentence, inserted "education and outreach regarding telemarketing fraud in accordance with the standards issued under subsection (f)," after "response,".

Subsec. (d). Pub. L. 106–569, §851(b)(2), inserted closing parenthesis after "section 13641(2) of this title".

Subsec. (e). Pub. L. 106–569, §851(b)(3), added subsec. (e).

Subsec. (f). Pub. L. 106–569, §851(c)(2)(B), added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by title VIII of Pub. L. 106–569 effective Dec. 27, 2000, unless effectiveness or applicability upon another date certain is specifically provided for, with provisions relating to effect of regulatory authority, see section 803 of Pub. L. 106–569, set out as a note under section 1701q of Title 12, Banks and Banking.

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

§13632. Grants for costs of providing service coordinators in certain federally assisted housing

(a) Authority

The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (B), (C), (D), (E), (F), and (G) of section 13641(2) of this title. Any grant amounts shall be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 13631 of this title to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families (as such terms are defined in section 13641 of this title). A service coordinator funded with a grant under this

section for a project may provide services to low-income elderly or disabled families living in the vicinity of such project.

(b) Application and selection

The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) Eligible project expense

For any federally assisted housing project described in subparagraph (B), (C), (D), (E), (F), or (G) of section 13641(2) of this title that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 13631 of this title and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

(Pub. L. 102–550, title VI, §676, Oct. 28, 1992, 106 Stat. 3828; Pub. L. 106–569, title VIII, §851(a), Dec. 27, 2000, 114 Stat. 3023.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–569, §851(a)(1), substituted "certain federally assisted housing" for "multifamily housing assisted under National Housing Act" in section catchline.

Subsec. (a). Pub. L. 106–569, §851(a)(2), substituted "subparagraphs (B), (C), (D), (E), (F), and (G) of section 13641(2) of this title" for "subparagraphs (E) and (F) of section 13641(2) of this title", made technical amendment to reference in original act which appears in text as reference to section 13631 of this title, and inserted at end "A service coordinator funded with a grant under this section for a project may provide services to low-income elderly or disabled families living in the vicinity of such project."

Subsec. (c). Pub. L. 106–569, §851(a)(4), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for grants under this section."

Subsec. (d). Pub. L. 106–569, §851(a)(4), redesignated subsec. (d) as (c).

Pub. L. 106–569, §851(a)(3), substituted "subparagraph (B), (C), (D), (E), (F), or (G) of section 13641(2) of this title" for "subparagraph (E) or (F) of section 13641(2) of this title" and made technical amendment to reference in original act which appears in text as reference to section 13631 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by title VIII of Pub. L. 106–569 effective Dec. 27, 2000, unless effectiveness or applicability upon another date certain is specifically provided for, with provisions relating to effect of regulatory authority, see section 803 of Pub. L. 106–569, set out as a note under section 1701q of Title 12, Banks and Banking.

SUBCHAPTER IV—GENERAL PROVISIONS

§13641. Definitions

For purposes of this title: [1]

(1) Elderly, disabled, and near-elderly families

The terms "elderly family", "disabled family", and "near-elderly family" have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(3)].

(2) Federally assisted housing

The terms "federally assisted housing" and "project" mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

(C) housing that is assisted under section 1701q of title 12;

(D) housing that is assisted under section 1701q of title 12, as such section existed before November 28, 1990;

(E) housing financed by a loan or mortgage insured under section 1715l(d)(3) of title 12 that bears interest at a rate determined under the proviso of section 1715l(d)(5) of title 12;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 1715z–1 of title 12;

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)], as in effect before October 1, 1983, that is assisted under a contract for assistance under such section; and

(H) housing that is assisted under section 8013 [1] of this title.

(3) Housing assistance

The term "housing assistance" means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) Owner

The term "owner" means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 102–550, title VI, §683, Oct. 28, 1992, 106 Stat. 3831; Pub. L. 111–8, div. I, title II, §228, Mar. 11, 2009, 123 Stat. 978.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, is title VI of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3802, which enacted this chapter, amended sections 1437a, 1437c to 1437g, 1437l, 1437o, 1438, 8011 to 8013, 12705, 12901 to 12910, and 12912 of this title and section 1701q of Title 12, Banks and Banking, enacted provisions set out as notes under sections 1437a, 8011, and 12901 of this title and section 1701q of Title 12, and amended provisions set out as a note under section 1701q of Title 12. For complete classification of this title to the Code, see Short Title of 1992 Amendment note set out under section 5301 of this title and Tables.

Section 8013 of this title, referred to in par. (2)(H), was in the original "section 811 of the Cranston-Gonzalez Affording Housing Act (42 U.S.C. 8013)", and was translated as reading "section 811 of the Cranston-Gonzalez National Affordable Housing Act", which is classified to section 8013 of this title, to reflect the probable intent of Congress.

AMENDMENTS

2009—Par. (2)(H). Pub. L. 111–8 added subpar. (H).

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

§13642. Applicability

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6-month period beginning on October 28, 1992.

(Pub. L. 102–550, title VI, §684, Oct. 28, 1992, 106 Stat. 3832.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subtitles B through F of this title, referred to in text, mean subtitles B to F of title VI of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3812–3830, which enacted this chapter, amended sections 1437a, 1437c to 1437g, 1437l, 1437o, 1438, 8011, 8013, and 12705 of this title and section 1701q of Title 12, Banks and Banking, and enacted provisions set out as notes under section 1437a of this title and section 1701q of Title 12.

§13643. Regulations

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title and the amendments made by such subtitles not later than the expiration of the 6-month period beginning on October 28, 1992. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5 (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(Pub. L. 102–550, title VI, §685, Oct. 28, 1992, 106 Stat. 3832.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subtitles B through F of this title, referred to in text, mean subtitles B to F of title VI of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3812–3830, which enacted this chapter, amended sections 1437a, 1437c to 1437g, 1437l, 1437o, 1438, 8011, 8013, and 12705 of this title and section 1701q of Title 12, Banks and Banking, and enacted provisions set out as notes under section 1437a of this title and section 1701q of Title 12.

SUBCHAPTER V—SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING

§13661. Screening of applicants for federally assisted housing

(a) Ineligibility because of eviction for drug crimes

Any tenant evicted from federally assisted housing by reason of drug-related criminal activity (as such term is defined in section 1437a(b) of this title) shall not be eligible for federally assisted housing during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).

(b) Ineligibility of illegal drug users and alcohol abusers

(1) In general

Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as determined by the Secretary, shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member—

(A) who the public housing agency or owner determines is illegally using a controlled

substance; or

(B) with respect to whom the public housing agency or owner determines that it has reasonable cause to believe that such household member's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) Consideration of rehabilitation

In determining whether, pursuant to paragraph (1)(B), to deny admission to the program or federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) Authority to deny admission to criminal offenders

Except as provided in subsections (a) and (b) of this section and in addition to any other authority to screen applicants, in selecting among applicants for admission to the program or to federally assisted housing, if the public housing agency or owner of such housing (as applicable) determines that an applicant or any member of the applicant's household is or was, during a reasonable time preceding the date when the applicant household would otherwise be selected for admission, engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, or public housing agency employees, the public housing agency or owner may—

(1) deny such applicant admission to the program or to federally assisted housing; and

(2) after the expiration of the reasonable period beginning upon such activity, require the applicant, as a condition of admission to the program or to federally assisted housing, to submit to the public housing agency or owner evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in criminal activity for which denial was made under paragraph (1) have not engaged in any criminal activity during such reasonable period.

(Pub. L. 105–276, title V, §576, Oct. 21, 1998, 112 Stat. 2639.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of subtitles C to F of title VI of Pub. L. 102–550 which comprise this chapter.

Section is comprised of section 576 of Pub. L. 105–276. Subsec. (d) of section 576 of Pub. L. 105–276 amended sections 1437d and 1437n of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of this section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§13662. Termination of tenancy and assistance for illegal drug users and alcohol abusers in federally assisted housing

(a) In general

Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing (as applicable), shall establish standards or lease provisions for continued assistance or occupancy in federally assisted housing that allow the agency or owner (as applicable) to terminate the tenancy or assistance for any household with a member—

(1) who the public housing agency or owner determines is illegally using a controlled substance; or

(2) whose illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) Consideration of rehabilitation

In determining whether, pursuant to subsection (a)(2), to terminate tenancy or assistance to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(1) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(2) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(3) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(Pub. L. 105–276, title V, §577, Oct. 21, 1998, 112 Stat. 2640.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of subtitles C to F of title VI of Pub. L. 102–550 which comprise this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of this section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§13663. Ineligibility of dangerous sex offenders for admission to public housing

(a) In general

Notwithstanding any other provision of law, an owner of federally assisted housing shall prohibit admission to such housing for any household that includes any individual who is subject to a lifetime registration requirement under a State sex offender registration program.

(b) Obtaining information

As provided in regulations issued by the Secretary to carry out this section—

(1) a public housing agency shall carry out criminal history background checks on applicants for

federally assisted housing and make further inquiry with State and local agencies as necessary to determine whether an applicant for federally assisted housing is subject to a lifetime registration requirement under a State sex offender registration program; and

(2) State and local agencies responsible for the collection or maintenance of criminal history record information or information on persons required to register as sex offenders shall comply with requests of public housing agencies for information pursuant to this section.

(c) Requests by owners for PHAs to obtain information

A public housing agency may take any action under subsection (b) regarding applicants for, or tenants of, federally assisted housing other than federally assisted housing described in subparagraph (A) or (B) of section 13664(a)(2) of this title, but only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency take such action on behalf of the owner. Upon such a request by the owner, the agency shall take the action requested under subsection (b). The agency may not make any information obtained pursuant to the action under subsection (b) available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(d) Opportunity to dispute

Before an adverse action is taken with respect to an applicant for federally assisted housing on the basis that an individual is subject to a lifetime registration requirement under a State sex offender registration program, the public housing agency obtaining the record shall provide the tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information.

(e) Fee

A public housing agency may be charged a reasonable fee for taking actions under subsection (b). In the case of a public housing agency taking actions on behalf of another owner of federally assisted housing pursuant to subsection (c), the agency may pass such fee on to the owner making the request and may charge an additional reasonable fee for making the request on behalf of the owner.

(f) Records management

Each public housing agency shall establish and implement a system of records management that ensures that any criminal record or information regarding a lifetime registration requirement under a State sex offender registration program that is obtained under this section by the public housing agency is—

(1) maintained confidentially;

(2) not misused or improperly disseminated; and

(3) destroyed, once the purpose for which the record was requested has been accomplished.

(Pub. L. 105–276, title V, §578, Oct. 21, 1998, 112 Stat. 2641.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of subtitles C to F of title VI of Pub. L. 102–550 which comprise this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of this section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

§13664. Definitions

(a) [1] Definitions

For purposes of this subchapter, the following definitions shall apply:

(1) Drug-related criminal activity

The term "drug-related criminal activity" has the meaning given the term in section 1437a(b) of this title.

(2) Federally assisted housing

The term "federally assisted housing" means a dwelling unit—

(A) in public housing (as such term is defined in section 1437a(b) of this title);

(B) assisted with tenant-based assistance under section 1437f of this title;

(C) in housing that is provided project-based assistance under section 1437f of this title, including new construction and substantial rehabilitation projects;

(D) in housing that is assisted under section 1701q of title 12 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(E) in housing that is assisted under section 1701q of title 12, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act [November 28, 1990];

(F) in housing that is assisted under section 8013 of this title;

(G) in housing financed by a loan or mortgage insured under section 1715l(d)(3) of title 12 that bears interest at a rate determined under the proviso of section 1715l(d)(5) of title 12;

(H) in housing insured, assisted, or held by the Secretary or a State or State agency under section 1715z–1 of title 12; or

(I) in housing assisted under section 1484 or 1485 of this title.

(3) Owner

The term "owner" means, with respect to federally assisted housing, the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in such housing.

(Pub. L. 105–276, title V, §579, Oct. 21, 1998, 112 Stat. 2642.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 801 of the Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (a)(2)(D), is section 801 of Pub. L. 101–625.

CODIFICATION

Section was enacted as part of the Quality Housing and Work Responsibility Act of 1998, and not as part of subtitles C to F of title VI of Pub. L. 102–550 which comprise this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement any provision of this section before such date, except to extent otherwise provided, see section 503 of Pub. L. 105–276, set out as an Effective Date of 1998 Amendment note under section 1437 of this title.

[1] *So in original. No subsec. (b) has been enacted.*

CHAPTER 136—VIOLENT CRIME CONTROL AND LAW ENFORCEMENT

SUBCHAPTER I—PRISONS

PART A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

Sec.

PART B—MISCELLANEOUS PROVISIONS

SUBCHAPTER II—CRIME PREVENTION

PART A—OUNCE OF PREVENTION COUNCIL

PART B—LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM

PART C—MODEL INTENSIVE GRANT PROGRAMS

PART D—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

PART E—ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH

PART F—POLICE RECRUITMENT

PART G—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

SUBPART 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

SUBPART 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

SUBPART 3—MISCELLANEOUS PROVISIONS

PART H—COMMUNITY-BASED JUSTICE GRANTS FOR PROSECUTORS

PART I—FAMILY UNITY DEMONSTRATION PROJECT

SUBPART 1—GRANTS TO STATES

SUBPART 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

13902.

PART J—PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS

13911. Transferred.

PART K—GANG RESISTANCE EDUCATION AND TRAINING

13921. Transferred.

SUBCHAPTER III—VIOLENCE AGAINST WOMEN

13925. Transferred.

PART A—SAFE STREETS FOR WOMEN

SUBPART 1—SAFETY FOR WOMEN IN PUBLIC TRANSIT

13931. Transferred.

SUBPART 2—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

13941 to 13943. Transferred.

PART B—SAFE HOMES FOR WOMEN

SUBPART 1—CONFIDENTIALITY FOR ABUSED PERSONS

13951. Transferred.

SUBPART 2—DATA AND RESEARCH

13961 to 13963. Transferred.

SUBPART 3—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

13971. Transferred.

SUBPART 3A—RESEARCH ON EFFECTIVE INTERVENTIONS TO ADDRESS VIOLENCE AGAINST WOMEN

13973. Repealed.

SUBPART 4—TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

13975. Transferred.

PART C—CIVIL RIGHTS FOR WOMEN

13981. Transferred.

PART D—EQUAL JUSTICE FOR WOMEN IN COURTS

SUBPART 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

13991 to 13994. Transferred or Omitted.

SUBPART 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

14001, 14002. Transferred or Omitted.

PART E—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

14011 to 14016. Transferred or Omitted.

PART F—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

14031 to 14040. Transferred.

PART G—ENHANCED TRAINING AND SERVICES TO END ABUSE LATER IN LIFE

14041 to 14041b. Transferred or Omitted.

PART H—DOMESTIC VIOLENCE TASK FORCE

14042. Transferred.

PART I—VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS

14043 to 14043a–3. Repealed.

PART J—PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING

14043b to 14043b–4. Transferred or Omitted.

PART K—SERVICES, EDUCATION, PROTECTION AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

14043c to 14043c–3. Repealed or Transferred.

PART L—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE AGAINST WOMEN AND CHILDREN

14043d to 14043d–4. Repealed or Transferred.

PART M—ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

SUBPART 1—GRANT PROGRAMS

14043e to 14043e–4. Transferred.

SUBPART 2—HOUSING RIGHTS

14043e–11. Transferred.

PART N—NATIONAL RESOURCE CENTER

14043f. Transferred.

PART N–1—SEXUAL ASSAULT SERVICES

14043g, 14043g–1. Transferred.

PART N–2—RAPE SURVIVOR CHILD CUSTODY

14043h to 14043h–7. Transferred.

PART O—COMBATTING DOMESTIC TRAFFICKING IN PERSONS

14044 to 14044h. Transferred.

PART P—MISCELLANEOUS AUTHORITIES

14045 to 14045d. Repealed or Transferred.

SUBCHAPTER IV—DRUG CONTROL

14051 to 14053. Transferred.

SUBCHAPTER V—CRIMINAL STREET GANGS

14061, 14062. Transferred.

SUBCHAPTER VI—CRIMES AGAINST CHILDREN

14071 to 14073. Repealed.

SUBCHAPTER VII—RURAL CRIME

14081 to 14083. Transferred or Omitted.

SUBCHAPTER VIII—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

PART A—POLICE CORPS

14091 to 14102. Repealed, Transferred, or Omitted.

PART B—LAW ENFORCEMENT SCHOLARSHIP PROGRAM

14111 to 14119. Transferred or Omitted.

SUBCHAPTER IX—STATE AND LOCAL LAW ENFORCEMENT

PART A—DNA IDENTIFICATION

14131 to 14137c. Transferred or Omitted.

PART B—POLICE PATTERN OR PRACTICE

14141, 14142. Transferred.

PART C—IMPROVED TRAINING AND TECHNICAL AUTOMATION

14151. Repealed.

PART D—OTHER STATE AND LOCAL AID

14161. Repealed.

PART E—IMPROVING THE QUALITY OF REPRESENTATION IN STATE CAPITAL CASES

14163 to 14163e. Transferred.

PART F—RAFAEL RAMOS AND WENJIAN LIU NATIONAL BLUE ALERT

14165 to 14165b. Transferred.

SUBCHAPTER X—MOTOR VEHICLE THEFT PROTECTION

14171. Transferred.

SUBCHAPTER XI—PROTECTIONS FOR THE ELDERLY

14181. Transferred.

SUBCHAPTER XII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

14191 to 14199. Omitted.

SUBCHAPTER XIII—VIOLENT CRIME REDUCTION TRUST FUND

14211 to 14214. Repealed or Transferred.

SUBCHAPTER XIV—MISCELLANEOUS

14221 to 14223. Transferred.

SUBCHAPTER I—PRISONS

PART A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

§13701. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13701 was editorially reclassified as section 12101 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104–236, §1, Oct. 3, 1996, 110 Stat. 3093, provided that: "This Act [enacting former sections 14072 and 14073 of this title, amending former section 14071 of this title, and enacting provisions formerly set out as notes under section 14071 of this title] may be cited as the 'Pam Lychner Sexual Offender Tracking and Identification Act of 1996'."

Pub. L. 104–145, §1, May 17, 1996, 110 Stat. 1345, provided that: "This Act [amending former section 14071 of this title] may be cited as 'Megan's Law'."

SHORT TITLE

Pub. L. 103–322, title IV, §41001, as added by Pub. L. 109–162, title I, §105(a), Jan. 5, 2006, 119 Stat. 2979, provided that subtitle J of title IV of Pub. L. 103–322, enacting part I (§14043 et seq.) of subchapter III of this chapter, could be cited as the "Violence Against Women Act Court Training and Improvements Act of 2005", prior to repeal by Pub. L. 113–4, title I, §104(b), Mar. 7, 2013, 127 Stat. 76.

§13702. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13702 was editorially reclassified as section 12102 of Title 34, Crime Control and Law Enforcement.

§13703. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13703 was editorially reclassified as section 12103 of Title 34, Crime Control and Law Enforcement.

§13704. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13704 was editorially reclassified as section 12104 of Title 34, Crime Control and Law Enforcement.

§13705. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13705 was editorially reclassified as section 12105 of Title 34, Crime Control and Law Enforcement.

§13706. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13706 was editorially reclassified as section 12106 of Title 34, Crime Control and Law Enforcement.

§13707. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13707 was editorially reclassified as section 12107 of Title 34, Crime Control and Law Enforcement.

§13708. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13708 was editorially reclassified as section 12108 of Title 34, Crime Control and Law Enforcement.

§13709. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13709 was editorially reclassified as section 12109 of Title 34, Crime Control and Law Enforcement.

§13710. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13710 was editorially reclassified as section 12110 of Title 34, Crime Control and Law Enforcement.

§13711. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13711 was editorially reclassified as section 12111 of Title 34, Crime Control and Law Enforcement.

§13712. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13712 was editorially reclassified as section 12112 of Title 34, Crime Control and Law Enforcement.

§13713. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13713 was editorially reclassified as section 12113 of Title 34, Crime Control and Law Enforcement.

PART B—MISCELLANEOUS PROVISIONS

§13721. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13721 was editorially reclassified as section 12121 of Title 34, Crime Control and Law Enforcement.

§13722. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13722 was editorially reclassified as section 12122 of Title 34, Crime Control and Law Enforcement.

§13723. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title II, §20410, Sept. 13, 1994, 108 Stat. 1828; Pub. L. 105–33, title XI, §11717(b), Aug. 5, 1997, 111 Stat. 786, related to expansion of the District of Columbia Corrections Facility at Lorton, Virginia, and was omitted from the Code as being of special and not general application.

§13724. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13724 was editorially reclassified as section 12123 of Title 34, Crime Control and Law Enforcement.

§13725. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13725 was editorially reclassified as section 12124 of Title 34, Crime Control and Law Enforcement.

§13726. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13726 was editorially reclassified as section 60101 of Title 34, Crime Control and Law Enforcement.

§13726a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13726a was editorially reclassified as section 60102 of Title 34, Crime Control and Law Enforcement.

§13726b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13726b was editorially reclassified as section 60103 of Title 34, Crime Control and Law Enforcement.

§13726c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13726c was editorially reclassified as section 60104 of Title 34, Crime Control and Law Enforcement.

§13727. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13727 was editorially reclassified as section 60105 of Title 34, Crime Control and Law Enforcement.

§13727a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13727a was editorially reclassified as a note under section 4001 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER II—CRIME PREVENTION

PART A—OUNCE OF PREVENTION COUNCIL

§13741. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13741 was editorially reclassified as section 12131 of Title 34, Crime Control and Law Enforcement.

§13742. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13742 was editorially reclassified as section 12132 of Title 34, Crime Control and Law Enforcement.

§13743. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13743 was editorially reclassified as section 12133 of Title 34, Crime Control and Law Enforcement.

§13744. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §30104, Sept. 13, 1994, 108 Stat. 1838, which authorized apropriations for fiscal years 1995 to 2000, was omitted as obsolete.

PART B—LOCAL CRIME PREVENTION BLOCK GRANT PROGRAM

§§13751 to 13758. Repealed. Pub. L. 109–162, title XI, §1154(b)(1), Jan. 5, 2006, 119 Stat. 3113

Section 13751, Pub. L. 103–322, title III, §30201, Sept. 13, 1994, 108 Stat. 1838, related to payments to local governments.

Section 13752, Pub. L. 103–322, title III, §30202, Sept. 13, 1994, 108 Stat. 1841, authorized appropriations.

Section 13753, Pub. L. 103–322, title III, §30203, Sept. 13, 1994, 108 Stat. 1841; Pub. L. 104–316, title I, §122(u), Oct. 19, 1996, 110 Stat. 3838, related to qualification for payment.

Section 13754, Pub. L. 103–322, title III, §30204, Sept. 13, 1994, 108 Stat. 1842, related to allocation and distribution of funds.

Section 13755, Pub. L. 103–322, title III, §30205, Sept. 13, 1994, 108 Stat. 1843, related to utilization of funds to contract with the private sector.

Section 13756, Pub. L. 103–322, title III, §30206, Sept. 13, 1994, 108 Stat. 1843, related to public participation.

Section 13757, Pub. L. 103–322, title III, §30207, Sept. 13, 1994, 108 Stat. 1844, related to application of

administrative provisions.

Section 13758, Pub. L. 103–322, title III, §30208, Sept. 13, 1994, 108 Stat. 1844, defined terms for purposes of this part.

STATUTORY NOTES AND RELATED SUBSIDIARIES

YOUTH VIOLENCE REDUCTION DEMONSTRATION PROJECTS

Pub. L. 109–162, title XI, §1199, Jan. 5, 2006, 119 Stat. 3132, which authorized the Attorney General to make up to 5 grants for the purpose of carrying out Youth Violence Demonstration Projects, was editorially reclassified and is set out as a note under section 11313 of Title 34, Crime Control and Law Enforcement.

NATIONAL POLICE ATHLETIC/ACTIVITIES LEAGUE YOUTH ENRICHMENT

Pub. L. 106–367, Oct. 27, 2000, 114 Stat. 1412, as amended by Pub. L. 109–248, title VI, §§612–617, July 27, 2006, 120 Stat. 632, 633, known as the National Police Athletic/Activities League Youth Enrichment Act of 2000, which authorized the Assistant Attorney General for the Office of Justice Programs of the Department of Justice to award grants to the Police Athletic/Activities League, was editorially reclassified and is set out as a note under section 11313 of Title 34, Crime Control and Law Enforcement.

KIDS 2000 CRIME PREVENTION AND COMPUTER EDUCATION INITIATIVE

Pub. L. 106–313, title I, §112, Oct. 17, 2000, 114 Stat. 1260, known as the Kids 2000 Act, which authorized the Attorney General to make grants to the Boys and Girls Clubs of America for the purpose of funding effective after-school technology programs, was editorially reclassified and is set out as a note under section 11313 of Title 34, Crime Control and Law Enforcement.

ESTABLISHMENT OF BOYS AND GIRLS CLUBS

Pub. L. 104–294, title IV, §401, Oct. 11, 1996, 110 Stat. 3496, as amended by Pub. L. 105–133, §1, Dec. 2, 1997, 111 Stat. 2568; Pub. L. 107–273, div. B, title I, §1101, Nov. 2, 2002, 116 Stat. 1791; Pub. L. 108–344, §1, Oct. 18, 2004, 118 Stat. 1376, authorized the Director of the Bureau of Justice Assistance of the Department of Justice, for each of the fiscal years 2006, 2007, 2008, 2009, and 2010, to make a grant to the Boys and Girls Clubs of America for the purpose of establishing and extending Boys and Girls Clubs facilities where needed.

PART C—MODEL INTENSIVE GRANT PROGRAMS

§13771. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13771 was editorially reclassified as section 12141 of Title 34, Crime Control and Law Enforcement.

§13772. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13772 was editorially reclassified as section 12142 of Title 34, Crime Control and Law Enforcement.

§13773. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13773 was editorially reclassified as section 12143 of Title 34, Crime Control and Law Enforcement.

§13774. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13774 was editorially reclassified as section 12144 of Title 34, Crime Control and Law Enforcement.

§13775. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13775 was editorially reclassified as section 12145 of Title 34, Crime Control and Law Enforcement.

§13776. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13776 was editorially reclassified as section 12146 of Title 34, Crime Control and Law Enforcement.

§13777. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §30307, Sept. 13, 1994, 108 Stat. 1846, which authorized appropriations for fiscal years 1996 to 2000, was omitted as obsolete.

PART D—FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM

§13791. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13791 was editorially reclassified as section 12161 of Title 34, Crime Control and Law Enforcement.

§13792. Repealed. Pub. L. 105–277, div. A, §101(f) [title VIII, §301(d)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section, Pub. L. 103–322, title III, §30402, Sept. 13, 1994, 108 Stat. 1852, related to family and community endeavor schools grant program.

§13793. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §30403, Sept. 13, 1994, 108 Stat. 1855, which authorized appropriations for fiscal years 1995 to 2000, was omitted as obsolete.

PART E—ASSISTANCE FOR DELINQUENT AND AT-RISK YOUTH

§§13801, 13802. Repealed. Pub. L. 109–162, title XI, §1154(b)(2), Jan. 5, 2006, 119 Stat. 3113

Section 13801, Pub. L. 103–322, title III, §30701, Sept. 13, 1994, 108 Stat. 1855, provided grant authority to the Attorney General to support the development and operation of projects to provide residential services to delinquent and at-risk youth.

Section 13802, Pub. L. 103–322, title III, §30702, Sept. 13, 1994, 108 Stat. 1856, authorized appropriations.

PART F—POLICE RECRUITMENT

§13811. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13811 was editorially reclassified as section 12171 of Title 34, Crime Control and Law Enforcement.

§13812. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §30802, Sept. 13, 1994, 108 Stat. 1858, which authorized appropriations for fiscal years 1996 to 2000, was omitted as obsolete.

PART G—NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

SUBPART 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

§13821. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13821 was editorially reclassified as section 12181 of Title 34, Crime Control and Law Enforcement.

§13822. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13822 was editorially reclassified as section 12182 of Title 34, Crime Control and Law Enforcement.

§13823. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13823 was editorially reclassified as section 12183 of Title 34, Crime Control and Law Enforcement.

§13824. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13824 was editorially reclassified as section 12184 of Title 34, Crime Control and Law Enforcement.

§13825. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13825 was editorially reclassified as section 12185 of Title 34, Crime Control and Law Enforcement.

§13826. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13826 was editorially reclassified as section 12186 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

§13841. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13841 was editorially reclassified as section 12201 of Title 34, Crime Control and Law Enforcement.

§13842. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13842 was editorially reclassified as section 12202 of Title 34, Crime Control and Law Enforcement.

SUBPART 3—MISCELLANEOUS PROVISIONS

§13851. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13851 was editorially reclassified as section 12211 of Title 34, Crime Control and Law Enforcement.

§13852. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §31132, Sept. 13, 1994, 108 Stat. 1888, which authorized appropriations for fiscal years 1996 to 1999, was omitted as obsolete.

§13853. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13853 was editorially reclassified as section 12212 of Title 34, Crime Control and Law Enforcement.

PART H—COMMUNITY-BASED JUSTICE GRANTS FOR PROSECUTORS

§13861. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13861 was editorially reclassified as section 12221 of Title 34, Crime Control and Law Enforcement.

§13862. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13862 was editorially reclassified as section 12222 of Title 34, Crime Control and Law Enforcement.

§13863. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13863 was editorially reclassified as section 12223 of Title 34, Crime Control and Law

Enforcement.

§13864. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13864 was editorially reclassified as section 12224 of Title 34, Crime Control and Law Enforcement.

§13865. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13865 was editorially reclassified as section 12225 of Title 34, Crime Control and Law Enforcement.

§13866. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13866 was editorially reclassified as section 12226 of Title 34, Crime Control and Law Enforcement.

§13867. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §31707, Sept. 13, 1994, 108 Stat. 1892; Pub. L. 110–177, title III, §301(b), Jan. 7, 2008, 121 Stat. 2539, which authorized appropriations for fiscal years 2008 to 2012, was omitted as obsolete.

§13868. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13868 was editorially reclassified as section 12227 of Title 34, Crime Control and Law Enforcement.

PART I—FAMILY UNITY DEMONSTRATION PROJECT

§13881. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13881 was editorially reclassified as section 12241 of Title 34, Crime Control and Law Enforcement.

§13882. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13882 was editorially reclassified as section 12242 of Title 34, Crime Control and Law Enforcement.

§13883. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title III, §31904, Sept. 13, 1994, 108 Stat. 1894, which authorized appropriations for fiscal years 1996 to 2000, was omitted as obsolete.

SUBPART 1—GRANTS TO STATES

§13891. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13891 was editorially reclassified as section 12251 of Title 34, Crime Control and Law Enforcement.

§13892. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13892 was editorially reclassified as section 12252 of Title 34, Crime Control and Law Enforcement.

§13893. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13893 was editorially reclassified as section 12253 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

§13901. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13901 was editorially reclassified as section 12261 of Title 34, Crime Control and Law Enforcement.

§13902. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13902 was editorially reclassified as section 12262 of Title 34, Crime Control and Law Enforcement.

PART J—PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS

§13911. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13911 was editorially reclassified as section 12271 of Title 34, Crime Control and Law Enforcement.

PART K—GANG RESISTANCE EDUCATION AND TRAINING

§13921. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13921 was editorially reclassified as section 12281 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER III—VIOLENCE AGAINST WOMEN

§13925. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13925 was editorially reclassified as section 12291 of Title 34, Crime Control and Law Enforcement.

PART A—SAFE STREETS FOR WOMEN

SUBPART 1—SAFETY FOR WOMEN IN PUBLIC TRANSIT

§13931. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13931 was editorially reclassified as section 12301 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

§13941. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13941 was editorially reclassified as section 12311 of Title 34, Crime Control and Law Enforcement.

§13942. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13942 was editorially reclassified as section 12312 of Title 34, Crime Control and Law Enforcement.

§13943. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13943 was editorially reclassified as section 12313 of Title 34, Crime Control and Law Enforcement.

PART B—SAFE HOMES FOR WOMEN

SUBPART 1—CONFIDENTIALITY FOR ABUSED PERSONS

§13951. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13951 was editorially reclassified as section 12321 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—DATA AND RESEARCH

§13961. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13961 was editorially reclassified as section 12331 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEVELOPMENT OF RESEARCH AGENDA IDENTIFIED BY THE VIOLENCE AGAINST WOMEN ACT OF 1994

Pub. L. 106–386, div. B, title IV, §1404, Oct. 28, 2000, 114 Stat. 1514, required the Attorney General to direct the National Institute of Justice, in consultation and coordination with the Bureau of Justice Statistics and the National Academy of Sciences, through its National Research Council, to develop a research agenda based on the recommendations contained in the report entitled "Understanding Violence Against Women" of the National Academy of Sciences and, in consultation with the Secretary of the Department of Health and Human Services, to submit a report to Congress not later than Oct. 28, 2000, which was to include a description of the research agenda, a plan to implement the agenda, and recommendations for priorities in carrying out the agenda to most effectively advance knowledge about and means by which to prevent or reduce violence against women.

§13962. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13962 was editorially reclassified as section 12332 of Title 34, Crime Control and Law Enforcement.

§13963. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13963 was editorially reclassified as section 12333 of Title 34, Crime Control and Law Enforcement.

SUBPART 3—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

§13971. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13971 was editorially reclassified as section 12341 of Title 34, Crime Control and Law Enforcement.

SUBPART 3A—RESEARCH ON EFFECTIVE INTERVENTIONS TO ADDRESS VIOLENCE AGAINST WOMEN

EDITORIAL NOTES

CODIFICATION

This subpart was, in the original, chapter 11 of subtitle B of title IV of Pub. L. 103–322, and has been designated as subpart 3a of this part for purposes of codification. Another chapter 11 of subtitle B of title IV

of Pub. L. 103–322 is classified to subpart 4 (§12351) of part B of subchapter III of chapter 121 of Title 34, Crime Control and Law Enforcement.

§13973. Repealed. Pub. L. 113–4, title V, §501(b)(1), Mar. 7, 2013, 127 Stat. 101

Section, Pub. L. 103–322, title IV, §40297, as added Pub. L. 109–162, title V, §505, Jan. 5, 2006, 119 Stat. 3029, related to research on effective interventions in the health care setting.

SUBPART 4—TRANSITIONAL HOUSING ASSISTANCE GRANTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

§13975. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13975 was editorially reclassified as section 12351 of Title 34, Crime Control and Law Enforcement.

PART C—CIVIL RIGHTS FOR WOMEN

§13981. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13981 was editorially reclassified as section 12361 of Title 34, Crime Control and Law Enforcement.

PART D—EQUAL JUSTICE FOR WOMEN IN COURTS

SUBPART 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

§13991. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13991 was editorially reclassified as section 12371 of Title 34, Crime Control and Law Enforcement.

§13992. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13992 was editorially reclassified as section 12372 of Title 34, Crime Control and Law Enforcement.

§13993. Transferred

EDITORIAL NOTES

CODIFICATION

Section 13993 was editorially reclassified as section 12373 of Title 34, Crime Control and Law Enforcement.

§13994. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §40414, Sept. 13, 1994, 108 Stat. 1944; Pub. L. 106–386, div. B, title IV, §1406(a)(2), (c)(3), Oct. 28, 2000, 114 Stat. 1516, which authorized appropriations for fiscal years 2001 to 2005, was omitted as obsolete.

SUBPART 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

§14001. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14001 was editorially reclassified as section 12381 of Title 34, Crime Control and Law Enforcement.

§14002. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §40422, Sept. 13, 1994, 108 Stat. 1945; Pub. L. 106–386, div. B, title IV, §1406(b)(2), Oct. 28, 2000, 114 Stat. 1516, which authorized appropriations for fiscal years 1996 and 2001 to 2005, was omitted as obsolete.

PART E—VIOLENCE AGAINST WOMEN ACT IMPROVEMENTS

§14011. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14011 was editorially reclassified as section 12391 of Title 34, Crime Control and Law Enforcement.

§14012. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §40506, Sept. 13, 1994, 108 Stat. 1948, which related to a national baseline study and report on campus sexual assault, to be submitted to Congress no later than Sept. 1, 1996, was omitted as obsolete.

§14013. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §40507, Sept. 13, 1994, 108 Stat. 1949, which related to a report on battered women's syndrome, to be submitted to designated committees of the Senate and the House of Representatives not less than one year after Sept. 13, 1994, was omitted as obsolete.

§14014. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §40508, Sept. 13, 1994, 108 Stat. 1950, which related to a report on confidentiality of addresses for victims of domestic violence, was omitted as obsolete.

§14015. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §40509, Sept. 13, 1994, 108 Stat. 1950, which related to a report on recordkeeping relating to domestic violence, to be submitted to Congress not later than one year after Sept. 13, 1994, was omitted as obsolete.

§14016. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14016 was editorially reclassified as section 12392 of Title 34, Crime Control and Law Enforcement.

PART F—NATIONAL STALKER AND DOMESTIC VIOLENCE REDUCTION

§14031. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14031 was editorially reclassified as section 12401 of Title 34, Crime Control and Law Enforcement.

§14032. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14032 was editorially reclassified as section 12402 of Title 34, Crime Control and Law Enforcement.

§14033. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14033 was editorially reclassified as section 12403 of Title 34, Crime Control and Law Enforcement.

§14034. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14034 was editorially reclassified as section 12404 of Title 34, Crime Control and Law Enforcement.

§14035. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14035 was editorially reclassified as section 12405 of Title 34, Crime Control and Law Enforcement.

§14036. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14036 was editorially reclassified as section 12406 of Title 34, Crime Control and Law Enforcement.

§14037. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14037 was editorially reclassified as section 12407 of Title 34, Crime Control and Law Enforcement.

§14038. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14038 was editorially reclassified as section 12408 of Title 34, Crime Control and Law Enforcement.

§14039. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14039 was editorially reclassified as section 12409 of Title 34, Crime Control and Law Enforcement.

§14040. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14040 was editorially reclassified as section 12410 of Title 34, Crime Control and Law Enforcement.

PART G—ENHANCED TRAINING AND SERVICES TO END ABUSE LATER IN LIFE

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle H of title IV of Pub. L. 103–322, as added by Pub. L. 106–386, and was redesignated as part G of this subchapter for purposes of codification.

§14041. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14041 was editorially reclassified as section 12421 of Title 34, Crime Control and Law Enforcement.

§§14041a, 14041b. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 14041a and 14041b were omitted in the general amendment of this part by Pub. L. 113–4, title II, §204(a), Mar. 7, 2013, 127 Stat. 82.

Section 14041a, Pub. L. 103–322, title IV, §40802, as added Pub. L. 106–386, div. B, title II, §1209(a), Oct. 28, 2000, 114 Stat. 1509; amended Pub. L. 109–162, title II, §205(a), Jan. 5, 2006, 119 Stat. 3002, related to enhanced training and services to end violence against and abuse of women later in life.

Section 14041b, Pub. L. 103–322, title IV, §40803, as added Pub. L. 106–386, div. B, title II, §1209(a), Oct. 28, 2000, 114 Stat. 1509; amended Pub. L. 109–162, title II, §205(b), Jan. 5, 2006, 119 Stat. 3002, authorized appropriations for fiscal years 2007 through 2011.

PART H—DOMESTIC VIOLENCE TASK FORCE

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle I of title IV of Pub. L. 103–322, as added by Pub. L. 106–386, and was redesignated as part H of this subchapter for purposes of codification.

§14042. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14042 was editorially reclassified as section 12431 of Title 34, Crime Control and Law Enforcement.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY OF STATE LAWS REGARDING INSURANCE DISCRIMINATION AGAINST VICTIMS OF VIOLENCE AGAINST WOMEN

Pub. L. 106–386, div. B, title II, §1206, Oct. 28, 2000, 114 Stat. 1507, directed the Attorney General to conduct a national study to identify State laws that address insurance discrimination against victims of domestic violence and sexual assault and to submit to Congress a report and recommendations based on that study not later than 1 year after Oct. 28, 2000.

STUDY OF WORKPLACE EFFECTS FROM VIOLENCE AGAINST WOMEN

Pub. L. 106–386, div. B, title II, §1207, Oct. 28, 2000, 114 Stat. 1507, directed the Attorney General to conduct a national survey of programs to assist employers and employees on appropriate responses in the workplace to victims of domestic violence, stalking, or sexual assault, and not later than 18 months after Oct. 28, 2000, to submit to Congress a report and recommendations based on that survey.

STUDY OF UNEMPLOYMENT COMPENSATION FOR VICTIMS OF VIOLENCE AGAINST WOMEN

Pub. L. 106–386, div. B, title II, §1208, Oct. 28, 2000, 114 Stat. 1508, directed the Secretary of Labor, in consultation with the Attorney General, to conduct a national study to identify the impact of State unemployment compensation laws on victims of domestic violence when the victim's separation from employment is a direct result of the domestic violence and to submit to Congress a report and recommendations based on that study not later than 1 year after Oct. 28, 2000.

PART I—VIOLENCE AGAINST WOMEN ACT COURT TRAINING AND IMPROVEMENTS

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle J of title IV of Pub. L. 103–322, as added by Pub. L. 109–162, and was redesignated as part I of this subchapter for purposes of codification.

§§14043 to 14043a–3. Repealed. Pub. L. 113–4, title I, §104(b), Mar. 7, 2013, 127 Stat. 76

Section 14043, Pub. L. 103–322, title IV, §41002, as added Pub. L. 109–162, title I, §105(a), Jan. 5, 2006, 119 Stat. 2979, related to purpose of this part.

Section 14043a, Pub. L. 103–322, title IV, §41003, as added Pub. L. 109–162, title I, §105(a), Jan. 5, 2006, 119 Stat. 2980, related to grant requirements.

Section 14043a–1, Pub. L. 103–322, title IV, §41004, as added Pub. L. 109–162, title I, §105(a), Jan. 5, 2006, 119 Stat. 2980, related to national education curricula.

Section 14043a–2, Pub. L. 103–322, title IV, §41005, as added Pub. L. 109–162, title I, §105(a), Jan. 5,

2006, 119 Stat. 2981, related to tribal curricula.

Section 14043a—3, Pub. L. 103–322, title IV, §41006, as added Pub. L. 109–162, title I, §105(a), Jan. 5, 2006, 119 Stat. 2981; amended Pub. L. 109–271, §7(c)(2), Aug. 12, 2006, 120 Stat. 765, authorized appropriations for fiscal years 2007 to 2011.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal not effective until the beginning of the fiscal year following Mar. 7, 2013, see section 4 of Pub. L. 113–4, set out as an Effective Date of 2013 Amendment note under section 2261 of Title 18, Crimes and Criminal Procedure.

PART J—PRIVACY PROTECTIONS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL VIOLENCE, AND STALKING

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle K of title IV of Pub. L. 103–322, as added by Pub. L. 109–162, and was redesignated as part J of this subchapter for purposes of codification.

§14043b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043b was editorially reclassified as section 12441 of Title 34, Crime Control and Law Enforcement.

§14043b–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043b–1 was editorially reclassified as section 12442 of Title 34, Crime Control and Law Enforcement.

§14043b–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043b–2 was editorially reclassified as section 12443 of Title 34, Crime Control and Law Enforcement.

§14043b–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043b–3 was editorially reclassified as section 12444 of Title 34, Crime Control and Law Enforcement.

§14043b–4. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title IV, §41105, as added Pub. L. 109–162, title I, §107, Jan. 5, 2006, 119 Stat. 2984, which authorized appropriations for fiscal years 2007 to 2011, was omitted as obsolete.

PART K—SERVICES, EDUCATION, PROTECTION AND JUSTICE FOR YOUNG VICTIMS OF VIOLENCE

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle L of title IV of Pub. L. 103–322, as added by Pub. L. 109–162, and was redesignated as part K of this subchapter for purposes of codification.

§14043c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043c was editorially reclassified as section 12451 of Title 34, Crime Control and Law Enforcement.

§§14043c–1 to 14043c–3. Repealed. Pub. L. 113–4, title III, §302, Mar. 7, 2013, 127 Stat. 84

Section 14043c–1, Pub. L. 103–322, title IV, §41202, as added Pub. L. 109–162, title III, §303, Jan. 5, 2006, 119 Stat. 3005, related to access to justice for youth.

Section 14043c–2, Pub. L. 103–322, title IV, §41203, as added Pub. L. 109–162, title III, §303, Jan. 5, 2006, 119 Stat. 3008, related to grants for training and collaboration on the intersection between domestic violence and child maltreatment.

Section 14043c–3, Pub. L. 103–322, title IV, §41204, as added Pub. L. 109–162, title III, §303, Jan. 5, 2006, 119 Stat. 3010; amended Pub. L. 109–271, §4(a), Aug. 12, 2006, 120 Stat. 758, related to grants to combat domestic violence, dating violence, sexual assault, and stalking in middle and high schools.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal not effective until the beginning of the fiscal year following Mar. 7, 2013, see section 4 of Pub. L. 113–4, set out as an Effective Date of 2013 Amendment note under section 2261 of Title 18, Crimes and Criminal Procedure.

PART L—STRENGTHENING AMERICA'S FAMILIES BY PREVENTING VIOLENCE AGAINST WOMEN AND CHILDREN

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle M of title IV of Pub. L. 103–322, as added by Pub. L. 109–162, and was redesignated as part L of this subchapter for purposes of codification.

§14043d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043d was editorially reclassified as section 12461 of Title 34, Crime Control and Law Enforcement.

§14043d–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043d–1 was editorially reclassified as section 12462 of Title 34, Crime Control and Law Enforcement.

§14043d–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043d–2 was editorially reclassified as section 12463 of Title 34, Crime Control and Law Enforcement.

§§14043d–3, 14043d–4. Repealed. Pub. L. 113–4, title IV, §402(b)(1), Mar. 7, 2013, 127 Stat. 95

Section 14043d–3, Pub. L. 103–322, title IV, §41304, as added Pub. L. 109–162, title IV, §401, Jan. 5, 2006, 119 Stat. 3020, authorized grants for the development of curricula and pilot programs for home visitation projects.

Section 14043d–4, Pub. L. 103–322, title IV, §41305, as added Pub. L. 109–162, title IV, §401, Jan. 5, 2006, 119 Stat. 3021, authorized grants for engaging men and youth in preventing domestic violence, dating

violence, sexual assault, and stalking.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal not effective until the beginning of the fiscal year following Mar. 7, 2013, see section 4 of Pub. L. 113–4, set out as an Effective Date of 2013 Amendment note under section 2261 of Title 18, Crimes and Criminal Procedure.

PART M—ADDRESSING THE HOUSING NEEDS OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

EDITORIAL NOTES

CODIFICATION

This part was, in the original, subtitle N of title IV of Pub. L. 103–322, as added by Pub. L. 109–162, and was redesignated as part M of this subchapter for purposes of codification.

SUBPART 1—GRANT PROGRAMS

§14043e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043e was editorially reclassified as section 12471 of Title 34, Crime Control and Law Enforcement.

§14043e–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043e–1 was editorially reclassified as section 12472 of Title 34, Crime Control and Law Enforcement.

§14043e–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043e–2 was editorially reclassified as section 12473 of Title 34, Crime Control and Law Enforcement.

§14043e–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043e–3 was editorially reclassified as section 12474 of Title 34, Crime Control and Law Enforcement.

§14043e–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043e–4 was editorially reclassified as section 12475 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—HOUSING RIGHTS

§14043e–11. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043e–11 was editorially reclassified as section 12491 of Title 34, Crime Control and Law Enforcement.

PART N—NATIONAL RESOURCE CENTER

§14043f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043f was editorially reclassified as section 12501 of Title 34, Crime Control and Law Enforcement.

PART N–1—SEXUAL ASSAULT SERVICES

§14043g. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043g was editorially reclassified as section 12511 of Title 34, Crime Control and Law Enforcement.

§14043g–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043g–1 was editorially reclassified as section 12512 of Title 34, Crime Control and Law Enforcement.

PART N–2—RAPE SURVIVOR CHILD CUSTODY

§14043h. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h was editorially reclassified as section 21301 of Title 34, Crime Control and Law Enforcement.

§14043h–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–1 was editorially reclassified as section 21302 of Title 34, Crime Control and Law Enforcement.

§14043h–2. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–2 was editorially reclassified as section 21303 of Title 34, Crime Control and Law Enforcement.

§14043h–3. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–3 was editorially reclassified as section 21304 of Title 34, Crime Control and Law Enforcement.

§14043h–4. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–4 was editorially reclassified as section 21305 of Title 34, Crime Control and Law Enforcement.

§14043h–5. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–5 was editorially reclassified as section 21306 of Title 34, Crime Control and Law Enforcement.

§14043h–6. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–6 was editorially reclassified as section 21307 of Title 34, Crime Control and Law Enforcement.

§14043h–7. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14043h–7 was editorially reclassified as section 21308 of Title 34, Crime Control and Law Enforcement.

PART O—COMBATTING DOMESTIC TRAFFICKING IN PERSONS

§14044. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044 was editorially reclassified as section 20701 of Title 34, Crime Control and Law Enforcement.

§14044a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044a was editorially reclassified as section 20702 of Title 34, Crime Control and Law Enforcement.

§14044b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044b was editorially reclassified as section 20703 of Title 34, Crime Control and Law Enforcement.

§14044b–1. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044b–1 was editorially reclassified as section 20704 of Title 34, Crime Control and Law Enforcement.

§14044c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044c was editorially reclassified as section 20705 of Title 34, Crime Control and Law Enforcement.

§14044d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044d was editorially reclassified as section 20706 of Title 34, Crime Control and Law Enforcement.

§14044e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044e was editorially reclassified as section 20707 of Title 34, Crime Control and Law Enforcement.

§14044f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044f was editorially reclassified as section 20708 of Title 34, Crime Control and Law Enforcement.

§14044g. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044g was editorially reclassified as section 20709 of Title 34, Crime Control and Law Enforcement.

§14044h. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14044h was editorially reclassified as section 20711 of Title 34, Crime Control and Law Enforcement.

PART P—MISCELLANEOUS AUTHORITIES

§14045. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14045 was editorially reclassified as section 20123 of Title 34, Crime Control and Law Enforcement.

§14045a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14045a was editorially reclassified as section 20124 of Title 34, Crime Control and Law Enforcement.

§14045b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14045b was editorially reclassified as section 20125 of Title 34, Crime Control and Law Enforcement.

§14045c. Repealed. Pub. L. 113–4, title IV, §402(b)(2), Mar. 7, 2013, 127 Stat. 95

Section, Pub. L. 109–162, title IV, §403, Jan. 5, 2006, 119 Stat. 3023, related to public awareness campaign.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal not effective until the beginning of the fiscal year following Mar. 7, 2013, see section 4 of Pub. L. 113–4, set out as an Effective Date of 2013 Amendment note under section 2261 of Title 18, Crimes and Criminal Procedure.

§14045d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14045d was editorially reclassified as section 20126 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER IV—DRUG CONTROL

§14051. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14051 was editorially reclassified as section 12521 of Title 34, Crime Control and Law Enforcement.

§14052. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14052 was editorially reclassified as section 12522 of Title 34, Crime Control and Law Enforcement.

§14053. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14053 was editorially reclassified as section 12523 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER V—CRIMINAL STREET GANGS

§14061. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14061 was editorially reclassified as section 12531 of Title 34, Crime Control and Law Enforcement.

§14062. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14062 was editorially reclassified as section 12532 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER VI—CRIMES AGAINST CHILDREN

§§14071 to 14073. Repealed. Pub. L. 109–248, title I, §129(a), July 27, 2006, 120 Stat. 600

Section 14071, Pub. L. 103–322, title XVII, §170101, Sept. 13, 1994, 108 Stat. 2038; Pub. L. 104–145, §2, May 17, 1996, 110 Stat. 1345; Pub. L. 104–236, §§3–7, Oct. 3, 1996, 110 Stat. 3096, 3097; Pub. L. 105–119, title I, §115(a)(1)–(5), Nov. 26, 1997, 111 Stat. 2461–2463; Pub. L. 105–314, title VI, §607(a), Oct. 30, 1998, 112 Stat. 2985; Pub. L. 106–386, div. B, title VI, §1601(b)(1), Oct. 28, 2000, 114 Stat. 1537; Pub. L. 108–21, title VI, §§604(a), 605(a), 606, Apr. 30, 2003, 117 Stat. 688; Pub. L. 109–162, title XI, §1153(b), Jan. 5, 2006,

119 Stat. 3113, required the Attorney General to establish guidelines for State programs that required registration by persons convicted of a criminal offense against a minor or a sexually violent offense and by sexually violent predators.

Section 14072, Pub. L. 103–322, title XVII, §170102, as added Pub. L. 104–236, §2(a), Oct. 3, 1996, 110 Stat. 3093; amended Pub. L. 105–119, title I, §115(a)(6), Nov. 26, 1997, 111 Stat. 2463; Pub. L. 105–277, div. A, §101(b) [title I, §123], Oct. 21, 1998, 112 Stat. 2681–50, 2681–72, required the Attorney General to establish a national database at the FBI to track sexual offenders.

Section 14073, Pub. L. 104–236, §8, Oct. 3, 1996, 110 Stat. 3097, immunized certain agencies and officials from liability for good faith conduct.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 109–248, title I, §129(b), July 27, 2006, 120 Stat. 601, provided that: "Notwithstanding any other provision of this Act [see Tables for classification], this section [repealing sections 14071 to 14073 of this title] shall take effect on the date of the deadline determined in accordance with section 124(a) [34 U.S.C. 20926(a)] [3 years after July 27, 2006]."

SHORT TITLE

Subtitle A of title XVII of Pub. L. 103–322, which was classified generally to this subchapter prior to repeal, was popularly known as the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

SUBCHAPTER VII—RURAL CRIME

§14081. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14081 was editorially reclassified as section 12541 of Title 34, Crime Control and Law Enforcement.

§14082. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14082 was editorially reclassified as section 12542 of Title 34, Crime Control and Law Enforcement.

§14083. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XVIII, §180104, Sept. 13, 1994, 108 Stat. 2046, which authorized appropriations for the hiring of additional Drug Enforcement Administration agents for fiscal years 1996 to

2000, was omitted as obsolete.

SUBCHAPTER VIII—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

PART A—POLICE CORPS

§14091. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14091 was editorially reclassified as section 12551 of Title 34, Crime Control and Law Enforcement.

§14092. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14092 was editorially reclassified as section 12552 of Title 34, Crime Control and Law Enforcement.

§14093. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14093 was editorially reclassified as section 12553 of Title 34, Crime Control and Law Enforcement.

§14094. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14094 was editorially reclassified as section 12554 of Title 34, Crime Control and Law Enforcement.

§14095. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14095 was editorially reclassified as section 12555 of Title 34, Crime Control and Law Enforcement.

§14096. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14096 was editorially reclassified as section 12556 of Title 34, Crime Control and Law Enforcement.

§14097. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14097 was editorially reclassified as section 12557 of Title 34, Crime Control and Law Enforcement.

§14098. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14098 was editorially reclassified as section 12558 of Title 34, Crime Control and Law Enforcement.

§14099. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14099 was editorially reclassified as section 12559 of Title 34, Crime Control and Law Enforcement.

§14100. Repealed. Pub. L. 107–273, div. C, title I, §11006(4), Nov. 2, 2002, 116 Stat. 1817

Section, Pub. L. 103–322, title XX, §200111, Sept. 13, 1994, 108 Stat. 2056, provided assistance to States and localities employing Police Corps officers.

§14101. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XX, §200112, Sept. 13, 1994, 108 Stat. 2057; Pub. L. 105–277, div. C, title I, §138(b), Oct. 21, 1998, 112 Stat. 2681–597; Pub. L. 107–273, div. C, title I, §11006(5), Nov. 2, 2002, 116 Stat. 1817, which authorized appropriations for fiscal years 2002 to 2005, was omitted as obsolete.

§14102. Repealed. Pub. L. 112–189, §2(b)(1), Oct. 5, 2012, 126 Stat. 1435

Section, Pub. L. 103–322, title XX, §200113, Sept. 13, 1994, 108 Stat. 2057, required the Director to submit an annual report describing participants in and the progress of the Police Corps program.

PART B—LAW ENFORCEMENT SCHOLARSHIP PROGRAM

§14111. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14111 was editorially reclassified as section 12571 of Title 34, Crime Control and Law Enforcement.

§14112. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14112 was editorially reclassified as section 12572 of Title 34, Crime Control and Law Enforcement.

§14113. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14113 was editorially reclassified as section 12573 of Title 34, Crime Control and Law Enforcement.

§14114. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14114 was editorially reclassified as section 12574 of Title 34, Crime Control and Law Enforcement.

§14115. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14115 was editorially reclassified as section 12575 of Title 34, Crime Control and Law Enforcement.

§14116. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14116 was editorially reclassified as section 12576 of Title 34, Crime Control and Law Enforcement.

§14117. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14117 was editorially reclassified as section 12577 of Title 34, Crime Control and Law Enforcement.

§14118. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14118 was editorially reclassified as section 12578 of Title 34, Crime Control and Law Enforcement.

§14119. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XX, §200210, Sept. 13, 1994, 108 Stat. 2061, which authorized appropriations for fiscal years 1996 to 2000, was omitted as obsolete.

SUBCHAPTER IX—STATE AND LOCAL LAW ENFORCEMENT

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 13684

Ex. Ord. No. 13684, Dec. 18, 2014, 79 F.R. 76865, which established a President's Task Force on 21st Century Policing, was editorially reclassified and is set out as a note preceding section 12591 of Title 34, Crime Control and Law Enforcement.

PART A—DNA IDENTIFICATION

§14131. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14131 was editorially reclassified as section 12591 of Title 34, Crime Control and Law Enforcement.

§14132. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14132 was editorially reclassified as section 12592 of Title 34, Crime Control and Law Enforcement.

§14133. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14133 was editorially reclassified as section 12593 of Title 34, Crime Control and Law Enforcement.

§14134. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXI, §210306, Sept. 13, 1994, 108 Stat. 2071, which authorized appropriations for fiscal years 1996 to 2000, was omitted as obsolete.

§14135. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14135 was editorially reclassified as section 40701 of Title 34, Crime Control and Law Enforcement.

§14135a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14135a was editorially reclassified as section 40702 of Title 34, Crime Control and Law Enforcement.

§14135b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14135b was editorially reclassified as section 40703 of Title 34, Crime Control and Law Enforcement.

§14135c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14135c was editorially reclassified as section 40704 of Title 34, Crime Control and Law Enforcement.

§14135d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14135d was editorially reclassified as section 40705 of Title 34, Crime Control and Law Enforcement.

§14135e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14135e was editorially reclassified as section 40706 of Title 34, Crime Control and Law Enforcement.

§14136. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136 was editorially reclassified as section 40722 of Title 34, Crime Control and Law Enforcement.

§14136a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136a was editorially reclassified as section 40723 of Title 34, Crime Control and Law Enforcement.

§14136b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136b was editorially reclassified as section 40724 of Title 34, Crime Control and Law Enforcement.

§14136c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136c was editorially reclassified as section 40725 of Title 34, Crime Control and Law Enforcement.

§14136d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136d was editorially reclassified as section 40726 of Title 34, Crime Control and Law Enforcement.

§14136e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136e was editorially reclassified as section 40727 of Title 34, Crime Control and Law Enforcement.

§14136f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14136f was editorially reclassified as section 40728 of Title 34, Crime Control and Law Enforcement.

§14137. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14137 was editorially reclassified as section 40741 of Title 34, Crime Control and Law Enforcement.

§14137a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14137a was editorially reclassified as section 40742 of Title 34, Crime Control and Law Enforcement.

§14137b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14137b was editorially reclassified as section 40743 of Title 34, Crime Control and Law Enforcement.

§14137c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14137c was editorially reclassified as section 40744 of Title 34, Crime Control and Law Enforcement.

PART B—POLICE PATTERN OR PRACTICE

§14141. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14141 was editorially reclassified as section 12601 of Title 34, Crime Control and Law Enforcement.

§14142. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14142 was editorially reclassified as section 12602 of Title 34, Crime Control and Law Enforcement.

PART C—IMPROVED TRAINING AND TECHNICAL AUTOMATION

§14151. Repealed. Pub. L. 109–162, title XI, §1154(b)(3), Jan. 5, 2006, 119 Stat. 3113

Section, Pub. L. 103–322, title XXI, §210501, Sept. 13, 1994, 108 Stat. 2072, related to grants for the purposes of improving criminal justice agency efficiency through computerized automation and technological improvements, directed the expansion and improvement of training and investigative assistance, authorized appropriations, and defined terms.

PART D—OTHER STATE AND LOCAL AID

§14161. Repealed. Pub. L. 109–162, title XI, §1154(b)(4), Jan. 5, 2006, 119 Stat. 3113

Section, Pub. L. 103–322, title XXI, §210602, Sept. 13, 1994, 108 Stat. 2073, related to federal assistance to ease increased burdens on State court systems and authorized appropriations.

PART E—IMPROVING THE QUALITY OF REPRESENTATION IN STATE CAPITAL CASES

§14163. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14163 was editorially reclassified as section 60301 of Title 34, Crime Control and Law Enforcement.

§14163a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14163a was editorially reclassified as section 60302 of Title 34, Crime Control and Law Enforcement.

§14163b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14163b was editorially reclassified as section 60303 of Title 34, Crime Control and Law Enforcement.

§14163c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14163c was editorially reclassified as section 60304 of Title 34, Crime Control and Law Enforcement.

§14163d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14163d was editorially reclassified as section 60305 of Title 34, Crime Control and Law Enforcement.

§14163e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14163e was editorially reclassified as section 60306 of Title 34, Crime Control and Law Enforcement.

PART F—RAFAEL RAMOS AND WENJIAN LIU NATIONAL BLUE ALERT

§14165. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14165 was editorially reclassified as section 50501 of Title 34, Crime Control and Law Enforcement.

§14165a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14165a was editorially reclassified as section 50502 of Title 34, Crime Control and Law Enforcement.

§14165b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14165b was editorially reclassified as section 50503 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER X—MOTOR VEHICLE THEFT PREVENTION

§14171. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14171 was editorially reclassified as section 12611 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XI—PROTECTIONS FOR THE ELDERLY

§14181. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14181 was editorially reclassified as section 12621 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

§14191. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270001, Sept. 13, 1994, 108 Stat. 2089, which related to Presidential summit on violence in America, was omitted as obsolete.

§14192. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270002, Sept. 13, 1994, 108 Stat. 2089, which related to the National Commission on Crime Control and Prevention, was omitted as obsolete.

§14193. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270003, Sept. 13, 1994, 108 Stat. 2091, which related to purposes of the Commission, was omitted as obsolete.

§14194. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270004, Sept. 13, 1994, 108 Stat. 2092, which related to responsibilities of the Commission, was omitted as obsolete.

§14195. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270005, Sept. 13, 1994, 108 Stat. 2094, which related to chair, pay and benefits of members, vacancy of members, and meetings of the Commission, was omitted as obsolete.

§14196. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270006, Sept. 13, 1994, 108 Stat. 2094, which related to Commission staff and support services, was omitted as obsolete.

§14197. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270007, Sept. 13, 1994, 108 Stat. 2095, which related to powers of the Commission, was omitted as obsolete.

§14198. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270008, Sept. 13, 1994, 108 Stat. 2095, which related to report to Congress and the President and termination of the Commission, was omitted as obsolete.

§14199. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 103–322, title XXVII, §270009, Sept. 13, 1994, 108 Stat. 2095, which authorized appropriations for fiscal year 1996, was omitted as obsolete.

SUBCHAPTER XIII—VIOLENT CRIME REDUCTION TRUST FUND

§14211. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14211 was editorially reclassified as section 12631 of Title 34, Crime Control and Law

Enforcement.

§14212. Repealed. Pub. L. 105–33, title X, §10204(b), Aug. 5, 1997, 111 Stat. 702

Section, Pub. L. 103–322, title XXXI, §310002, Sept. 13, 1994, 108 Stat. 2105, related to conforming reduction in discretionary spending limits.

§14213. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14213 was editorially reclassified as section 12632 of Title 34, Crime Control and Law Enforcement.

§14214. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14214 was editorially reclassified as section 12633 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER XIV—MISCELLANEOUS

§14221. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14221 was editorially reclassified as section 12641 of Title 34, Crime Control and Law Enforcement.

§14222. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14222 was editorially reclassified as section 12642 of Title 34, Crime Control and Law Enforcement.

§14223. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14223 was editorially reclassified as section 12643 of Title 34, Crime Control and Law Enforcement.

CHAPTER 137—MANAGEMENT OF RECHARGEABLE BATTERIES AND BATTERIES CONTAINING MERCURY

SUBCHAPTER I—GENERALLY

SUBCHAPTER I—GENERALLY

§14301. Findings

The Congress finds that—

(1) it is in the public interest to—

(A) phase out the use of mercury in batteries and provide for the efficient and cost-effective collection and recycling or proper disposal of used nickel cadmium batteries, small sealed lead-acid batteries, and other regulated batteries; and

(B) educate the public concerning the collection, recycling, and proper disposal of such batteries;

(2) uniform national labeling requirements for regulated batteries, rechargeable consumer products, and product packaging will significantly benefit programs for regulated battery collection and recycling or proper disposal; and

(3) it is in the public interest to encourage persons who use rechargeable batteries to participate in collection for recycling of used nickel-cadmium, small sealed lead-acid, and other regulated batteries.

(Pub. L. 104–142, §2, May 13, 1996, 110 Stat. 1329.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 104–142, §1, May 13, 1996, 110 Stat. 1329, provided that: "This Act [enacting this chapter] may be cited as the 'Mercury-Containing and Rechargeable Battery Management Act'."

Pub. L. 104–142, title I, §101, May 13, 1996, 110 Stat. 1332, provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Rechargeable Battery Recycling Act'."

Pub. L. 104–142, title II, §201, May 13, 1996, 110 Stat. 1336, provided that: "This title [enacting subchapter III of this chapter] may be cited as the 'Mercury-Containing Battery Management Act'."

§14302. Definitions

For purposes of this chapter:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Button cell

The term "button cell" means a button- or coin-shaped battery.

(3) Easily removable

The term "easily removable", with respect to a battery, means detachable or removable at the end of the life of the battery—

(A) from a consumer product by a consumer with the use of common household tools; or

(B) by a retailer of replacements for a battery used as the principal electrical power source for a vehicle.

(4) Mercuric-oxide battery

The term "mercuric-oxide battery" means a battery that uses a mercuric-oxide electrode.

(5) Rechargeable battery

The term "rechargeable battery"—

(A) means 1 or more voltaic or galvanic cells, electrically connected to produce electric energy, that is designed to be recharged for repeated uses; and

(B) includes any type of enclosed device or sealed container consisting of 1 or more such cells, including what is commonly called a battery pack (and in the case of a battery pack, for the purposes of the requirements of easy removability and labeling under section 14322 of this title, means the battery pack as a whole rather than each component individually); but

(C) does not include—

(i) a lead-acid battery used to start an internal combustion engine or as the principal electrical power source for a vehicle, such as an automobile, a truck, construction equipment, a motorcycle, a garden tractor, a golf cart, a wheelchair, or a boat;

(ii) a lead-acid battery used for load leveling or for storage of electricity generated by an alternative energy source, such as a solar cell or wind-driven generator;

(iii) a battery used as a backup power source for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily; or

(iv) a rechargeable alkaline battery.

(6) Rechargeable consumer product

The term "rechargeable consumer product"—

(A) means a product that, when sold at retail, includes a regulated battery as a primary energy supply, and that is primarily intended for personal or household use; but

(B) does not include a product that only uses a battery solely as a source of backup power for memory or program instruction storage, timekeeping, or any similar purpose that requires uninterrupted electrical power in order to function if the primary energy supply fails or fluctuates momentarily.

(7) Regulated battery

The term "regulated battery" means a rechargeable battery that—

(A) contains a cadmium or a lead electrode or any combination of cadmium and lead electrodes; or

(B) contains other electrode chemistries and is the subject of a determination by the Administrator under section 14322(d) of this title.

(8) Remanufactured product

The term "remanufactured product" means a rechargeable consumer product that has been altered by the replacement of parts, repackaged, or repaired after initial sale by the original manufacturer.

(Pub. L. 104–142, §3, May 13, 1996, 110 Stat. 1329.)

§14303. Information dissemination

The Administrator shall, in consultation with representatives of rechargeable battery manufacturers, rechargeable consumer product manufacturers, and retailers, establish a program to provide information to the public concerning the proper handling and disposal of used regulated batteries and rechargeable consumer products with nonremovable batteries.

(Pub. L. 104–142, §4, May 13, 1996, 110 Stat. 1330.)

§14304. Enforcement

(a) Civil penalty

When on the basis of any information the Administrator determines that a person has violated, or is in violation of, any requirement of this chapter (except a requirement of section 14323 of this title) the Administrator—

(1) in the case of any violation, may issue an order assessing a civil penalty of not more than $10,000 for each violation, or requiring compliance immediately or within a reasonable specified time period, or both; or

(2) in the case of any violation or failure to comply with an order issued under this section, may commence a civil action in the United States district court in the district in which the violation occurred or in the district in which the violator resides for appropriate relief, including a temporary or permanent injunction.

(b) Contents of order

An order under subsection (a)(1) shall state with reasonable specificity the nature of the violation.

(c) Considerations

In assessing a civil penalty under subsection (a)(1), the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(d) Finality of order; request for hearing

An order under subsection (a)(1) shall become final unless, not later than 30 days after the order is served, a person named in the order requests a hearing on the record.

(e) Hearing

On receiving a request under subsection (d), the Administrator shall promptly conduct a hearing on the record.

(f) Subpoena power

In connection with any hearing on the record under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, books, and documents.

(g) Continued violation after expiration of period for compliance

If a violator fails to take corrective action within the time specified in an order under subsection (a)(1), the Administrator may assess a civil penalty of not more than $10,000 for the continued noncompliance with the order.

(h) Savings provision

The Administrator may not take any enforcement action against a person for selling, offering for sale, or offering for promotional purposes to the ultimate consumer a battery or product covered by this chapter that was—

(1) purchased ready for sale to the ultimate consumer; and

(2) sold, offered for sale, or offered for promotional purposes without modification.

The preceding sentence shall not apply to a person—

(A) who is the importer of a battery covered by this chapter, and

(B) who has knowledge of the chemical contents of the battery

when such chemical contents make the sale, offering for sale, or offering for promotional purposes of such battery unlawful under subchapter III of this chapter.

(Pub. L. 104–142, §5, May 13, 1996, 110 Stat. 1331.)

§14305. Information gathering and access

(a) Records and reports

A person who is required to carry out the objectives of this chapter, including—

(1) a regulated battery manufacturer;

(2) a rechargeable consumer product manufacturer;

(3) a mercury-containing battery manufacturer; and

(4) an authorized agent of a person described in paragraph (1), (2), or (3),

shall establish and maintain such records and report such information as the Administrator may by regulation reasonably require to carry out the objectives of this chapter.

(b) Access and copying

The Administrator or the Administrator's authorized representative, on presentation of credentials of the Administrator, may at reasonable times have access to and copy any records required to be maintained under subsection (a).

(c) Confidentiality

The Administrator shall maintain the confidentiality of documents and records that contain proprietary information.

(Pub. L. 104–142, §6, May 13, 1996, 110 Stat. 1332.)

§14306. State authority

Nothing in this chapter shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is identical to a standard or requirement established or promulgated under this chapter. Except as provided in sections 14322(e) and 14323 of this title, nothing in this chapter shall be construed to prohibit a State from enacting and enforcing a standard or requirement that is more stringent than a standard or requirement established or promulgated under this chapter.

(Pub. L. 104–142, §7, May 13, 1996, 110 Stat. 1332.)

§14307. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 104–142, §8, May 13, 1996, 110 Stat. 1332.)

SUBCHAPTER II—RECYCLING OF RECHARGEABLE BATTERIES

§14321. Purpose

The purpose of this subchapter is to facilitate the efficient recycling or proper disposal of used nickel-cadmium rechargeable batteries, used small sealed lead-acid rechargeable batteries, other regulated batteries, and such rechargeable batteries in used consumer products, by—

(1) providing for uniform labeling requirements and streamlined regulatory requirements for regulated battery collection programs; and

(2) encouraging voluntary industry programs by eliminating barriers to funding the collection and recycling or proper disposal of used rechargeable batteries.

(Pub. L. 104–142, title I, §102, May 13, 1996, 110 Stat. 1332.)

§14322. Rechargeable consumer products and labeling

(a) Prohibition

(1) In general

No person shall sell for use in the United States a regulated battery that is ready for retail sale or a rechargeable consumer product that is ready for retail sale, if such battery or product was manufactured on or after the date 12 months after May 13, 1996, unless the labeling requirements of subsection (b) are met and, in the case of a regulated battery, the regulated battery—

(A) is easily removable from the rechargeable consumer product; or

(B) is sold separately.

(2) Application

Paragraph (1) does not apply to any of the following:

(A) The sale of a remanufactured product unit unless paragraph (1) applied to the sale of the unit when originally manufactured.

(B) The sale of a product unit intended for export purposes only.

(b) Labeling

Each regulated battery or rechargeable consumer product without an easily removable battery manufactured on or after the date that is 1 year after May 13, 1996, whether produced domestically or imported shall bear the following labels:

(1) 3 chasing arrows or a comparable recycling symbol.

(2)(A) On each regulated battery which is a nickel-cadmium battery, the chemical name or the abbreviation "Ni-Cd" and the phrase "BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY.".

(B) On each regulated battery which is a lead-acid battery, "Pb" or the words "LEAD", "RETURN", and "RECYCLE" and if the regulated battery is sealed, the phrase "BATTERY MUST BE RECYCLED.".

(3) On each rechargeable consumer product containing a regulated battery that is not easily removable, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(4) On the packaging of each rechargeable consumer product, and the packaging of each regulated battery sold separately from such a product, unless the required label is clearly visible through the packaging, the phrase "CONTAINS NICKEL-CADMIUM BATTERY. BATTERY MUST BE RECYCLED OR DISPOSED OF PROPERLY." or "CONTAINS SEALED LEAD BATTERY. BATTERY MUST BE RECYCLED.", as applicable.

(c) Existing or alternative labeling

(1) Initial period

For a period of 2 years after May 13, 1996, regulated batteries, rechargeable consumer products containing regulated batteries, and rechargeable consumer product packages that are labeled in substantial compliance with subsection (b) shall be deemed to comply with the labeling requirements of subsection (b).

(2) Certification

(A) In general

On application by persons subject to the labeling requirements of subsection (b) or the labeling requirements promulgated by the Administrator under subsection (d), the Administrator shall certify that a different label meets the requirements of subsection (b) or (d), respectively, if the different label—

(i) conveys the same information as the label required under subsection (b) or (d), respectively; or

(ii) conforms with a recognized international standard that is consistent with the overall purposes of this subchapter.

(B) Constructive certification

Failure of the Administrator to object to an application under subparagraph (A) on the ground that a different label does not meet either of the conditions described in subparagraph (A)(i) or (ii) within 120 days after the date on which the application is made shall constitute certification for the purposes of this chapter.

(d) Rulemaking authority of Administrator

(1) In general

If the Administrator determines that other rechargeable batteries having electrode chemistries different from regulated batteries are toxic and may cause substantial harm to human health and the environment if discarded into the solid waste stream for land disposal or incineration, the Administrator may, with the advice and counsel of State regulatory authorities and manufacturers of rechargeable batteries and rechargeable consumer products, and after public comment—

(A) promulgate labeling requirements for the batteries with different electrode chemistries, rechargeable consumer products containing such batteries that are not easily removable batteries, and packaging for the batteries and products; and

(B) promulgate requirements for easy removability of regulated batteries from rechargeable consumer products designed to contain such batteries.

(2) Substantial similarity

The regulations promulgated under paragraph (1) shall be substantially similar to the requirements set forth in subsections (a) and (b).

(e) Uniformity

After the effective dates of a requirement set forth in subsection (a), (b), or (c) or a regulation promulgated by the Administrator under subsection (d), no Federal agency, State, or political subdivision of a State may enforce any easy removability or environmental labeling requirement for a rechargeable battery or rechargeable consumer product that is not identical to the requirement or regulation.

(f) Exemptions

(1) In general

With respect to any rechargeable consumer product, any person may submit an application to the Administrator for an exemption from the requirements of subsection (a) in accordance with the procedures under paragraph (2). The application shall include the following information:

(A) A statement of the specific basis for the request for the exemption.

(B) The name, business address, and telephone number of the applicant.

(2) Granting of exemption

Not later than 60 days after receipt of an application under paragraph (1), the Administrator shall approve or deny the application. On approval of the application the Administrator shall grant an exemption to the applicant. The exemption shall be issued for a period of time that the Administrator determines to be appropriate, except that the period shall not exceed 2 years. The Administrator shall grant an exemption on the basis of evidence supplied to the Administrator that the manufacturer has been unable to commence manufacturing the rechargeable consumer product in compliance with the requirements of this section and with an equivalent level of product performance without the product—

(A) posing a threat to human health, safety, or the environment; or

(B) violating requirements for approvals from governmental agencies or widely recognized private standard-setting organizations (including Underwriters Laboratories).

(3) Renewal of exemption

A person granted an exemption under paragraph (2) may apply for a renewal of the exemption in accordance with the requirements and procedures described in paragraphs (1) and (2). The Administrator may grant a renewal of such an exemption for a period of not more than 2 years after the date of the granting of the renewal.

(Pub. L. 104–142, title I, §103, May 13, 1996, 110 Stat. 1332.)

§14323. Requirements

(a) Batteries subject to certain regulations

The collection, storage, or transportation of used rechargeable batteries, batteries described in section 14302(5)(C) of this title or in subchapter III, and used rechargeable consumer products containing rechargeable batteries that are not easily removable rechargeable batteries, shall, notwithstanding any law of a State or political subdivision thereof governing such collection, storage, or transportation, be regulated under applicable provisions of the regulations promulgated by the Environmental Protection Agency at 60 Fed. Reg. 25492 (May 11, 1995), as effective on May 11, 1995, except as provided in paragraph (2) of subsection (b) and except that—

(1) the requirements of 40 CFR 260.20, 260.40, and 260.41 and the equivalent requirements of an approved State program shall not apply, and

(2) this section shall not apply to any lead acid battery managed under 40 CFR 266 subpart G or the equivalent requirements of an approved State program.

(b) Enforcement under Solid Waste Disposal Act

(1) Any person who fails to comply with the requirements imposed by subsection (a) of this section may be subject to enforcement under applicable provisions of the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.].

(2) States may implement and enforce the requirements of subsection (a) if the Administrator finds that—

(A) the State has adopted requirements that are identical to those referred to in subsection (a) governing the collection, storage, or transportation of batteries referred to in subsection (a); and

(B) the State provides for enforcement of such requirements.

(Pub. L. 104–142, title I, §104, May 13, 1996, 110 Stat. 1335.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b)(1), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

SUBCHAPTER III—MANAGEMENT OF BATTERIES CONTAINING MERCURY

§14331. Purpose

The purpose of this subchapter is to phase out the use of batteries containing mercury.

(Pub. L. 104–142, title II, §202, May 13, 1996, 110 Stat. 1336.)

§14332. Limitations on sale of alkaline-manganese batteries containing mercury

No person shall sell, offer for sale, or offer for promotional purposes any alkaline-manganese battery manufactured on or after May 13, 1996, with a mercury content that was intentionally introduced (as distinguished from mercury that may be incidentally present in other materials), except that the limitation on mercury content in alkaline-manganese button cells shall be 25 milligrams of mercury per button cell.

(Pub. L. 104–142, title II, §203, May 13, 1996, 110 Stat. 1336.)

§14333. Limitations on sale of zinc-carbon batteries containing mercury

No person shall sell, offer for sale, or offer for promotional purposes any zinc-carbon battery manufactured on or after May 13, 1996, that contains mercury that was intentionally introduced as described in section 14332 of this title.

(Pub. L. 104–142, title II, §204, May 13, 1996, 110 Stat. 1336.)

§14334. Limitations on sale of button cell mercuric-oxide batteries

No person shall sell, offer for sale, or offer for promotional purposes any button cell mercuric-oxide battery for use in the United States on or after May 13, 1996.

(Pub. L. 104–142, title II, §205, May 13, 1996, 110 Stat. 1336.)

§14335. Limitations on sale of other mercuric-oxide batteries

(a) Prohibition

On or after May 13, 1996, no person shall sell, offer for sale, or offer for promotional purposes a mercuric-oxide battery for use in the United States unless the battery manufacturer, or the importer of such a battery—

(1) identifies a collection site in the United States that has all required Federal, State, and local government approvals, to which persons may send used mercuric-oxide batteries for recycling or proper disposal;

(2) informs each of its purchasers of mercuric-oxide batteries of the collection site identified under paragraph (1); and

(3) informs each of its purchasers of mercuric-oxide batteries of a telephone number that the purchaser may call to get information about sending mercuric-oxide batteries for recycling or proper disposal.

(b) Application of section

This section does not apply to a sale or offer of a mercuric-oxide button cell battery.

(Pub. L. 104–142, title II, §206, May 13, 1996, 110 Stat. 1336.)

§14336. New product or use

On petition of a person that proposes a new use for a battery technology described in this subchapter or the use of a battery described in this subchapter in a new product, the Administrator may exempt from this subchapter the new use of the technology or the use of such a battery in the new product on the condition, if appropriate, that there exist reasonable safeguards to ensure that the resulting battery or product without an easily removable battery will not be disposed of in an incinerator, composting facility, or landfill (other than a facility regulated under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.)).

(Pub. L. 104–142, title II, §207, May 13, 1996, 110 Stat. 1336.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in text, is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795. Subtitle C of the Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of this title and Tables.

CHAPTER 138—ASSISTED SUICIDE FUNDING RESTRICTION

Sec.

§14401. Findings and purpose

(a) Findings

Congress finds the following:

(1) The Federal Government provides financial support for the provision of and payment for health care services, as well as for advocacy activities to protect the rights of individuals.

(2) Assisted suicide, euthanasia, and mercy killing have been criminal offenses throughout the United States and, under current law, it would be unlawful to provide services in support of such illegal activities.

(3) Because of recent legal developments, it may become lawful in areas of the United States to

furnish services in support of such activities.

(4) Congress is not providing Federal financial assistance in support of assisted suicide, euthanasia, and mercy killing and intends that Federal funds not be used to promote such activities.

(b) Purpose

It is the principal purpose of this chapter to continue current Federal policy by providing explicitly that Federal funds may not be used to pay for items and services (including assistance) the purpose of which is to cause (or assist in causing) the suicide, euthanasia, or mercy killing of any individual.

(Pub. L. 105–12, §2, Apr. 30, 1997, 111 Stat. 23.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, known as the Assisted Suicide Funding Restriction Act of 1997. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–12, §11, Apr. 30, 1997, 111 Stat. 29, provided that:

"(a) IN GENERAL.—The provisions of this Act [see Short Title note below] (and the amendments made by this Act) take effect upon its enactment [Apr. 30, 1997] and apply, subject to subsection (b), to Federal payments made pursuant to obligations incurred after the date of the enactment of this Act for items and services provided on or after such date.

"(b) APPLICATION TO CONTRACTS.—Such provisions shall apply with respect to contracts entered into, renewed, or extended after the date of the enactment of this Act [Apr. 30, 1997] and shall also apply to a contract entered into before such date to the extent permitted under such contract."

SHORT TITLE

Pub. L. 105–12, §1(a), Apr. 30, 1997, 111 Stat. 23, provided that: "This Act [enacting this chapter, section 238o of this title, section 1621x of Title 25, Indians, and section 1707 of Title 38, Veterans' Benefits, amending sections 295, 701, 1395y, 1395cc, 1396a, 1396b, 1397d, 2996f, 6022, 6042, 6062, 6082, and 10805 of this title, section 8902 of Title 5, Government Organization and Employees, section 1073 of Title 10, Armed Forces, section 4005 of Title 18, Crimes and Criminal Procedure, section 2504 of Title 22, Foreign Relations and Intercourse, and section 794e of Title 29, Labor, and enacting provisions set out as notes under this section and section 295 of this title] may be cited as the 'Assisted Suicide Funding Restriction Act of 1997'."

CONSTRUCTION OF CONFORMING AMENDMENTS

Pub. L. 105–12, §9(p), Apr. 30, 1997, 111 Stat. 29, provided that: "The fact that a law is not amended under this section [enacting section 238o of this title, section 1621x of Title 25, Indians, and section 1707 of Title 38, Veterans' Benefits, amending sections 701, 1395y, 1395cc, 1396a, 1396b, 1397d, 2996f, 6022, 6042, 6062, 6082, and 10805 of this title, section 8902 of Title 5, Government Organization and Employees, section 1073 of Title 10, Armed Forces, section 4005 of Title 18, Crimes and Criminal Procedure, section 2504 of Title 22, Foreign Relations and Intercourse, and section 794e of Title 29, Labor] shall not be construed as indicating that the provisions of this Act [see Short Title note above] do not apply to such a law."

§14402. Restriction on use of Federal funds under health care programs

(a) Restriction on Federal funding of health care services

Subject to subsection (b), no funds appropriated by Congress for the purpose of paying (directly or indirectly) for the provision of health care services may be used—

(1) to provide any health care item or service furnished for the purpose of causing, or for the

purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing;

(2) to pay (directly, through payment of Federal financial participation or other matching payment, or otherwise) for such an item or service, including payment of expenses relating to such an item or service; or

(3) to pay (in whole or in part) for health benefit coverage that includes any coverage of such an item or service or of any expenses relating to such an item or service.

(b) Construction and treatment of certain services

Nothing in subsection (a), or in any other provision of this chapter (or in any amendment made by this chapter), shall be construed to apply to or to affect any limitation relating to—

(1) the withholding or withdrawing of medical treatment or medical care;

(2) the withholding or withdrawing of nutrition or hydration;

(3) abortion; or

(4) the use of an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service is not also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.

(c) Limitation on Federal facilities and employees

Subject to subsection (b), with respect to health care items and services furnished—

(1) by or in a health care facility owned or operated by the Federal government, or

(2) by any physician or other individual employed by the Federal government to provide health care services within the scope of the physician's or individual's employment,

no such item or service may be furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(d) List of programs to which restrictions apply

(1) Federal health care funding programs

Subsection (a) applies to funds appropriated under or to carry out the following:

(A) Medicare program

Title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].

(B) Medicaid program

Title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(C) Title XX social services block grant

Title XX of the Social Security Act [42 U.S.C. 1397 et seq.].

(D) Maternal and child health block grant program

Title V of the Social Security Act [42 U.S.C. 701 et seq.].

(E) Public Health Service Act

The Public Health Service Act [42 U.S.C. 201 et seq.].

(F) Indian Health Care Improvement Act

The Indian Health Care Improvement Act [25 U.S.C. 1601 et seq.].

(G) Federal employees health benefits program

Chapter 89 of title 5.

(H) Military health care system (including Tricare and CHAMPUS programs)

Chapter 55 of title 10.

(I) Veterans medical care

Chapter 17 of title 38.

(J) Health services for Peace Corps volunteers

Section 2504(e) of title 22.

(K) Medical services for Federal prisoners

Section 4005(a) of title 18.

(2) Federal facilities and personnel

The provisions of subsection (c) apply to facilities and personnel of the following:

(A) Military health care system

The Department of Defense operating under chapter 55 of title 10.

(B) Veterans medical care

The Veterans Health Administration of the Department of Veterans Affairs.

(C) Public Health Service

The Public Health Service.

(3) Nonexclusive list

Nothing in this subsection shall be construed as limiting the application of subsection (a) to the programs specified in paragraph (1) or the application of subsection (c) to the facilities and personnel specified in paragraph (2).

(Pub. L. 105–12, §3, Apr. 30, 1997, 111 Stat. 23.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, known as the Assisted Suicide Funding Restriction Act of 1997, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of this title and Tables.

The Social Security Act, referred to in subsec. (d)(1)(A)–(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles V, XVIII, XIX, and XX of the Act are classified generally to subchapters V (§701 et seq.), XVIII (§1395 et seq.), XIX (§1396 et seq.), and XX (§1397 et seq.), respectively, of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Public Health Service Act, referred to in subsec. (d)(1)(E), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (d)(1)(F), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, which is classified principally to chapter 18 (§1601 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

§14403. Restriction on use of Federal funds under certain grant programs

Subject to section 14402(b) of this title (relating to construction and treatment of certain services), no funds appropriated by Congress to carry out subtitle B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15021 et seq., 15061 et seq., 15081 et seq.] may be used to support or fund any program or service which has a purpose of assisting in procuring any item, benefit, or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(Pub. L. 105–12, §4, Apr. 30, 1997, 111 Stat. 25; Pub. L. 106–402, title IV, §401(b)(15)(A), Oct. 30, 2000, 114 Stat. 1740.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in text, is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitles B, D, and E of the Act probably mean subtitles B, D, and E of title I of the Act, which are classified generally to parts B [§15021 et seq.], D [§15061 et seq.], and E [§15081 et seq.], respectively, of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

AMENDMENTS

2000—Pub. L. 106–402, §401(b)(15)(A)(i), substituted "Restriction on use of Federal funds under certain grant programs" for "Restriction on use of Federal funds under certain grant programs under the Developmental Disabilities Assistance and Bill of Rights Act" in section catchline.

Pub. L. 106–402, §401(b)(15)(A)(ii), substituted "subtitle B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act of 2000" for "part B, D, or E of the Developmental Disabilities Assistance and Bill of Rights Act".

§14404. Restriction on use of Federal funds by advocacy programs

(a) In general

Subject to section 14402(b) of this title (relating to construction and treatment of certain services), no funds appropriated by Congress may be used to assist in, to support, or to fund any activity or service which has a purpose of assisting in, or to bring suit or provide any other form of legal assistance for the purpose of—

(1) securing or funding any item, benefit, program, or service furnished for the purpose of causing, or the purpose of assisting in causing, the suicide, euthanasia, or mercy killing of any individual;

(2) compelling any person, institution, governmental entity [1] to provide or fund any item, benefit, program, or service for such purpose; or

(3) asserting or advocating a legal right to cause, or to assist in causing, the suicide, euthanasia, or mercy killing of any individual.

(b) List of programs to which restrictions apply

(1) In general

Subsection (a) applies to funds appropriated under or to carry out the following:

(A) Protection and advocacy systems under the Developmental Disabilities Assistance and Bill of Rights Act of 2000

Subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.].

(B) Protection and advocacy systems under the Protection and Advocacy for Mentally Ill Individuals Act

The Protection and Advocacy for Mentally Ill Individuals Act of 1986 [2] [42 U.S.C. 10801 et seq.].

(C) Protection and advocacy systems under the Rehabilitation Act of 1973

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e).

(D) Ombudsman programs under the Older Americans Act of 1965

Ombudsman programs under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.].

(E) Legal assistance

Legal assistance programs under the Legal Services Corporation Act [42 U.S.C. 2996 et seq.].

(2) Nonexclusive list

Nothing in this subsection shall be construed as limiting the application of subsection (a) to the programs specified in paragraph (1).

(Pub. L. 105–12, §5, Apr. 30, 1997, 111 Stat. 25; Pub. L. 106–402, title IV, §401(b)(15)(B), Oct. 30, 2000, 114 Stat. 1740.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (b)(1)(A), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of the Act probably means subtitle C of title I of the Act, which is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsec. (b)(1)(B), was Pub. L. 99–319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99–319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106–310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

The Older Americans Act of 1965, referred to in subsec. (b)(1)(D), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Legal Services Corporation Act, referred to in subsec. (b)(1)(E), is title X of Pub. L. 88–452, as added by Pub. L. 93–355, §2, July 25, 1974, 88 Stat. 378, as amended, which is classified generally to subchapter X (§2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

AMENDMENTS

2000—Subsec. (b)(1)(A). Pub. L. 106–402 added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Part C of the Developmental Disabilities Assistance and Bill of Rights Act."

[1] So in original. Probably should be "or governmental entity".

[2] See References in Text note below.

§14405. Restriction on use of other Federal funds

(a) In general

Subject to section 14402(b) of this title (relating to construction and treatment of certain services) and subsection (b) of this section, no funds appropriated by the Congress shall be used to provide, procure, furnish, or fund any item, good, benefit, activity, or service, furnished or performed for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

(b) Nonduplication

Subsection (a) shall not apply to funds to which section 14402, 14403, or 14404 of this title applies, except that subsection (a), rather than section 14402 of this title, shall apply to funds appropriated to carry out title 10 (other than chapter 55), title 18 (other than section 4005(a)), and chapter 37 of title 28.

(Pub. L. 105–12, §6, Apr. 30, 1997, 111 Stat. 25.)

§14406. Clarification with respect to advance directives

Subject to section 14402(b) of this title (relating to construction and treatment of certain services), sections 1395cc(f) and 1396a(w) of this title shall not be construed—

(1) to require any provider or organization, or any employee of such a provider or organization, to inform or counsel any individual regarding any right to obtain an item or service furnished for the purpose of causing, or the purpose of assisting in causing, the death of the individual, such as by assisted suicide, euthanasia, or mercy killing; or

(2) to apply to or to affect any requirement with respect to a portion of an advance directive that directs the purposeful causing of, or the purposeful assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(Pub. L. 105–12, §7, Apr. 30, 1997, 111 Stat. 26.)

§14407. Application to District of Columbia

For purposes of this chapter, the term "funds appropriated by Congress" includes funds appropriated to the District of Columbia pursuant to an authorization of appropriations under title V of the District of Columbia Home Rule Act and the term "Federal government" includes the government of the District of Columbia.

(Pub. L. 105–12, §8, Apr. 30, 1997, 111 Stat. 26; Pub. L. 105–33, title XI, §11717(b), Aug. 5, 1997, 111 Stat. 786.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, known as the Assisted Suicide Funding Restriction Act of 1997, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of this title and Tables.

The District of Columbia Home Rule Act, referred to in text, is Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 774, as amended. Title V of the Act was classified to the District of Columbia Code prior to repeal by Pub. L. 105–33, title XI, §11601, Aug. 5, 1997, 111 Stat. 777.

AMENDMENTS

1997—Pub. L. 105–33 substituted "District of Columbia Home Rule Act" for "District of Columbia Self-Government and Governmental Reorganization Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

§14408. Relation to other laws

The provisions of this chapter supersede other Federal laws (including laws enacted after April 30, 1997) except to the extent such laws specifically supersede the provisions of this chapter.

(Pub. L. 105–12, §10, Apr. 30, 1997, 111 Stat. 29.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 105–12, Apr. 30, 1997, 111

Stat. 23, known as the Assisted Suicide Funding Restriction Act of 1997, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of this title and Tables.

CHAPTER 139—VOLUNTEER PROTECTION

§14501. Findings and purpose

(a) Findings

The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

(B) the citizens of the United States depend on, and the Federal Government expends funds on, and provides tax exemptions and other consideration to, numerous social programs that depend on the services of volunteers;

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(D)(i) liability reform for volunteers, will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights; and

(ii) therefore, liability reform is an appropriate use of the powers contained in article 1, section 8, clause 3 of the United States Constitution, and the fourteenth amendment to the United States Constitution.

(b) Purpose

The purpose of this chapter is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

(Pub. L. 105–19, §2, June 18, 1997, 111 Stat. 218.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 105–19, §7, June 18, 1997, 111 Stat. 223, provided that:

"(a) IN GENERAL.—This Act [enacting this chapter] shall take effect 90 days after the date of enactment of this Act [June 18, 1997].

"(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act but only if the harm that is the subject of the claim or the conduct that caused such harm occurred after such effective date."

SHORT TITLE

Pub. L. 105–19, §1, June 18, 1997, 111 Stat. 218, provided that: "This Act [enacting this chapter] may be cited as the 'Volunteer Protection Act of 1997'."

§14502. Preemption and election of State nonapplicability

(a) Preemption

This chapter preempts the laws of any State to the extent that such laws are inconsistent with this chapter, except that this chapter shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity.

(b) Election of State regarding nonapplicability

This chapter shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this chapter shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

(Pub. L. 105–19, §3, June 18, 1997, 111 Stat. 219.)

§14503. Limitation on liability for volunteers

(a) Liability protection for volunteers

Except as provided in subsections (b), (c), and (e), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed

by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) Liability protection for pilots that fly for public benefit

Except as provided in subsections (c) and (e), no volunteer of a volunteer pilot nonprofit organization that arranges flights for public benefit shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization if, at the time of the act or omission, the volunteer—

(1) was operating an aircraft in furtherance of the purpose of, and acting within the scope of the volunteer's responsibilities on behalf of, the nonprofit organization to provide patient and medical transport (including medical transport for veterans), disaster relief, humanitarian assistance, or other similar charitable missions;

(2) was properly licensed and insured for the operation of the aircraft;

(3) was in compliance with all requirements of the Federal Aviation Administration for recent flight experience; and

(4) did not cause the harm through willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer.

(c) Concerning responsibility of volunteers to organizations and entities

Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(d) No effect on liability of organization or entity

Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(e) Exceptions to volunteer liability protection

If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(f) Limitation on punitive damages based on actions of volunteers

(1) General rule

Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and

convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(g) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a volunteer under this chapter shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note)); [1]

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Rule of construction

Nothing in this subsection shall be construed to effect subsection (a)(3) or (f).

(Pub. L. 105–19, §4, June 18, 1997, 111 Stat. 219; Pub. L. 115–254, div. B, title V, §584, Oct. 5, 2018, 132 Stat. 3399.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Hate Crime Statistics Act, referred to in subsec. (g)(1)(B), is Pub. L. 101–275, Apr. 23, 1990, 104 Stat. 140, which was set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification as section 41305 of Title 34, Crime Control and Law Enforcement, and as provisions set out as a note under section 41305 of Title 34.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254, §584(2), in introductory provisions, substituted "subsections (b), (c), and (e)" for "subsections (b) and (d)".

Subsecs. (b) to (g). Pub. L. 115–254, §584(1), (3), added subsec. (b) and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

Subsec. (g)(2). Pub. L. 115–254, §584(4), substituted "(f)" for "(e)".

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

§14504. Liability for noneconomic loss

(a) General rule

In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) Amount of liability

(1) In general

Each defendant who is a volunteer, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) Percentage of responsibility

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

(Pub. L. 105–19, §5, June 18, 1997, 111 Stat. 221.)

§14505. Definitions

For purposes of this chapter:

(1) Economic loss

The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) Noneconomic losses

The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) Nonprofit organization

The term "nonprofit organization" means—

(A) any organization which is described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note); [1] or

(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note).[1]

(5) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Volunteer

The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually

incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

(Pub. L. 105–19, §6, June 18, 1997, 111 Stat. 221.)

EDITORIAL NOTES

REFERENCES IN TEXT

The first section of the Hate Crime Statistics Act, referred to in par. (4), is Pub. L. 101–275, §1, Apr. 23, 1990, 104 Stat. 140, which was set out in a note under section 534 of Title 28, Judiciary and Judicial Procedure, prior to editorial reclassification as section 41305 of Title 34, Crime Control and Law Enforcement.

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

CHAPTER 140—CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION

SUBCHAPTER I—CRIME IDENTIFICATION TECHNOLOGY

§14601. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14601 was editorially reclassified as section 40301 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

§14611. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14611 was editorially reclassified as section 40311 of Title 34, Crime Control and Law Enforcement.

§14612. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14612 was editorially reclassified as section 40312 of Title 34, Crime Control and Law Enforcement.

§14613. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14613 was editorially reclassified as section 40313 of Title 34, Crime Control and Law Enforcement.

§14614. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14614 was editorially reclassified as section 40314 of Title 34, Crime Control and Law Enforcement.

§14615. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14615 was editorially reclassified as section 40315 of Title 34, Crime Control and Law Enforcement.

§14616. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14616 was editorially reclassified as section 40316 of Title 34, Crime Control and Law Enforcement.

CHAPTER 140A—JENNIFER'S LAW

Sec.
14661 to 14663. Transferred.
14664. Omitted.
14665. Transferred.

§14661. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14661 was editorially reclassified as former section 40501 of Title 34, Crime Control and Law Enforcement.

§14662. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14662 was editorially reclassified as section 40502 of Title 34, Crime Control and Law Enforcement.

§14663. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14663 was editorially reclassified as former section 40503 of Title 34, Crime Control and Law Enforcement.

§14664. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 106–177, title II, §205, Mar. 10, 2000, 114 Stat. 37, which authorized appropriations of $2,000,000 for each of fiscal years 2000, 2001, and 2002 to carry out this chapter, was omitted from the Code as obsolete.

§14665. Transferred

EDITORIAL NOTES

CODIFICATION

Section 14665 was editorially reclassified as section 40504 of Title 34, Crime Control and Law Enforcement.

CHAPTER 141—COMMERCIAL SPACE OPPORTUNITIES AND TRANSPORTATION SERVICES

§14701. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 105–303, §2, Oct. 28, 1998, 112 Stat. 2843, related to definitions. See section 50101 of Title 51, National and Commercial Space Programs.

SUBCHAPTER I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

§14711. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 105–303, title I, §101, Oct. 28, 1998, 112 Stat. 2845, related to commercialization of Space Station. Subsec. (a) was repealed and reenacted as subsec. (a) of section 50111 of Title 51, National and Commercial Space Programs. Subsec. (b), which required the Administrator to deliver certain studies and reports to Congress, the last of which was required before budget request for fiscal year 2000, was repealed as obsolete.

§14712. Repealed or Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 105–303, title I, §104, Oct. 28, 1998, 112 Stat. 2852, which related to promotion of United States Global Positioning System standards, was repealed in part and transferred in part. Subsec. (b) was repealed and reenacted as section 50112 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a) was transferred and is set out as a note under section 50112 of Title 51.

§§14713 to 14715. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 14713, Pub. L. 105–303, title I, §105, Oct. 28, 1998, 112 Stat. 2852, related to acquisition of space science data. See section 50113 of Title 51, National and Commercial Space Programs.

Section 14714, Pub. L. 105–303, title I, §106, Oct. 28, 1998, 112 Stat. 2853, related to administration of commercial space centers. See section 50114 of Title 51.

Section 14715, Pub. L. 105–303, title I, §107, Oct. 28, 1998, 112 Stat. 2853, related to sources of Earth Science data. Subsecs. (a), (b), (d), and (e) were repealed and reenacted as subsecs. (a), (b), (c) and (d) of section 50115 of Title 51. Subsec (c), which required the Administrator to submit certain study results to Congress within six months after Oct. 28, 1998, was repealed as obsolete.

SUBCHAPTER II—FEDERAL ACQUISITION OF SPACE

§§14731 to 14735. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 14731, Pub. L. 105–303, title II, §201, Oct. 28, 1998, 112 Stat. 2854, related to requirement to procure commercial space transportation services. See section 50131 of Title 51, National and Commercial Space Programs.

Section 14732, Pub. L. 105–303, title II, §202, Oct. 28, 1998, 112 Stat. 2855, related to acquisition of commercial space transportation services. See section 50132 of Title 51.

Section 14733, Pub. L. 105–303, title II, §204, Oct. 28, 1998, 112 Stat. 2856, related to potential privatization of the Space Shuttle program. Subsec. (a) was repealed and reenacted as section 50133 of Title 51. Subsec. (b), requiring feasibility study, and subsec. (c), requiring reports to congressional committees within 60 days after Oct. 28, 1998, were repealed as obsolete.

Section 14734, Pub. L. 105–303, title II, §205, Oct. 28, 1998, 112 Stat. 2857; Pub. L. 106–65, div. A, title X, §1067(21), Oct. 5, 1999, 113 Stat. 775, related to use of excess intercontinental ballistic missiles. See section 50134 of Title 51.

Section 14735, Pub. L. 105–303, title II, §206, Oct. 28, 1998, 112 Stat. 2857, required report to certain congressional committees regarding national launch capability no later than 180 days after Oct. 28, 1998.

SUBCHAPTER III—COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION

§14751. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 107–248, title IX, §902, Oct. 23, 2002, 116 Stat. 1573, which related to congressional findings, was transferred and is set out as a note under section 50301 of Title 51, National and Commercial Space Programs.

§§14752, 14753. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 14752, Pub. L. 107–248, title IX, §903, Oct. 23, 2002, 116 Stat. 1574, related to loan guarantees for production of commercial reusable in-space transportation. See section 50302 of Title 51, National and Commercial Space Programs.

Section 14753, Pub. L. 107–248, title IX, §904, Oct. 23, 2002, 116 Stat. 1576, contained definitions. See section 50301 of Title 51.

CHAPTER 142—POISON CONTROL CENTER ENHANCEMENT AND AWARENESS

§§14801 to 14805. Repealed. Pub. L. 108–194, §4, Dec. 19, 2003, 117 Stat. 2891

Section 14801, Pub. L. 106–174, §2, Feb. 25, 2000, 114 Stat. 18, related to congressional findings regarding poison control centers. See provisions set out as a note under section 300d–71 of this title.

Section 14802, Pub. L. 106–174, §3, Feb. 25, 2000, 114 Stat. 18, defined "Secretary".

Section 14803, Pub. L. 106–174, §4, Feb. 25, 2000, 114 Stat. 18, established a national toll-free number to

be used to access regional poison control centers. See section 300d–71 of this title.

Section 14804, Pub. L. 106–174, §5, Feb. 25, 2000, 114 Stat. 19, established a nationwide media campaign to educate the public and health care providers about poison prevention and the availability of poison control resources in local communities. See section 300d–72 of this title.

Section 14805, Pub. L. 106–174, §6, Feb. 25, 2000, 114 Stat. 19, related to the award of grants to certified regional poison control centers. See section 300d–73 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 106–174, §1, Feb. 25, 2000, 114 Stat. 18, which provided that Pub. L. 106–174, enacting this chapter, could be cited as the "Poison Control Center Enhancement and Awareness Act", was repealed by Pub. L. 108–194, §4, Dec. 19, 2003, 117 Stat. 2891.

CHAPTER 143—INTERCOUNTRY ADOPTIONS

Sec.

§14901. Findings and purposes

(a) Findings

Congress recognizes—

(1) the international character of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at The Hague on May 29, 1993); and

(2) the need for uniform interpretation and implementation of the Convention in the United

States and abroad,

and therefore finds that enactment of a Federal law governing adoptions and prospective adoptions subject to the Convention involving United States residents is essential.

(b) Purposes

The purposes of this chapter are—

(1) to provide for implementation by the United States of the Convention;

(2) to protect the rights of, and prevent abuses against, children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention, and to ensure that such adoptions are in the children's best interests; and

(3) to improve the ability of the Federal Government to assist United States citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States.

(Pub. L. 106–279, §2, Oct. 6, 2000, 114 Stat. 825.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATES; TRANSITION RULE

Pub. L. 106–279, title V, §505, Oct. 6, 2000, 114 Stat. 844, provided that:

"(a) EFFECTIVE DATES.—

"(1) PROVISIONS EFFECTIVE UPON ENACTMENT.—Sections 2, 3, 101 through 103, 202 through 205, 401(a), 403, 503, and 505(a) [enacting this section and sections 14902, 14911 to 14913, 14922 to 14924, 14941(a), 14943, and 14953 of this title and amending section 622 of this title] shall take effect on the date of the enactment of this Act [Oct. 6, 2000].

"(2) PROVISIONS EFFECTIVE UPON THE ENTRY INTO FORCE OF THE CONVENTION .—Subject to subsection (b), the provisions of this Act not specified in paragraph (1) [enacting sections 14914, 14921, 14931, 14932, 14941(b), (c), 14942, 14944, 14951, 14952, and 14954 of this title, amending sections 1101 and 1154 of Title 8, Aliens and Nationality, and enacting provisions set out as notes under this section] shall take effect upon the entry into force of the Convention [Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption] for the United States pursuant to Article 46(2)(a) of the Convention [The Convention entered into force for the United States on Apr. 1, 2008.].

"(b) TRANSITION RULE.—The Convention and this Act [see Short Title note below] shall not apply—

"(1) in the case of a child immigrating to the United States, if the application for advance processing of an orphan petition or petition to classify an orphan as an immediate relative for the child is filed before the effective date described in subsection (a)(2); or

"(2) in the case of a child emigrating from the United States, if the prospective adoptive parents of the child initiated the adoption process in their country of residence with the filing of an appropriate application before the effective date described in subsection (a)(2)."

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–184, §1, Oct. 30, 2020, 134 Stat. 897, provided that: "This Act [amending section 14914 of this title and enacting provisions set out as notes under section 14914 of this title] may be cited as the 'Intercountry Adoption Information Act of 2019'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–276, §1, Jan. 14, 2013, 126 Stat. 2466, provided that: "This Act [enacting section 14925 of this title, amending sections 14922 and 14943 of this title, and enacting provisions set out as a note under section 14925 of this title] may be cited as the 'Intercountry Adoption Universal Accreditation Act of 2012'."

SHORT TITLE

Pub. L. 106–279, §1(a), Oct. 6, 2000, 114 Stat. 825, provided that: "This Act [enacting this chapter and amending section 622 of this title and sections 1101 and 1154 of Title 8, Aliens and Nationality] may be cited as the 'Intercountry Adoption Act of 2000'."

§14902. Definitions

As used in this chapter:

(1) Accredited agency

The term "accredited agency" means an agency accredited under subchapter II to provide adoption services in the United States in cases subject to the Convention.

(2) Accrediting entity

The term "accrediting entity" means an entity designated under section 14922(a) of this title to accredit agencies and approve persons under subchapter II.

(3) Adoption service

The term "adoption service" means—

(A) identifying a child for adoption and arranging an adoption;

(B) securing necessary consent to termination of parental rights and to adoption;

(C) performing a background study on a child or a home study on a prospective adoptive parent, and reporting on such a study;

(D) making determinations of the best interests of a child and the appropriateness of adoptive placement for the child;

(E) post-placement monitoring of a case until final adoption; and

(F) where made necessary by disruption before final adoption, assuming custody and providing child care or any other social service pending an alternative placement.

The term "providing", with respect to an adoption service, includes facilitating the provision of the service.

(4) Agency

The term "agency" means any person other than an individual.

(5) Approved person

The term "approved person" means a person approved under subchapter II to provide adoption services in the United States in cases subject to the Convention.

(6) Attorney General

Except as used in section 14944 of this title, the term "Attorney General" means the Attorney General, acting through the Commissioner of Immigration and Naturalization.

(7) Central authority

The term "central authority" means the entity designated as such by any Convention country under Article 6(1) of the Convention.

(8) Central authority function

The term "central authority function" means any duty required to be carried out by a central authority under the Convention.

(9) Convention

The term "Convention" means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993.

(10) Convention adoption

The term "Convention adoption" means an adoption of a child resident in a foreign country

party to the Convention by a United States citizen, or an adoption of a child resident in the United States by an individual residing in another Convention country.

(11) Convention record

The term "Convention record" means any item, collection, or grouping of information contained in an electronic or physical document, an electronic collection of data, a photograph, an audio or video tape, or any other information storage medium of any type whatever that contains information about a specific past, current, or prospective Convention adoption (regardless of whether the adoption was made final) that has been preserved in accordance with section 14941(a) of this title by the Secretary of State or the Attorney General.

(12) Convention country

The term "Convention country" means a country party to the Convention.

(13) Other Convention country

The term "other Convention country" means a Convention country other than the United States.

(14) Person

The term "person" shall have the meaning provided in section 1 of title 1 and shall not include any agency of government or tribal government entity.

(15) Person with an ownership or control interest

The term "person with an ownership or control interest" has the meaning given such term in section 1320a–3(a)(3) of this title.

(16) Secretary

The term "Secretary" means the Secretary of State.

(17) State

The term "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

(Pub. L. 106–279, §3, Oct. 6, 2000, 114 Stat. 826.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory provisions, was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

Subchapter II, referred to in pars. (1), (2), and (5), was in the original "title II", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which enacted subchapter II of this chapter and amended section 622 of this title. For complete classification of title II to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SUBCHAPTER I—UNITED STATES CENTRAL AUTHORITY

§14911. Designation of central authority

(a) In general

For purposes of the Convention and this chapter—

(1) the Department of State shall serve as the central authority of the United States; and

(2) the Secretary shall serve as the head of the central authority of the United States.

(b) Performance of central authority functions

(1) Except as otherwise provided in this chapter, the Secretary shall be responsible for the performance of all central authority functions for the United States under the Convention and this chapter.

(2) All personnel of the Department of State performing core central authority functions in a professional capacity in the Office of Children's Issues shall have a strong background in consular affairs, personal experience in international adoptions, or professional experience in international adoptions or child services.

(c) Authority to issue regulations

Except as otherwise provided in this chapter, the Secretary may prescribe such regulations as may be necessary to carry out central authority functions on behalf of the United States.

(Pub. L. 106–279, title I, §101, Oct. 6, 2000, 114 Stat. 827.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(1), and (c), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14912. Responsibilities of the Secretary of State

(a) Liaison responsibilities

The Secretary shall have responsibility for—

(1) liaison with the central authorities of other Convention countries; and

(2) the coordination of activities under the Convention by persons subject to the jurisdiction of the United States.

(b) Information exchange

The Secretary shall be responsible for—

(1) providing the central authorities of other Convention countries with information concerning—

(A) accredited agencies and approved persons, agencies and persons whose accreditation or approval has been suspended or canceled, and agencies and persons who have been temporarily or permanently debarred from accreditation or approval;

(B) Federal and State laws relevant to implementing the Convention; and

(C) any other matters necessary and appropriate for implementation of the Convention;

(2) not later than the date of the entry into force of the Convention for the United States (pursuant to Article 46(2)(a) of the Convention) and at least once during each subsequent calendar year, providing to the central authority of all other Convention countries a notice requesting the central authority of each such country to specify any requirements of such country regarding adoption, including restrictions on the eligibility of persons to adopt, with respect to which information on the prospective adoptive parent or parents in the United States would be relevant;

(3) making responses to notices under paragraph (2) available to—

(A) accredited agencies and approved persons; and

(B) other persons or entities performing home studies under section 14921(b)(1) of this title;

(4) ensuring the provision of a background report (home study) on prospective adoptive parent or parents (pursuant to the requirements of section 14923(b)(1)(A)(ii) of this title), through the central authority of each child's country of origin, to the court having jurisdiction over the adoption (or, in the case of a child emigrating to the United States for the purpose of adoption, to the competent authority in the child's country of origin with responsibility for approving the child's emigration) in adequate time to be considered prior to the granting of such adoption or approval;

(5) providing Federal agencies, State courts, and accredited agencies and approved persons with an identification of Convention countries and persons authorized to perform functions under the Convention in each such country; and

(6) facilitating the transmittal of other appropriate information to, and among, central authorities, Federal and State agencies (including State courts), and accredited agencies and approved persons.

(c) Accreditation and approval responsibilities

The Secretary shall carry out the functions prescribed by the Convention with respect to the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention as provided in subchapter II. Such functions may not be delegated to any other Federal agency.

(d) Additional responsibilities

The Secretary—

(1) shall monitor individual Convention adoption cases involving United States citizens; and

(2) may facilitate interactions between such citizens and officials of other Convention countries on matters relating to the Convention in any case in which an accredited agency or approved person is unwilling or unable to provide such facilitation.

(e) Establishment of registry

The Secretary and the Attorney General shall jointly establish a case registry of all adoptions involving immigration of children into the United States and emigration of children from the United States, regardless of whether the adoption occurs under the Convention. Such registry shall permit tracking of pending cases and retrieval of information on both pending and closed cases.

(f) Methods of performing responsibilities

The Secretary may—

(1) authorize public or private entities to perform appropriate central authority functions for which the Secretary is responsible, pursuant to regulations or under agreements published in the Federal Register; and

(2) carry out central authority functions through grants to, or contracts with, any individual or public or private entity, except as may be otherwise specifically provided in this chapter.

(Pub. L. 106–279, title I, §102, Oct. 6, 2000, 114 Stat. 828.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter II, referred to in subsec. (c), was in the original "title II", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which enacted subchapter II of this chapter and amended section 622 of this title. For complete classification of title II to the Code, see Tables.

This chapter, referred to in subsec. (f)(2), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14913. Responsibilities of the Attorney General

In addition to such other responsibilities as are specifically conferred upon the Attorney General by this chapter, the central authority functions specified in Article 14 of the Convention (relating to the filing of applications by prospective adoptive parents to the central authority of their country of residence) shall be performed by the Attorney General.

(Pub. L. 106–279, title I, §103, Oct. 6, 2000, 114 Stat. 829.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14914. Annual report on intercountry adoptions

(a) Reports required

Beginning 1 year after the date of the entry into force of the Convention for the United States and each year thereafter, the Secretary, in consultation with the Attorney General and other appropriate agencies, shall submit a report describing the activities of the central authority of the United States under this chapter during the preceding year to the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Judiciary of the Senate.

(b) Report elements

Each report under subsection (a) shall set forth with respect to the year concerned, the following:

(1) The number of intercountry adoptions involving immigration to the United States, regardless of whether the adoption occurred under the Convention, including the country from which each child emigrated, the State to which each child immigrated, and the country in which the adoption

was finalized.

(2) The number of intercountry adoptions involving emigration from the United States, regardless of whether the adoption occurred under the Convention, including the country to which each child immigrated and the State from which each child emigrated.

(3) The number of Convention placements for adoption in the United States that were disrupted, including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to section 622(b)(12) of this title.

(4) The average time required for completion of a Convention adoption, set forth by country from which the child emigrated.

(5) The current list of agencies accredited and persons approved under this chapter to provide adoption services.

(6) The names of the agencies and persons temporarily or permanently debarred under this chapter, and the reasons for the debarment.

(7) The range of adoption fees charged in connection with Convention adoptions involving immigration to the United States and the median of such fees set forth by the country of origin.

(8) The range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under the Convention.

(9) A list of countries that established or maintained a significant law or regulation that prevented or prohibited adoptions involving immigration to the United States, regardless of whether such adoptions occurred under the Convention.

(10) For each country listed under paragraph (9), the date on which the law or regulation was initially implemented.

(11) Information on efforts taken with respect to a country listed under paragraph (9) to encourage the resumption of halted or stalled adoption proceedings involving immigration to the United States, regardless of whether the adoptions would have occurred under the Convention.

(12) Information on any action the Secretary carried out that prevented, prohibited, or halted any adoptions involving immigration to the United States, regardless of whether the adoptions occurred under the Convention.

(13) For each country listed pursuant to paragraph (12), a description of—

(A) what policies, procedures, resources, and safeguards the country lacks, or other shortcomings or circumstances, that caused the action to be carried out;

(B) what progress the country has made to alleviate those shortcomings; and

(C) what steps the Department of State has taken in order to assist the country to reopen intercountry adoptions.

(14) An assessment of the impact of the fee schedule of the Intercountry Adoption Accreditation and Maintenance Entity on families seeking to adopt internationally, especially low-income families, families seeking to adopt sibling groups, or families seeking to adopt children with disabilities.

(c) Public availability of report

The Secretary shall make the information contained in the report required under subsection (a) available to the public on the website of the Department of State.

(Pub. L. 106–279, title I, §104, Oct. 6, 2000, 114 Stat. 829; Pub. L. 109–288, §6(f)(9), Sept. 28, 2006, 120 Stat. 1248; Pub. L. 116–184, §2(a), (b), (d), Oct. 30, 2020, 134 Stat. 897, 898.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(5), (6), was in the original "this Act", meaning Pub. L.

106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–184, §2(d), substituted "Foreign Affairs" for "International Relations".
Subsec. (b)(9) to (14). Pub. L. 116–184, §2(a), added pars. (9) to (14).
Subsec. (c). Pub. L. 116–184, §2(b), added subsec. (c).
2006—Subsec. (b)(3). Pub. L. 109–288 substituted "622(b)(12)" for "622(b)(14)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–184, §2(e), Oct. 30, 2020, 134 Stat. 898, provided that: "The amendments made by this section [amending this section] shall apply with respect to reports required to be submitted under section 104 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914) beginning on the date that is 180 days after the date of enactment of this Act [Oct. 30, 2020]."

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–288 effective Oct. 1, 2006, and applicable to payments under parts B and E of subchapter IV of chapter 7 of this title for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109–288, set out as a note under section 621 of this title.

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

PRIVACY CONCERNS

Pub. L. 116–184, §2(c), Oct. 30, 2020, 134 Stat. 898, provided that: "In complying with the amendments made by subsections (a) and (b) [amending this section], the Secretary shall avoid, to the maximum extent practicable, disclosing any personally identifiable information relating to United States citizens or the adoptees of such citizens."

SUBCHAPTER II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

§14921. Accreditation or approval required in order to provide adoption services in cases subject to the Convention

(a) In general

Except as otherwise provided in this subchapter, no person may offer or provide adoption services in connection with a Convention adoption in the United States unless that person—

(1) is accredited or approved in accordance with this subchapter; or

(2) is providing such services through or under the supervision and responsibility of an accredited agency or approved person.

(b) Exceptions

Subsection (a) shall not apply to the following:

(1) Background studies and home studies

The performance of a background study on a child or a home study on a prospective adoptive parent, or any report on any such study by a social work professional or organization who is not providing any other adoption service in the case, if the background or home study is approved by an accredited agency.

(2) Child welfare services

The provision of a child welfare service by a person who is not providing any other adoption service in the case.

(3) Legal services

The provision of legal services by a person who is not providing any adoption service in the case.

(4) Prospective adoptive parents acting on own behalf

The conduct of a prospective adoptive parent on his or her own behalf in the case, to the extent not prohibited by the law of the State in which the prospective adoptive parent resides.

(Pub. L. 106–279, title II, §201, Oct. 6, 2000, 114 Stat. 830.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this title", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14922. Process for accreditation and approval; role of accrediting entities

(a) Designation of accrediting entities

(1) In general

The Secretary shall enter into agreements with one or more qualified entities under which such entities will perform the duties described in subsection (b) in accordance with the Convention, this subchapter, and the regulations prescribed under section 14923 of this title, and upon entering into each such agreement shall designate the qualified entity as an accrediting entity.

(2) Qualified entities

In paragraph (1), the term "qualified entity" means—

(A) a nonprofit private entity that has expertise in developing and administering standards for entities providing child welfare services and that meets such other criteria as the Secretary may by regulation establish; or

(B) a public entity (other than a Federal entity), including an agency or instrumentality of State government having responsibility for licensing adoption agencies, that—

(i) has expertise in developing and administering standards for entities providing child welfare services;

(ii) accredits only agencies located in the State in which the public entity is located; and

(iii) meets such other criteria as the Secretary may by regulation establish.

(b) Duties of accrediting entities

The duties described in this subsection are the following:

(1) Accreditation and approval

Accreditation of agencies, and approval of persons, to provide adoption services in the United States in cases subject to the Convention.

(2) Oversight

Ongoing monitoring of the compliance of accredited agencies and approved persons with applicable requirements, including review of complaints against such agencies and persons in accordance with procedures established by the accrediting entity and approved by the Secretary.

(3) Enforcement

Taking of adverse actions (including requiring corrective action, imposing sanctions, and refusing to renew, suspending, or canceling accreditation or approval) for noncompliance with applicable requirements, and notifying the agency or person against whom adverse actions are taken of the deficiencies necessitating the adverse action.

(4) Data, records, and reports

Collection of data, maintenance of records, and reporting to the Secretary, the United States central authority, State courts, and other entities (including on persons and agencies granted or denied approval or accreditation), to the extent and in the manner that the Secretary requires.

(5) Report on use of Federal funding

Not later than 90 days after an accrediting entity receives Federal funding authorized by section 14943 of this title, the entity shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that describes—

(A) the amount of such funding the entity received; and

(B) how such funding was, or will be, used by the entity.

(c) Remedies for adverse action by accrediting entity

(1) Correction of deficiency

An agency or person who is the subject of an adverse action by an accrediting entity may re-apply for accreditation or approval (or petition for termination of the adverse action) on demonstrating to the satisfaction of the accrediting entity that the deficiencies necessitating the adverse action have been corrected.

(2) No other administrative review

An adverse action by an accrediting entity shall not be subject to administrative review.

(3) Judicial review

An agency or person who is the subject of an adverse action by an accrediting entity may petition the United States district court in the judicial district in which the agency is located or the person resides to set aside the adverse action. The court shall review the adverse action in accordance with section 706 of title 5, and for purposes of such review the accrediting entity shall be considered an agency within the meaning of section 701 of such title.

(d) Fees

The amount of fees assessed by accrediting entities for the costs of accreditation shall be subject to approval by the Secretary. Such fees may not exceed the costs of accreditation. In reviewing the level of such fees, the Secretary shall consider the relative size of, the geographic location of, and the number of Convention adoption cases managed by the agencies or persons subject to accreditation or approval by the accrediting entity.

(Pub. L. 106–279, title II, §202, Oct. 6, 2000, 114 Stat. 831; Pub. L. 112–276, §3(b), Jan. 14, 2013, 126 Stat. 2467.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(1), was in the original "this title", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2013—Subsec. (b)(5). Pub. L. 112–276 added par. (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14923. Standards and procedures for providing accreditation or approval

(a) In general

(1) Promulgation of regulations

The Secretary, shall, by regulation, prescribe the standards and procedures to be used by accrediting entities for the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention.

(2) Consideration of views

In developing such regulations, the Secretary shall consider any standards or procedures developed or proposed by, and the views of, individuals and entities with interest and expertise in international adoptions and family social services, including public and private entities with experience in licensing and accrediting adoption agencies.

(3) Applicability of notice and comment rules

Subsections (b), (c), and (d) of section 553 of title 5 shall apply in the development and issuance of regulations under this section.

(b) Minimum requirements

(1) Accreditation

The standards prescribed under subsection (a) shall include the requirement that accreditation of an agency may not be provided or continued under this subchapter unless the agency meets the following requirements:

(A) Specific requirements

(i) The agency provides prospective adoptive parents of a child in a prospective Convention adoption a copy of the medical records of the child (which, to the fullest extent practicable, shall include an English-language translation of such records) on a date which is not later than the earlier of the date that is 2 weeks before: (I) the adoption; or (II) the date on which the prospective parents travel to a foreign country to complete all procedures in such country relating to the adoption.

(ii) The agency ensures that a thorough background report (home study) on the prospective adoptive parent or parents has been completed in accordance with the Convention and with applicable Federal and State requirements and transmitted to the Attorney General with respect to each Convention adoption. Each such report shall include a criminal background check and a full and complete statement of all facts relevant to the eligibility of the prospective adopting parent or parents to adopt a child under any requirements specified by the central authority of the child's country of origin under section 14912(b)(3) of this title, including, in the case of a

child emigrating to the United States for the purpose of adoption, the requirements of the child's country of origin applicable to adoptions taking place in such country. For purposes of this clause, the term "background report (home study)" includes any supplemental statement submitted by the agency to the Attorney General for the purpose of providing information relevant to any requirements specified by the child's country of origin.

(iii) The agency provides prospective adoptive parents with a training program that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(iv) The agency employs personnel providing intercountry adoption services on a fee for service basis rather than on a contingent fee basis.

(v) The agency discloses fully its policies and practices, the disruption rates of its placements for intercountry adoption, and all fees charged by such agency for intercountry adoption.

(B) Capacity to provide adoption services

The agency has, directly or through arrangements with other persons, a sufficient number of appropriately trained and qualified personnel, sufficient financial resources, appropriate organizational structure, and appropriate procedures to enable the agency to provide, in accordance with this chapter, all adoption services in cases subject to the Convention.

(C) Use of social service professionals

The agency has established procedures designed to ensure that social service functions requiring the application of clinical skills and judgment are performed only by professionals with appropriate qualifications and credentials.

(D) Records, reports, and information matters

The agency is capable of—

(i) maintaining such records and making such reports as may be required by the Secretary, the United States central authority, and the accrediting entity that accredits the agency;

(ii) cooperating with reviews, inspections, and audits;

(iii) safeguarding sensitive individual information; and

(iv) complying with other requirements concerning information management necessary to ensure compliance with the Convention, this chapter, and any other applicable law.

(E) Liability insurance

The agency agrees to have in force adequate liability insurance for professional negligence and any other insurance that the Secretary considers appropriate.

(F) Compliance with applicable rules

The agency has established adequate measures to comply (and to ensure compliance of their agents and clients) with the Convention, this chapter, and any other applicable law.

(G) Nonprofit organization with state license to provide adoption services

The agency is a private nonprofit organization licensed to provide adoption services in at least one State.

(2) Approval

The standards prescribed under subsection (a) shall include the requirement that a person shall not be approved under this subchapter unless the person is a private for-profit entity that meets the requirements of subparagraphs (A) through (F) of paragraph (1) of this subsection.

(3) Renewal of accreditation or approval

The standards prescribed under subsection (a) shall provide that the accreditation of an agency or approval of a person under this subchapter shall be for a period of not less than 3 years and not more than 5 years, and may be renewed on a showing that the agency or person meets the requirements applicable to original accreditation or approval under this subchapter.

(c) Temporary registration of community based agencies

(1) One-year registration period for medium community based agencies

For a 1-year period after the entry into force of the Convention and notwithstanding subsection (b), the Secretary may provide, in regulations issued pursuant to subsection (a), that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 100 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(2) Two-year registration period for small community-based agencies

For a 2-year period after the entry into force of the Convention and notwithstanding subsection (b), the Secretary may provide, in regulations issued pursuant to subsection (a), that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 50 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(3) Criteria for registration

Agencies registered under this subsection shall meet the following criteria:

(A) The agency is licensed in the State in which it is located and is a nonprofit agency.

(B) The agency has been providing adoption services in connection with intercountry adoptions for at least 3 years.

(C) The agency has demonstrated that it will be able to provide the United States Government with all information related to the elements described in section 14914(b) of this title and provides such information.

(D) The agency has initiated the process of becoming accredited under the provisions of this chapter and is actively taking steps to become an accredited agency.

(E) The agency has not been found to be involved in any improper conduct relating to intercountry adoptions.

(Pub. L. 106–279, title II, §203, Oct. 6, 2000, 114 Stat. 832.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original "this title", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

This chapter, referred to in subsecs. (b)(1)(B), (D)(iv), (F) and (c)(3)(D) was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14924. Secretarial oversight of accreditation and approval

(a) Oversight of accrediting entities

The Secretary shall—

(1) monitor the performance by each accrediting entity of its duties under section 14922 of this title and its compliance with the requirements of the Convention, this chapter, other applicable

laws, and implementing regulations under this chapter; and

(2) suspend or cancel the designation of an accrediting entity found to be substantially out of compliance with the Convention, this chapter, other applicable laws, or implementing regulations under this chapter.

(b) Suspension or cancellation of accreditation or approval

(1) Secretary's authority

The Secretary shall suspend or cancel the accreditation or approval granted by an accrediting entity to an agency or person pursuant to section 14922 of this title when the Secretary finds that—

(A) the agency or person is substantially out of compliance with applicable requirements; and

(B) the accrediting entity has failed or refused, after consultation with the Secretary, to take appropriate enforcement action.

(2) Correction of deficiency

At any time when the Secretary is satisfied that the deficiencies on the basis of which an adverse action is taken under paragraph (1) have been corrected, the Secretary shall—

(A) notify the accrediting entity that the deficiencies have been corrected; and

(B)(i) in the case of a suspension, terminate the suspension; or

(ii) in the case of a cancellation, notify the agency or person that the agency or person may re-apply to the accrediting entity for accreditation or approval.

(c) Debarment

(1) Secretary's authority

On the initiative of the Secretary, or on request of an accrediting entity, the Secretary may temporarily or permanently debar an agency from accreditation or a person from approval under this subchapter, but only if—

(A) there is substantial evidence that the agency or person is out of compliance with applicable requirements; and

(B) there has been a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.

(2) Period of debarment

The Secretary's debarment order shall state whether the debarment is temporary or permanent. If the debarment is temporary, the Secretary shall specify a date, not earlier than 3 years after the date of the order, on or after which the agency or person may apply to the Secretary for withdrawal of the debarment.

(3) Effect of debarment

An accrediting entity may take into account the circumstances of the debarment of an agency or person that has been debarred pursuant to this subsection in considering any subsequent application of the agency or person, or of any other entity in which the agency or person has an ownership or control interest, for accreditation or approval under this subchapter.

(d) Judicial review

A person (other than a prospective adoptive parent), an agency, or an accrediting entity who is the subject of a final action of suspension, cancellation, or debarment by the Secretary under this subchapter may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the person resides or the agency or accrediting entity is located to set aside the action. The court shall review the action in accordance with section 706 of title 5.

(e) Failure to ensure a full and complete home study

(1) In general

Willful, grossly negligent, or repeated failure to ensure the completion and transmission of a background report (home study) that fully complies with the requirements of section 14923(b)(1)(A)(ii) of this title shall constitute substantial noncompliance with applicable requirements.

(2) Regulations

Regulations promulgated under section 14923 of this title shall provide for—

(A) frequent and careful monitoring of compliance by agencies and approved persons with the requirements of section 14923(b)(A)(ii) [1] of this title; and

(B) consultation between the Secretary and the accrediting entity where an agency or person has engaged in substantial noncompliance with the requirements of section 14923(b)(A)(ii) [1] of this title, unless the accrediting entity has taken appropriate corrective action and the noncompliance has not recurred.

(3) Repeated failures to comply

Repeated serious, willful, or grossly negligent failures to comply with the requirements of section 14923(b)(1)(A)(ii) of this title by an agency or person after consultation between Secretary and the accrediting entity with respect to previous noncompliance by such agency or person shall constitute a pattern of serious, willful, or grossly negligent failures to comply under subsection (c)(1)(B).

(4) Failure to comply with certain requirements

A failure to comply with the requirements of section 14923(b)(1)(A)(ii) of this title shall constitute a serious failure to comply under subsection (c)(1)(B) unless it is shown by clear and convincing evidence that such noncompliance had neither the purpose nor the effect of determining the outcome of a decision or proceeding by a court or other competent authority in the United States or the child's country of origin.

(Pub. L. 106–279, title II, §204, Oct. 6, 2000, 114 Stat. 835.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

This subchapter, referred to in subsecs. (c)(1), (3) and (d), was in the original "this title", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

[1] So in original. Probably should be section "14923(b)(1)(A)(ii)".

§14925. Universal accreditation requirements

(a) In general

The provisions of title II and section 404 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.[, 42 U.S.C. 14944]), and related implementing regulations, shall apply to any person

offering or providing adoption services in connection with a child described in section 1101(b)(1)(F) of title 8, to the same extent as they apply to the offering or provision of adoption services in connection with a Convention adoption. The Secretary of State, the Secretary of Homeland Security, the Attorney General (with respect to section 404(b) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14944[(b)])), and the accrediting entities shall have the duties, responsibilities, and authorities under title II and title IV of the Intercountry Adoption Act of 2000 [42 U.S.C. 14921 et seq., 14941 et seq.] and related implementing regulations with respect to a person offering or providing such adoption services, irrespective of whether such services are offered or provided in connection with a Convention adoption.

(b) Effective date

The provisions of this section shall take effect 18 months after January 14, 2013.

(c) Transition rule

This Act shall not apply to a person offering or providing adoption services as described in subsection (a) in the case of a prospective adoption in which—

(1) an application for advance processing of an orphan petition or petition to classify an orphan as an immediate relative for a child is filed before the date that is 180 days after January 14, 2013; or

(2) the prospective adoptive parents of a child have initiated the adoption process with the filing of an appropriate application in a foreign country sufficient such that the Secretary of State is satisfied before the date that is 180 days after January 14, 2013.

(Pub. L. 112–276, §2, Jan. 14, 2013, 126 Stat. 2466.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Intercountry Adoption Act of 2000, referred to in subsec. (a), is Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825. Title II of the Act is classified principally to this subchapter, and title IV of the Act is classified generally to subchapter IV (§14941 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

This Act, referred to in subsec. (c), is Pub. L. 112–276, Jan. 14, 2013, 126 Stat. 2466, known as the Intercountry Adoption Universal Accreditation Act of 2012. For complete classification of this Act to the Code, see Short Title of 2013 Amendment note set out under section 14901 of this title and Tables.

CODIFICATION

Section was enacted as part of the Intercountry Adoption Universal Accreditation Act of 2012, and not as part of the Intercountry Adoption Act of 2000 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

Pub. L. 112–276, §4, Jan. 14, 2013, 126 Stat. 2467, provided that: "In this Act [see Short Title of 2013 Amendment note set out under section 14901 of this title], the terms 'accrediting entity', 'adoption service', 'Convention adoption', and 'person' have the meanings given those terms in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902)."

SUBCHAPTER III—RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES

§14931. Adoptions of children immigrating to the United States

(a) Legal effect of certificates issued by the Secretary of State

(1) Issuance of certificates by the Secretary of State

The Secretary of State shall, with respect to each Convention adoption, issue a certificate to the adoptive citizen parent domiciled in the United States that the adoption has been granted or, in the case of a prospective adoptive citizen parent, that legal custody of the child has been granted to the citizen parent for purposes of emigration and adoption, pursuant to the Convention and this chapter, if the Secretary of State—

(A) receives appropriate notification from the central authority of such child's country of origin; and

(B) has verified that the requirements of the Convention and this chapter have been met with respect to the adoption.

(2) Legal effect of certificates

If appended to an original adoption decree, the certificate described in paragraph (1) shall be treated by Federal and State agencies, courts, and other public and private persons and entities as conclusive evidence of the facts certified therein and shall constitute the certification required by section 1154(d)(2) of title 8.

(b) Legal effect of Convention adoption finalized in another Convention country

A final adoption in another Convention country, certified by the Secretary of State pursuant to subsection (a) of this section or section 14932(c) of this title, shall be recognized as a final valid adoption for purposes of all Federal, State, and local laws of the United States.

(c) Condition on finalization of Convention adoption by State court

In the case of a child who has entered the United States from another Convention country for the purpose of adoption, an order declaring the adoption final shall not be entered unless the Secretary of State has issued the certificate provided for in subsection (a) with respect to the adoption.

(Pub. L. 106–279, title III, §301, Oct. 6, 2000, 114 Stat. 837.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14932. Adoptions of children emigrating from the United States

(a) Duties of accredited agency or approved person

In the case of a Convention adoption involving the emigration of a child residing in the United States to a foreign country, the accredited agency or approved person providing adoption services, or the prospective adoptive parent or parents acting on their own behalf (if permitted by the laws of such other Convention country in which they reside and the laws of the State in which the child resides), shall do the following:

(1) Ensure that, in accordance with the Convention—

(A) a background study on the child is completed;
(B) the accredited agency or approved person—
(i) has made reasonable efforts to actively recruit and make a diligent search for prospective adoptive parents to adopt the child in the United States; and
(ii) despite such efforts, has not been able to place the child for adoption in the United States in a timely manner; and

(C) a determination is made that placement with the prospective adoptive parent or parents is in the best interests of the child.

(2) Furnish to the State court with jurisdiction over the case—
(A) documentation of the matters described in paragraph (1);
(B) a background report (home study) on the prospective adoptive parent or parents (including a criminal background check) prepared in accordance with the laws of the receiving country; and
(C) a declaration by the central authority (or other competent authority) of such other Convention country—
(i) that the child will be permitted to enter and reside permanently, or on the same basis as the adopting parent, in the receiving country; and
(ii) that the central authority (or other competent authority) of such other Convention country consents to the adoption, if such consent is necessary under the laws of such country for the adoption to become final.

(3) Furnish to the United States central authority—
(A) official copies of State court orders certifying the final adoption or grant of custody for the purpose of adoption;
(B) the information and documents described in paragraph (2), to the extent required by the United States central authority; and
(C) any other information concerning the case required by the United States central authority to perform the functions specified in subsection (c) or otherwise to carry out the duties of the United States central authority under the Convention.

(b) Conditions on State court orders

An order declaring an adoption to be final or granting custody for the purpose of adoption in a case described in subsection (a) shall not be entered unless the court—
(1) has received and verified to the extent the court may find necessary—
(A) the material described in subsection (a)(2); and
(B) satisfactory evidence that the requirements of Articles 4 and 15 through 21 of the Convention have been met; and

(2) has determined that the adoptive placement is in the best interests of the child.

(c) Duties of the Secretary of State

In a case described in subsection (a), the Secretary, on receipt and verification as necessary of the material and information described in subsection (a)(3), shall issue, as applicable, an official certification that the child has been adopted or a declaration that custody for purposes of adoption has been granted, in accordance with the Convention and this chapter.

(d) Filing with registry regarding non-Convention adoptions

Accredited agencies, approved persons, and other persons, including governmental authorities, providing adoption services in an intercountry adoption not subject to the Convention that involves the emigration of a child from the United States shall file information required by regulations jointly issued by the Attorney General and the Secretary of State for purposes of implementing section 14912(e) of this title.

(Pub. L. 106–279, title III, §303, Oct. 6, 2000, 114 Stat. 839.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

SUBCHAPTER IV—ADMINISTRATION AND ENFORCEMENT

§14941. Access to Convention records

(a) Preservation of Convention records

(1) In general

Not later than 180 days after October 6, 2000, the Secretary, in consultation with the Attorney General, shall issue regulations that establish procedures and requirements in accordance with the Convention and this section for the preservation of Convention records.

(2) Applicability of notice and comment rules

Subsections (b), (c), and (d) of section 553 of title 5 shall apply in the development and issuance of regulations under this section.

(b) Access to Convention records

(1) Prohibition

Except as provided in paragraph (2), the Secretary or the Attorney General may disclose a Convention record, and access to such a record may be provided in whole or in part, only if such record is maintained under the authority of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] and disclosure of, or access to, such record is permitted or required by applicable Federal law.

(2) Exception for administration of the Convention

A Convention record may be disclosed, and access to such a record may be provided, in whole or in part, among the Secretary, the Attorney General, central authorities, accredited agencies, and approved persons, only to the extent necessary to administer the Convention or this chapter.

(3) Penalties for unlawful disclosure

Unlawful disclosure of all or part of a Convention record shall be punishable in accordance with applicable Federal law.

(c) Access to non-Convention records

Disclosure of, access to, and penalties for unlawful disclosure of, adoption records that are not Convention records, including records of adoption proceedings conducted in the United States, shall

be governed by applicable State law.

(Pub. L. 106–279, title IV, §401, Oct. 6, 2000, 114 Stat. 841.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (b)(1), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

This chapter, referred to in subsec. (b)(2), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Subsec. (a) of this section effective Oct. 6, 2000, and subsecs. (b) and (c) of this section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505 of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14942. Documents of other Convention countries

Documents originating in any other Convention country and related to a Convention adoption case shall require no authentication in order to be admissible in any Federal, State, or local court in the United States, unless a specific and supported claim is made that the documents are false, have been altered, or are otherwise unreliable.

(Pub. L. 106–279, title IV, §402, Oct. 6, 2000, 114 Stat. 841.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14943. Authorization of appropriations; collection of fees

(a) Authorization of appropriations

(1) In general

There are authorized to be appropriated such sums as may be necessary to agencies of the Federal Government implementing the Convention and the provisions of this chapter.

(2) Availability of funds

Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) Assessment of fees

(1) The Secretary may charge a fee for new or enhanced services that will be undertaken by the Department of State to meet the requirements of this chapter with respect to intercountry adoptions

under the Convention and comparable services with respect to other intercountry adoptions. Such fee shall be prescribed by regulation and shall not exceed the cost of such services.

(2) Fees collected under paragraph (1) shall be retained and deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing such services. Such fees shall remain available for obligation until expended.

(Pub. L. 106–279, title IV, §403, Oct. 6, 2000, 114 Stat. 841; Pub. L. 107–228, div. A, title II, §211(a), Sept. 30, 2002, 116 Stat. 1365; Pub. L. 112–276, §3(a), Jan. 14, 2013, 126 Stat. 2467.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

AMENDMENTS

2013—Subsec. (c). Pub. L. 112–276 struck out subsec. (c). Text read as follows: "No funds collected under the authority of this section may be made available to an accrediting entity to carry out the purposes of this chapter."

2002—Subsec. (b)(2). Pub. L. 107–228, §211(a)(1), inserted "Such fees shall remain available for obligation until expended." at end.

Subsec. (b)(3). Pub. L. 107–228, §211(a)(2), struck out par. (3) which read as follows: "Fees authorized under this section shall be available for obligation only to the extent and in the amount provided in advance in appropriations Acts."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14944. Enforcement

(a) Civil penalties

Any person who—

(1) violates section 14921 of this title;

(2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country—

(A) a decision by an accrediting entity with respect to the accreditation of an agency or approval of a person under subchapter II;

(B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child in a case subject to the Convention; or

(C) a decision or action of any entity performing a central authority function; or

(3) engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes any of the actions described in paragraph (1) or (2),

shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than $50,000 for a first violation, and not more than $100,000 for each succeeding violation.

(b) Civil enforcement

(1) Authority of Attorney General

The Attorney General may bring a civil action to enforce subsection (a) against any person in any United States district court.

(2) Factors to be considered in imposing penalties

In imposing penalties the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

(c) Criminal penalties

Whoever knowingly and willfully violates paragraph (1) or (2) of subsection (a) shall be subject to a fine of not more than $250,000, imprisonment for not more than 5 years, or both.

(Pub. L. 106–279, title IV, §404, Oct. 6, 2000, 114 Stat. 842.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter II, referred to in subsec. (a)(2)(A), was in the original "title II", meaning title II of Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 830, which enacted subchapter II of this chapter and amended section 622 of this title. For complete classification of title II to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

SUBCHAPTER V—GENERAL PROVISIONS

§14951. Recognition of Convention adoptions

Subject to Article 24 of the Convention, adoptions concluded between two other Convention countries that meet the requirements of Article 23 of the Convention and that became final before the date of entry into force of the Convention for the United States shall be recognized thereafter in the United States and given full effect. Such recognition shall include the specific effects described in Article 26 of the Convention.

(Pub. L. 106–279, title V, §501, Oct. 6, 2000, 114 Stat. 843.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14952. Special rules for certain cases

(a) Authority to establish alternative procedures for adoption of children by relatives

To the extent consistent with the Convention, the Secretary may establish by regulation alternative procedures for the adoption of children by individuals related to them by blood, marriage, or adoption, in cases subject to the Convention.

(b) Waiver authority

(1) In general

Notwithstanding any other provision of this chapter, to the extent consistent with the Convention, the Secretary may, on a case-by-case basis, waive applicable requirements of this chapter or regulations issued under this chapter, in the interests of justice or to prevent grave physical harm to the child.

(2) Nondelegation

The authority provided by paragraph (1) may not be delegated.

(Pub. L. 106–279, title V, §502, Oct. 6, 2000, 114 Stat. 843.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14953. Relationship to other laws

(a) Preemption of inconsistent State law

The Convention and this chapter shall not be construed to preempt any provision of the law of any State or political subdivision thereof, or prevent a State or political subdivision thereof from enacting any provision of law with respect to the subject matter of the Convention or this chapter, except to the extent that such provision of State law is inconsistent with the Convention or this chapter, and then only to the extent of the inconsistency.

(b) Applicability of the Indian Child Welfare Act

The Convention and this chapter shall not be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

(c) Relationship to other laws

Sections 3506(c), 3507, and 3512 of title 44 shall not apply to information collection for purposes of sections 14914, 14922(b)(4), and 14932(d) of this title or for use as a Convention record as defined in this chapter.

(Pub. L. 106–279, title V, §503, Oct. 6, 2000, 114 Stat. 843.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114

Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

The Indian Child Welfare Act of 1978, referred to in subsec. (b), is Pub. L. 95–608, Nov. 8, 1978, 92 Stat. 3069, which is classified principally to chapter 21 (§1901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of Title 25 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§14954. No private right of action

The Convention and this chapter shall not be construed to create a private right of action to seek administrative or judicial relief, except to the extent expressly provided in this chapter.

(Pub. L. 106–279, title V, §504, Oct. 6, 2000, 114 Stat. 843.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106–279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

CHAPTER 144—DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS

SUBCHAPTER I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

PART A—GENERAL PROVISIONS

Sec.

SUBCHAPTER I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

PART A—GENERAL PROVISIONS

§15001. Findings, purposes, and policy

(a) Findings

Congress finds that—

(1) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of United States society;

(2) in 1999, there were between 3,200,000 and 4,500,000 individuals with developmental disabilities in the United States, and recent studies indicate that individuals with developmental disabilities comprise between 1.2 and 1.65 percent of the United States population;

(3) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

(4) individuals with developmental disabilities often encounter discrimination in the provision of critical services, such as services in the areas of emphasis (as defined in section 15002 of this title);

(5) individuals with developmental disabilities are at greater risk than the general population of abuse, neglect, financial and sexual exploitation, and the violation of their legal and human rights;

(6) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services, including access to assistive technology, from generic and specialized service systems, and remain unserved or underserved;

(7) individuals with developmental disabilities often require lifelong community services, individualized supports, and other forms of assistance, that are most effective when provided in a coordinated manner;

(8) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that ensures that individuals from racial and ethnic minority backgrounds are fully included in all activities provided under this subchapter;

(9) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family members, friends, and community members are provided with the necessary community services, individualized supports, and other forms of assistance;

(10) current research indicates that 88 percent of individuals with developmental disabilities live with their families or in their own households;

(11) many service delivery systems and communities are not prepared to meet the impending needs of the 479,862 adults with developmental disabilities who are living at home with parents who are 60 years old or older and who serve as the primary caregivers of the adults;

(12) in almost every State, individuals with developmental disabilities are waiting for appropriate services in their communities, in the areas of emphasis;

(13) the public needs to be made more aware of the capabilities and competencies of individuals with developmental disabilities, particularly in cases in which the individuals are provided with necessary services, supports, and other assistance;

(14) as increasing numbers of individuals with developmental disabilities are living, learning, working, and participating in all aspects of community life, there is an increasing need for a well trained workforce that is able to provide the services, supports, and other forms of direct assistance required to enable the individuals to carry out those activities;

(15) there needs to be greater effort to recruit individuals from minority backgrounds into professions serving individuals with developmental disabilities and their families;

(16) the goals of the Nation properly include a goal of providing individuals with developmental disabilities with the information, skills, opportunities, and support to—

(A) make informed choices and decisions about their lives;

(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

(C) pursue meaningful and productive lives;

(D) contribute to their families, communities, and States, and the Nation;

(E) have interdependent friendships and relationships with other persons;

(F) live free of abuse, neglect, financial and sexual exploitation, and violations of their legal and human rights; and

(G) achieve full integration and inclusion in society, in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual; and

(17) as the Nation, States, and communities maintain and expand community living options for individuals with developmental disabilities, there is a need to evaluate the access to those options by individuals with developmental disabilities and the effects of those options on individuals with developmental disabilities.

(b) Purpose

The purpose of this subchapter is to assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent programs authorized under this subchapter, including specifically—

(1) State Councils on Developmental Disabilities in each State to engage in advocacy, capacity building, and systemic change activities that—

(A) are consistent with the purpose described in this subsection and the policy described in subsection (c); and

(B) contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system that includes needed community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families;

(2) protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

(3) University Centers for Excellence in Developmental Disabilities Education, Research, and Service—

(A) to provide interdisciplinary pre-service preparation and continuing education of students and fellows, which may include the preparation and continuing education of leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities to achieve the purpose of this subchapter;

(B) to provide community services—

(i) that provide training and technical assistance for individuals with developmental disabilities, their families, professionals, paraprofessionals, policymakers, students, and other members of the community; and

(ii) that may provide services, supports, and assistance for the persons described in clause (i) through demonstration and model activities;

(C) to conduct research, which may include basic or applied research, evaluation, and the analysis of public policy in areas that affect or could affect, either positively or negatively, individuals with developmental disabilities and their families; and

(D) to disseminate information related to activities undertaken to address the purpose of this subchapter, especially dissemination of information that demonstrates that the network

authorized under this part is a national and international resource that includes specific substantive areas of expertise that may be accessed and applied in diverse settings and circumstances; and

(4) funding for—

(A) national initiatives to collect necessary data on issues that are directly or indirectly relevant to the lives of individuals with developmental disabilities;

(B) technical assistance to entities who engage in or intend to engage in activities consistent with the purpose described in this subsection or the policy described in subsection (c); and

(C) other nationally significant activities.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this subchapter shall be carried out in a manner consistent with the principles that—

(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of self-determination, independence, productivity, and integration and inclusion in all facets of community life, but often require the provision of community services, individualized supports, and other forms of assistance;

(2) individuals with developmental disabilities and their families have competencies, capabilities, and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals;

(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive, including regarding choosing where the individuals live from available options, and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

(4) services, supports, and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

(5) specific efforts must be made to ensure that individuals with developmental disabilities from racial and ethnic minority backgrounds and their families enjoy increased and meaningful opportunities to access and use community services, individualized supports, and other forms of assistance available to other individuals with developmental disabilities and their families;

(6) recruitment efforts in disciplines related to developmental disabilities relating to pre-service training, community training, practice, administration, and policymaking must focus on bringing larger numbers of racial and ethnic minorities into the disciplines in order to provide appropriate skills, knowledge, role models, and sufficient personnel to address the growing needs of an increasingly diverse population;

(7) with education and support, communities can be accessible to and responsive to the needs of individuals with developmental disabilities and their families and are enriched by full and active participation in community activities, and contributions, by individuals with developmental disabilities and their families;

(8) individuals with developmental disabilities have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, communities, and States, and the Nation;

(9) efforts undertaken to maintain or expand community-based living options for individuals with disabilities should be monitored in order to determine and report to appropriate individuals and entities the extent of access by individuals with developmental disabilities to those options and the extent of compliance by entities providing those options with quality assurance standards;

(10) families of children with developmental disabilities need to have access to and use of safe and appropriate child care and before-school and after-school programs, in the most integrated settings, in order to enrich the participation of the children in community life;

(11) individuals with developmental disabilities need to have access to and use of public transportation, in order to be independent and directly contribute to and participate in all facets of

community life; and

(12) individuals with developmental disabilities need to have access to and use of recreational, leisure, and social opportunities in the most integrated settings, in order to enrich their participation in community life.

(Pub. L. 106–402, title I, §101, Oct. 30, 2000, 114 Stat. 1678.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 106–402, §1(a), Oct. 30, 2000, 114 Stat. 1677, provided that: "This Act [see Tables for classification] may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act of 2000'."

Pub. L. 106–402, title II, §201, Oct. 30, 2000, 114 Stat. 1728, provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'Families of Children With Disabilities Support Act of 2000'."

SPECIAL OLYMPICS SPORT AND EMPOWERMENT

Pub. L. 108–406, Oct. 30, 2004, 118 Stat. 2294, as amended by Pub. L. 115–31, div. H, title V, §527, May 5, 2017, 131 Stat. 566, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Special Olympics Sport and Empowerment Act of 2004'.

"SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress finds the following:

"(1) Special Olympics celebrates the possibilities of a world where everybody matters, everybody counts, every person has value, and every person has worth.

"(2) The Government and the people of the United States recognize the dignity and value the giftedness of children and adults with an intellectual disability.

"(3) The Government and the people of the United States are determined to end the isolation and stigmatization of people with an intellectual disability.

"(4) For more than 36 years, Special Olympics has encouraged skill, sharing, courage, and joy through year-round sports training and athletic competition for children and adults with intellectual disabilities.

"(5) Special Olympics provides year-round sports training and competitive opportunities to 1,500,000 athletes with intellectual disabilities in 26 sports and plans to expand the joy of participation through sport to hundreds of thousands of people with intellectual disabilities within the United States and worldwide over the next 5 years.

"(6) Special Olympics has demonstrated its ability to provide a major positive effect on the quality of life of people with intellectual disabilities, improving their health and physical well-being, building their confidence and self-esteem, and giving them a voice to become active and productive members of their communities.

"(7) In society as a whole, Special Olympics has become a vehicle and platform for breaking down artificial barriers, improving public health, changing negative attitudes in education, and helping athletes overcome the prejudice that people with intellectual disabilities face in too many places.

"(8) The Government of the United States enthusiastically supports Special Olympics, recognizes its importance in improving the lives of people with intellectual disabilities, and recognizes Special Olympics as a valued and important component of the global community.

"(b) PURPOSE.—The purposes of this Act are to—

"(1) provide support to Special Olympics to increase athlete participation in and public awareness about the Special Olympics movement;

"(2) dispel negative stereotypes about people with intellectual disabilities;

"(3) build athletic and family involvement through sport; and

"(4) promote the extraordinary gifts of people with intellectual disabilities.

"SEC. 3. ASSISTANCE FOR SPECIAL OLYMPICS.

"(a) EDUCATION ACTIVITIES.—The Secretary of Education may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out the following:

"(1) Activities to promote the expansion of Special Olympics, including activities to increase the participation of individuals with intellectual disabilities within the United States.

"(2) The design and implementation of Special Olympics education programs, including character

education and volunteer programs that support the purposes of this Act, that can be integrated into classroom instruction and are consistent with academic content standards.

"(b) INTERNATIONAL ACTIVITIES.—The Secretary of State may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out the following:

"(1) Activities to increase the participation of individuals with intellectual disabilities in Special Olympics outside of the United States.

"(2) Activities to improve the awareness outside of the United States of the abilities and unique contributions that individuals with intellectual disabilities can make to society.

"(c) HEALTHY ATHLETES.—

"(1) IN GENERAL.—The Secretary of Health and Human Services may award grants to, or enter into contracts or cooperative agreements with, Special Olympics for the implementation of on-site health assessments, screening for health problems, health education, data collection, and referrals to direct health care services.

"(2) COORDINATION.—Activities under paragraph (1) shall be coordinated with private health providers, existing authorized programs of State and local jurisdictions, or the Department of Health and Human Services, as applicable.

"(d) LIMITATION.—Amounts appropriated to carry out this section shall not be used for direct treatment of diseases, medical conditions, or mental health conditions. Nothing in the preceding sentence shall be construed to limit the use of non-Federal funds by Special Olympics.

"SEC. 4. APPLICATION AND ANNUAL REPORT.

"(a) APPLICATION.—

"(1) IN GENERAL.—To be eligible for a grant, contract, or cooperative agreement under subsection (a), (b), or (c) of section 3, Special Olympics shall submit an application at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

"(2) CONTENT.—At a minimum, an application under this subsection shall contain the following:

"(A) ACTIVITIES.—A description of activities to be carried out with the grant, contract, or cooperative agreement.

"(B) MEASURABLE GOALS.—Information on specific measurable goals and objectives to be achieved through activities carried out with the grant, contract, or cooperative agreement.

"(b) ANNUAL REPORT.—

"(1) IN GENERAL.—As a condition on receipt of any funds under subsection (a), (b), or (c) of section 3, Special Olympics shall agree to submit an annual report at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

"(2) CONTENT.—At a minimum, each annual report under this subsection shall describe the degree to which progress has been made toward meeting the goals and objectives described in the applications submitted under subsection (a).

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated—

"(1) for grants, contracts, or cooperative agreements under section 3(a), such sums as may be necessary for fiscal year 2017 and each of the 4 succeeding fiscal years;

"(2) for grants, contracts, or cooperative agreements under section 3(b), such sums as may be necessary for fiscal year 2017 and each of the 4 succeeding fiscal years; and

"(3) for grants, contracts, or cooperative agreements under section 3(c), such sums as may be necessary for fiscal year 2017 and each of the 4 succeeding fiscal years."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 12994. PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Ex. Ord. No. 12994, Mar. 21, 1996, 61 F.R. 13047, as amended by Ex. Ord. No. 13309, July 25, 2003, 68 F.R. 44851; Ex. Ord. No. 13446, §5, Sept. 28, 2007, 72 F.R. 56176, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote full participation of people with intellectual disabilities in their communities, it is hereby ordered as follows:

SECTION 1. *Committee Continued and Responsibilities Expanded*. The President's Committee on Mental

Retardation, with expanded membership and expanded responsibilities, and renamed the President's Committee for People with Intellectual Disabilities (Committee), is hereby continued in operation.

SEC. 2. *Composition of Committee*. (a) The Committee shall be composed of the following members:

(1) The Attorney General;

(2) The Secretary of the Interior;

(3) The Secretary of Commerce;

(4) The Secretary of Labor;

(5) The Secretary of Health and Human Services;

(6) The Secretary of Housing and Urban Development;

(7) The Secretary of Transportation;

(8) The Secretary of Education;

(9) The Secretary of Homeland Security;

(10) The Chief Executive Officer of the Corporation for National and Community Service;

(11) The Commissioner of Social Security;

(12) The Chairman of the Equal Employment Opportunity Commission;

(13) The Chairperson of the National Council on Disability; and

(14) No more than 21 other members who shall be appointed to the Committee by the President. These citizen members shall consist of individuals who represent a broad spectrum of perspectives, experience, and expertise on intellectual disabilities; persons with intellectual disabilities and members of families with a child or adult with intellectual disabilities; and persons employed in either the public or the private sector. Except as the President may from time to time otherwise direct, appointees under this paragraph shall serve for two-year terms, except that an appointment made to fill a vacancy occurring before the expiration of a term shall be made for the balance of the unexpired term.

(b) The President shall designate the Chair of the Committee from the 21 citizen members. The Chair shall preside over meetings of the Committee and represent the Committee on appropriate occasions.

SEC. 3. *Functions of the Committee*. (a) Consistent with subsection (c) of this section, the Committee shall:

(1) provide such advice concerning intellectual disabilities as the President or the Secretary of Health and Human Services may request; and

(2) provide advice to the President concerning the following for people with intellectual disabilities:

(A) expansion of educational opportunities;

(B) promotion of homeownership;

(C) assurance of workplace integration;

(D) improvement of transportation options;

(E) expansion of full access to community living; and

(F) increasing access to assistive and universally designed technologies.

(b) The Committee shall provide an annual report to the President through the Secretary of Health and Human Services. Such additional reports may be made as the President may direct or as the Committee may deem appropriate.

(c) The members shall advise the President and carry out their advisory role consistent with the requirements of the Federal Advisory Committee Act, as amended (5 U.S.C. App.).

SEC. 4. *Cooperation by Agencies*. The heads of Federal departments and agencies shall:

(a) designate, when requested by the Secretary of Health and Human Services, an officer or employee of such department or agency to serve as a liaison with the Committee; and

(b) furnish such information and assistance to the Committee, to the extent permitted by law, as the Secretary of Health and Human Services may request to assist the Committee in performing its functions under this order.

SEC. 5. *Administration*. (a) The Department of Health and Human Services shall provide the Committee with necessary staff support, administrative services and facilities, and funding, to the extent permitted by law.

(b) Each member of the Committee, except any member who receives other compensation from the United States Government, may receive compensation for each day engaged in the work of the Committee, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701–5707), for persons employed intermittently in the Government service. Committee members with disabilities may be compensated for attendant expenses, consistent with Government procedures and practices.

(c) The Secretary of Health and Human Services shall perform such other functions with respect to the Committee as may be required by the Federal Advisory Committee Act, as amended (5 U.S.C. App.), except that of reporting to the Congress.

SEC. 6. *General*. (a) Nothing in this order shall be construed as subjecting any Federal agency, or any

function vested by law in, or assigned pursuant to law to, any Federal agency, to the authority of the Committee or as abrogating or restricting any such function in any manner.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE FOR PEOPLE WITH INTELLECTUAL DISABILITIES

Term of the President's Committee for People with Intellectual Disabilities extended until Sept. 30, 2023, by Ex. Ord. No. 14048, Sept. 30, 2021, 86 F.R. 55465, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Previous extensions of term of the President's Committee for People with Intellectual Disabilities (formerly President's Committee on Mental Retardation) were contained in the following prior Executive Orders:

Ex. Ord. No. 13889, Sept. 27, 2019, 84 F.R. 52743, extended term until Sept. 30, 2021.
Ex. Ord. No. 13811, Sept. 29, 2017, 82 F.R. 46363, extended term until Sept. 30, 2019.
Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, extended term until Sept. 30, 2017.
Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.
Ex. Ord. No. 13585, Sept. 30, 2011, 76 F.R. 62281, extended term until Sept. 30, 2013.
Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, extended term until Sept. 30, 2011.
Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, extended term until Sept. 30, 2009.
Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, extended term until Sept. 30, 2007.
Ex. Ord. No. 13309, §5, July 25, 2003, 68 F.R. 44851, changed name to Committee for People with Intellectual Disabilities and extended term until Sept. 30, 2005.
Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, extended term until Sept. 30, 2003.
Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, extended term until Sept. 30, 2001.
Ex. Ord. No. 13062, §1(k), Sept. 29, 1997, 62 F.R. 51755, extended term until Sept. 30, 1999.
Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, extended term until Sept. 30, 1997.
Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, extended term until Sept. 30, 1995.
Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, extended term until Sept. 30, 1993.
Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, extended term until Sept. 30, 1991.
Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, extended term until Sept. 30, 1989.
Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, extended term until Sept. 30, 1987.
Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, extended term until Sept. 30, 1985.
Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, extended term until Sept. 30, 1984.
Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, extended term of President's Committee on Mental Retardation until Dec. 31, 1982.

§15002. Definitions

In this subchapter:

(1) American Indian Consortium

The term "American Indian Consortium" means any confederation of 2 or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in 2 or more States.

(2) Areas of emphasis

The term "areas of emphasis" means the areas related to quality assurance activities, education activities and early intervention activities, child care-related activities, health-related activities, employment-related activities, housing-related activities, transportation-related activities, recreation-related activities, and other services available or offered to individuals in a community, including formal and informal community supports, that affect their quality of life.

(3) Assistive technology device

The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or

improve functional capabilities of individuals with developmental disabilities.

(4) Assistive technology service

The term "assistive technology service" means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) conducting an evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of an assistive technology device by an individual with a developmental disability;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing an assistive technology device;

(D) coordinating and using another therapy, intervention, or service with an assistive technology device, such as a therapy, intervention, or service associated with an education or rehabilitation plan or program;

(E) providing training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

(F) providing training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

(5) Center

The term "Center" means a University Center for Excellence in Developmental Disabilities Education, Research, and Service established under part D.

(6) Child care-related activities

The term "child care-related activities" means advocacy, capacity building, and systemic change activities that result in families of children with developmental disabilities having access to and use of child care services, including before-school, after-school, and out-of-school services, in their communities.

(7) Culturally competent

The term "culturally competent", used with respect to services, supports, or other assistance, means services, supports, or other assistance that is conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of individuals who are receiving the services, supports, or other assistance, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program involved.

(8) Developmental disability

(A) In general

The term "developmental disability" means a severe, chronic disability of an individual that—

(i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) is manifested before the individual attains age 22;

(iii) is likely to continue indefinitely;

(iv) results in substantial functional limitations in 3 or more of the following areas of major life activity:

(I) Self-care.

(II) Receptive and expressive language.

(III) Learning.

(IV) Mobility.

(V) Self-direction.

(VI) Capacity for independent living.
(VII) Economic self-sufficiency; and

(v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

(B) Infants and young children

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

(9) Early intervention activities

The term "early intervention activities" means advocacy, capacity building, and systemic change activities provided to individuals described in paragraph (8)(B) and their families to enhance—

(A) the development of the individuals to maximize their potential; and
(B) the capacity of families to meet the special needs of the individuals.

(10) Education activities

The term "education activities" means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities being able to access appropriate supports and modifications when necessary, to maximize their educational potential, to benefit from lifelong educational activities, and to be integrated and included in all facets of student life.

(11) Employment-related activities

The term "employment-related activities" means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities acquiring, retaining, or advancing in paid employment, including supported employment or self-employment, in integrated settings in a community.

(12) Family support services

(A) In general

The term "family support services" means services, supports, and other assistance, provided to families with members who have developmental disabilities, that are designed to—

(i) strengthen the family's role as primary caregiver;
(ii) prevent inappropriate out-of-the-home placement of the members and maintain family unity; and
(iii) reunite families with members who have been placed out of the home whenever possible.

(B) Specific services

Such term includes respite care, provision of rehabilitation technology and assistive technology, personal assistance services, parent training and counseling, support for families headed by aging caregivers, vehicular and home modifications, and assistance with extraordinary expenses, associated with the needs of individuals with developmental disabilities.

(13) Health-related activities

The term "health-related activities" means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of coordinated health, dental, mental health, and other human and social services, including prevention activities, in their communities.

(14) Housing-related activities

The term "housing-related activities" means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of housing and housing supports and services in their communities, including assistance related to renting, owning, or modifying an apartment or home.

(15) Inclusion

The term "inclusion", used with respect to individuals with developmental disabilities, means the acceptance and encouragement of the presence and participation of individuals with developmental disabilities, by individuals without disabilities, in social, educational, work, and community activities, that enables individuals with developmental disabilities to—

(A) have friendships and relationships with individuals and families of their own choice;

(B) live in homes close to community resources, with regular contact with individuals without disabilities in their communities;

(C) enjoy full access to and active participation in the same community activities and types of employment as individuals without disabilities; and

(D) take full advantage of their integration into the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities.

(16) Individualized supports

The term "individualized supports" means supports that—

(A) enable an individual with a developmental disability to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life;

(B) are designed to—

(i) enable such individual to control such individual's environment, permitting the most independent life possible;

(ii) prevent placement into a more restrictive living arrangement than is necessary; and

(iii) enable such individual to live, learn, work, and enjoy life in the community; and

(C) include—

(i) early intervention services;

(ii) respite care;

(iii) personal assistance services;

(iv) family support services;

(v) supported employment services;

(vi) support services for families headed by aging caregivers of individuals with developmental disabilities; and

(vii) provision of rehabilitation technology and assistive technology, and assistive technology services.

(17) Integration

The term "integration", used with respect to individuals with developmental disabilities, means exercising the equal right of individuals with developmental disabilities to access and use the same community resources as are used by and available to other individuals.

(18) Not-for-profit

The term "not-for-profit", used with respect to an agency, institution, or organization, means an agency, institution, or organization that is owned or operated by 1 or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(19) Personal assistance services

The term "personal assistance services" means a range of services, provided by 1 or more individuals, designed to assist an individual with a disability to perform daily activities, including

activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities, including activities on or off a job.

(20) Prevention activities

The term "prevention activities" means activities that address the causes of developmental disabilities and the exacerbation of functional limitation, such as activities that—

(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

(B) increase the early identification of problems to eliminate circumstances that create or increase functional limitations; and

(C) mitigate against the effects of developmental disabilities throughout the lifespan of an individual.

(21) Productivity

The term "productivity" means—

(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

(B) engagement in work that contributes to a household or community.

(22) Protection and advocacy system

The term "protection and advocacy system" means a protection and advocacy system established in accordance with section 15043 of this title.

(23) Quality assurance activities

The term "quality assurance activities" means advocacy, capacity building, and systemic change activities that result in improved consumer- and family-centered quality assurance and that result in systems of quality assurance and consumer protection that—

(A) include monitoring of services, supports, and assistance provided to an individual with developmental disabilities that ensures that the individual—

(i) will not experience abuse, neglect, sexual or financial exploitation, or violation of legal or human rights; and

(ii) will not be subject to the inappropriate use of restraints or seclusion;

(B) include training in leadership, self-advocacy, and self-determination for individuals with developmental disabilities, their families, and their guardians to ensure that those individuals—

(i) will not experience abuse, neglect, sexual or financial exploitation, or violation of legal or human rights; and

(ii) will not be subject to the inappropriate use of restraints or seclusion; or

(C) include activities related to interagency coordination and systems integration that result in improved and enhanced services, supports, and other assistance that contribute to and protect the self-determination, independence, productivity, and integration and inclusion in all facets of community life, of individuals with developmental disabilities.

(24) Recreation-related activities

The term "recreation-related activities" means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of recreational, leisure, and social activities, in their communities.

(25) Rehabilitation technology

The term "rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education,

rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, and the provision of assistive technology devices and assistive technology services.

(26) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(27) Self-determination activities

The term "self-determination activities" means activities that result in individuals with developmental disabilities, with appropriate assistance, having—

(A) the ability and opportunity to communicate and make personal decisions;

(B) the ability and opportunity to communicate choices and exercise control over the type and intensity of services, supports, and other assistance the individuals receive;

(C) the authority to control resources to obtain needed services, supports, and other assistance;

(D) opportunities to participate in, and contribute to, their communities; and

(E) support, including financial support, to advocate for themselves and others, to develop leadership skills, through training in self-advocacy, to participate in coalitions, to educate policymakers, and to play a role in the development of public policies that affect individuals with developmental disabilities.

(28) State

The term "State", except as otherwise provided, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(29) State Council on Developmental Disabilities

The term "State Council on Developmental Disabilities" means a Council established under section 15025 of this title.

(30) Supported employment services

The term "supported employment services" means services that enable individuals with developmental disabilities to perform competitive work in integrated work settings, in the case of individuals with developmental disabilities—

(A)(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of significant disabilities; and

(B) who, because of the nature and severity of their disabilities, need intensive supported employment services or extended services in order to perform such work.

(31) Transportation-related activities

The term "transportation-related activities" means advocacy, capacity building, and systemic change activities that result in individuals with developmental disabilities having access to and use of transportation.

(32) Unserved and underserved

The term "unserved and underserved" includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals who require assistive technology in order to participate in and contribute to community life.

(Pub. L. 106–402, title I, §102, Oct. 30, 2000, 114 Stat. 1682.)

§15003. Records and audits

(a) Records

Each recipient of assistance under this subchapter shall keep such records as the Secretary shall prescribe, including—

(1) records that fully disclose—

(A) the amount and disposition by such recipient of the assistance;

(B) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(C) the amount of that portion of the cost of the project or undertaking that is supplied by other sources; and

(2) such other records as will facilitate an effective audit.

(b) Access

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this subchapter that are pertinent to such assistance.

(Pub. L. 106–402, title I, §103, Oct. 30, 2000, 114 Stat. 1688.)

§15004. Responsibilities of the Secretary

(a) Program accountability

(1) In general

In order to monitor entities that received funds under this chapter to carry out activities under parts B, C, and D and determine the extent to which the entities have been responsive to the purpose of this subchapter and have taken actions consistent with the policy described in section 15001(c) of this title, the Secretary shall develop and implement an accountability process as described in this subsection, with respect to activities conducted after October 1, 2001.

(2) Areas of emphasis

The Secretary shall develop a process for identifying and reporting (pursuant to section 15005 of this title) on progress achieved through advocacy, capacity building, and systemic change activities, undertaken by the entities described in paragraph (1), that resulted in individuals with developmental disabilities and their families participating in the design of and having access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life. Specifically, the Secretary shall develop a process for identifying and reporting on progress achieved, through advocacy, capacity building, and systemic change activities, by the entities in the areas of emphasis.

(3) Indicators of progress

(A) In general

In identifying progress made by the entities described in paragraph (1) in the areas of emphasis, the Secretary, in consultation with the Commissioner of the Administration on Developmental Disabilities and the entities, shall develop indicators for each area of emphasis.

(B) Proposed indicators

Not later than 180 days after October 30, 2000, the Secretary shall develop and publish in the Federal Register for public comment proposed indicators of progress for monitoring how

entities described in paragraph (1) have addressed the areas of emphasis described in paragraph (2) in a manner that is responsive to the purpose of this subchapter and consistent with the policy described in section 15001(c) of this title.

(C) Final indicators

Not later than October 1, 2001, the Secretary shall revise the proposed indicators of progress, to the extent necessary based on public comment, and publish final indicators of progress in the Federal Register.

(D) Specific measures

At a minimum, the indicators of progress shall be used to describe and measure—

(i) the satisfaction of individuals with developmental disabilities with the advocacy, capacity building, and systemic change activities provided under parts B, C, and D;

(ii) the extent to which the advocacy, capacity building, and systemic change activities provided through parts B, C, and D result in improvements in—

(I) the ability of individuals with developmental disabilities to make choices and exert control over the type, intensity, and timing of services, supports, and assistance that the individuals have used;

(II) the ability of individuals with developmental disabilities to participate in the full range of community life with persons of the individuals' choice; and

(III) the ability of individuals with developmental disabilities to access services, supports, and assistance in a manner that ensures that such an individual is free from abuse, neglect, sexual and financial exploitation, violation of legal and human rights, and the inappropriate use of restraints and seclusion; and

(iii) the extent to which the entities described in paragraph (1) collaborate with each other to achieve the purpose of this subchapter and the policy described in section 15001(c) of this title.

(4) Time line for compliance with indicators of progress

The Secretary shall require entities described in paragraph (1) to meet the indicators of progress described in paragraph (3). For fiscal year 2002 and each year thereafter, the Secretary shall apply the indicators in monitoring entities described in paragraph (1), with respect to activities conducted after October 1, 2001.

(b) Time line for regulations

Except as otherwise expressly provided in this subchapter, the Secretary, not later than 1 year after October 30, 2000, shall promulgate such regulations as may be required for the implementation of this subchapter.

(c) Interagency committee

(1) In general

The Secretary shall maintain the interagency committee authorized in section 6007 of this title as in effect on the day before October 30, 2000, except as otherwise provided in this subsection.

(2) Composition

The interagency committee shall be composed of representatives of—

(A) the Administration on Developmental Disabilities, the Administration on Children, Youth, and Families, the Administration on Aging, and the Health Resources and Services Administration, of the Department of Health and Human Services; and

(B) such other Federal departments and agencies as the Secretary of Health and Human Services considers to be appropriate.

(3) Duties

Such interagency committee shall meet regularly to coordinate and plan activities conducted by Federal departments and agencies for individuals with developmental disabilities.

(4) Meetings

Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.

(Pub. L. 106–402, title I, §104, Oct. 30, 2000, 114 Stat. 1688.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

Section 6007 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737.

§15005. Reports of the Secretary

At least once every 2 years, the Secretary, using information submitted in the reports and information required under parts B, C, D, and E, shall prepare and submit to the President, Congress, and the National Council on Disability, a report that describes the goals and outcomes of programs supported under parts B, C, D, and E. In preparing the report, the Secretary shall provide—

(1) meaningful examples of how the councils, protection and advocacy systems, centers, and entities funded under parts B, C, D, and E, respectively—

(A) have undertaken coordinated activities with each other;

(B) have enhanced the ability of individuals with developmental disabilities and their families to participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life;

(C) have brought about advocacy, capacity building, and systemic change activities (including policy reform), and other actions on behalf of individuals with developmental disabilities and their families, including individuals who are traditionally unserved or underserved, particularly individuals who are members of ethnic and racial minority groups and individuals from underserved geographic areas; and

(D) have brought about advocacy, capacity building, and systemic change activities that affect individuals with disabilities other than individuals with developmental disabilities;

(2) information on the extent to which programs authorized under this subchapter have addressed—

(A) protecting individuals with developmental disabilities from abuse, neglect, sexual and financial exploitation, and violations of legal and human rights, so that those individuals are at no greater risk of harm than other persons in the general population; and

(B) reports of deaths of and serious injuries to individuals with developmental disabilities; and

(3) a summary of any incidents of noncompliance of the programs authorized under this subchapter with the provisions of this subchapter, and corrections made or actions taken to obtain compliance.

(Pub. L. 106–402, title I, §105, Oct. 30, 2000, 114 Stat. 1690.)

§15006. State control of operations

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any programs, services, and supports for individuals with developmental disabilities with respect to which any funds have been or may be expended under this subchapter.

(Pub. L. 106–402, title I, §106, Oct. 30, 2000, 114 Stat. 1691.)

§15007. Employment of individuals with disabilities

As a condition of providing assistance under this subchapter, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that govern employment.

(Pub. L. 106–402, title I, §107, Oct. 30, 2000, 114 Stat. 1691.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Americans with Disabilities Act of 1990, referred to in text, is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

§15008. Construction

Nothing in this subchapter shall be construed to preclude an entity funded under this subchapter from engaging in advocacy, capacity building, and systemic change activities for individuals with developmental disabilities that may also have a positive impact on individuals with other disabilities.

(Pub. L. 106–402, title I, §108, Oct. 30, 2000, 114 Stat. 1692.)

§15009. Rights of individuals with developmental disabilities

(a) In general

Congress makes the following findings respecting the rights of individuals with developmental disabilities:

(1) Individuals with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities, consistent with section 15001(c) of this title.

(2) The treatment, services, and habitation [1] for an individual with developmental disabilities should be designed to maximize the potential of the individual and should be provided in the setting that is least restrictive of the individual's personal liberty.

(3) The Federal Government and the States both have an obligation to ensure that public funds are provided only to institutional programs, residential programs, and other community programs, including educational programs in which individuals with developmental disabilities participate, that—

(A) provide treatment, services, and habilitation that are appropriate to the needs of such individuals; and

(B) meet minimum standards relating to—

(i) provision of care that is free of abuse, neglect, sexual and financial exploitation, and violations of legal and human rights and that subjects individuals with developmental disabilities to no greater risk of harm than others in the general population;

(ii) provision to such individuals of appropriate and sufficient medical and dental services;

(iii) prohibition of the use of physical restraint and seclusion for such an individual unless absolutely necessary to ensure the immediate physical safety of the individual or others, and prohibition of the use of such restraint and seclusion as a punishment or as a substitute for a habilitation program;

(iv) prohibition of the excessive use of chemical restraints on such individuals and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such individuals; and

(v) provision for close relatives or guardians of such individuals to visit the individuals without prior notice.

(4) All programs for individuals with developmental disabilities should meet standards—

(A) that are designed to assure the most favorable possible outcome for those served; and

(B)(i) in the case of residential programs serving individuals in need of comprehensive health-related, habilitative, assistive technology or rehabilitative services, that are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded, promulgated in regulations of the Secretary on June 3, 1988, as appropriate, taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

(ii) in the case of other residential programs for individuals with developmental disabilities, that assure that—

(I) care is appropriate to the needs of the individuals being served by such programs;

(II) the individuals admitted to facilities of such programs are individuals whose needs can be met through services provided by such facilities; and

(III) the facilities of such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

(iii) in the case of nonresidential programs, that assure that the care provided by such programs is appropriate to the individuals served by the programs.

(b) Clarification

The rights of individuals with developmental disabilities described in findings made in this section shall be considered to be in addition to any constitutional or other rights otherwise afforded to all individuals.

(Pub. L. 106–402, title I, §109, Oct. 30, 2000, 114 Stat. 1692.)

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

PART B—FEDERAL ASSISTANCE TO STATE COUNCILS ON DEVELOPMENTAL DISABILITIES

§15021. Purpose

The purpose of this part is to provide for allotments to support State Councils on Developmental Disabilities (referred to individually in this part as a "Council") in each State to—

(1) engage in advocacy, capacity building, and systemic change activities that are consistent with the purpose described in section 15001(b) of this title and the policy described in section

15001(c) of this title; and

(2) contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life.

(Pub. L. 106–402, title I, §121, Oct. 30, 2000, 114 Stat. 1693.)

§15022. State allotments

(a) Allotments

(1) In general

(A) Authority

For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 15029 of this title among the States on the basis of—

(i) the population;

(ii) the extent of need for services for individuals with developmental disabilities; and

(iii) the financial need,

of the respective States.

(B) Use of funds

Sums allotted to the States under this section shall be used to pay for the Federal share of the cost of carrying out projects in accordance with State plans approved under section 15024 of this title for the provision under such plans of services for individuals with developmental disabilities.

(2) Adjustments

The Secretary may make adjustments in the amounts of State allotments based on clauses (i), (ii), and (iii) of paragraph (1)(A) not more often than annually. The Secretary shall notify each State of any adjustment made under this paragraph and the percentage of the total sums appropriated under section 15029 of this title that the adjusted allotment represents not later than 6 months before the beginning of the fiscal year in which such adjustment is to take effect.

(3) Minimum allotment for appropriations less than or equal to $70,000,000

(A) In general

Except as provided in paragraph (4), for any fiscal year the allotment under this section—

(i) to each of American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands may not be less than $210,000; and

(ii) to any State not described in clause (i) may not be less than $400,000, the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater.

(B) Reduction of allotment

Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to the States pursuant to subparagraph (A) for any fiscal year exceeds the total amount appropriated under section 15029 of this title for such fiscal year, the amount to be allotted to each State for such fiscal year shall be proportionately reduced.

(4) Minimum allotment for appropriations in excess of $70,000,000

(A) In general

In any case in which the total amount appropriated under section 15029 of this title for a

fiscal year is more than $70,000,000, the allotment under this section for such fiscal year—

(i) to each of American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands may not be less than $220,000; and

(ii) to any State not described in clause (i) may not be less than $450,000, the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater.

(B) Reduction of allotment

The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).

(5) State supports, services, and other activities

In determining, for purposes of paragraph (1)(A)(ii), the extent of need in any State for services for individuals with developmental disabilities, the Secretary shall take into account the scope and extent of the services, supports, and assistance described, pursuant to section 15024(c)(3)(A) of this title, in the State plan of the State.

(6) Increase in allotments

In any year in which the total amount appropriated under section 15029 of this title for a fiscal year exceeds the total amount appropriated under such section (or a corresponding provision) for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29 (if the percentage change indicates an increase), the Secretary shall increase each of the minimum allotments described in paragraphs (3) and (4). The Secretary shall increase each minimum allotment by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph (or a corresponding provision) for prior fiscal years) as the amount that is equal to the difference between—

(A) the total amount appropriated under section 15029 of this title for the fiscal year for which the increase in the minimum allotment is being made; minus

(B) the total amount appropriated under section 15029 of this title (or a corresponding provision) for the immediately preceding fiscal year,

bears to the total amount appropriated under section 15029 of this title (or a corresponding provision) for such preceding fiscal year.

(b) Unobligated funds

Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

(c) Obligation of funds

For the purposes of this part, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this part.

(d) Cooperative efforts between States

If a State plan approved in accordance with section 15024 of this title provides for cooperative or joint effort between or among States or agencies, public or private, in more than 1 State, portions of funds allotted to 1 or more States described in this subsection may be combined in accordance with the agreements between the States or agencies involved.

(e) Reallotments

(1) In general

If the Secretary determines that an amount of an allotment to a State for a period (of a fiscal year or longer) will not be required by the State during the period for the purpose for which the allotment was made, the Secretary may reallot the amount.

(2) Timing

The Secretary may make such a reallotment from time to time, on such date as the Secretary may fix, but not earlier than 30 days after the Secretary has published notice of the intention of the Secretary to make the reallotment in the Federal Register.

(3) Amounts

The Secretary shall reallot the amount to other States with respect to which the Secretary has not made that determination. The Secretary shall reallot the amount in proportion to the original allotments of the other States for such fiscal year, but shall reduce such proportionate amount for any of the other States to the extent the proportionate amount exceeds the sum that the Secretary estimates the State needs and will be able to use during such period.

(4) Reallotment of reductions

The Secretary shall similarly reallot the total of the reductions among the States whose proportionate amounts were not so reduced.

(5) Treatment

Any amount reallotted to a State under this subsection for a fiscal year shall be deemed to be a part of the allotment of the State under subsection (a) for such fiscal year.

(Pub. L. 106–402, title I, §122, Oct. 30, 2000, 114 Stat. 1693; Pub. L. 108–154, §3(a), Dec. 3, 2003, 117 Stat. 1934.)

EDITORIAL NOTES

AMENDMENTS

2003—Subsec. (a)(3)(A)(ii), (4)(A)(ii). Pub. L. 108–154 inserted before period at end ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–154, §3(b), Dec. 3, 2003, 117 Stat. 1934, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2003 and apply to allotments beginning in fiscal year 2004."

§15023. Payments to the States for planning, administration, and services

(a) State plan expenditures

From each State's allotments for a fiscal year under section 15022 of this title, the Secretary shall pay to the State the Federal share of the cost, other than the cost for construction, incurred during such year for activities carried out under the State plan approved under section 15024 of this title. The Secretary shall make such payments from time to time in advance on the basis of estimates by the Secretary of the sums the State will expend for the cost under the State plan. The Secretary shall make such adjustments as may be necessary to the payments on account of previously made underpayments or overpayments under this section.

(b) Designated State agency expenditures

The Secretary may make payments to a State for the portion described in section 15024(c)(5)(B)(vi) of this title in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(Pub. L. 106–402, title I, §123, Oct. 30, 2000, 114 Stat. 1696.)

§15024. State plan

(a) In general

Any State desiring to receive assistance under this part shall submit to the Secretary, and obtain approval of, a 5-year strategic State plan under this section.

(b) Planning cycle

The plan described in subsection (a) shall be updated as appropriate during the 5-year period.

(c) State plan requirements

In order to be approved by the Secretary under this section, a State plan shall meet each of the following requirements:

(1) State Council

The plan shall provide for the establishment and maintenance of a Council in accordance with section 15025 of this title and describe the membership of such Council.

(2) Designated State agency

The plan shall identify the agency or office within the State designated to support the Council in accordance with this section and section 15025(d) of this title (referred to in this part as a "designated State agency").

(3) Comprehensive review and analysis

The plan shall describe the results of a comprehensive review and analysis of the extent to which services, supports, and other assistance are available to individuals with developmental disabilities and their families, and the extent of unmet needs for services, supports, and other assistance for those individuals and their families, in the State. The results of the comprehensive review and analysis shall include—

(A) a description of the services, supports, and other assistance being provided to individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies under which the State operates and in which individuals with developmental disabilities are or may be eligible to participate, including particularly programs relating to the areas of emphasis, including—

(i) medical assistance, maternal and child health care, services for children with special health care needs, children's mental health services, comprehensive health and mental health services, and institutional care options;

(ii) job training, job placement, worksite accommodation, and vocational rehabilitation, and other work assistance programs; and

(iii) social, child welfare, aging, independent living, and rehabilitation and assistive technology services, and such other services as the Secretary may specify;

(B) a description of the extent to which agencies operating such other federally assisted State programs, including activities authorized under section 3003 or 3004 of title 29, pursue interagency initiatives to improve and enhance community services, individualized supports, and other forms of assistance for individuals with developmental disabilities;

(C) an analysis of the extent to which community services and opportunities related to the areas of emphasis directly benefit individuals with developmental disabilities, especially with regard to their ability to access and use services provided in their communities, to participate in opportunities, activities, and events offered in their communities, and to contribute to community life, identifying particularly—

(i) the degree of support for individuals with developmental disabilities that are attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

(ii) criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with

developmental disabilities from receiving services described in this clause;

(iii) the barriers that impede full participation of members of unserved and underserved groups of individuals with developmental disabilities and their families;

(iv) the availability of assistive technology, assistive technology services, or rehabilitation technology, or information about assistive technology, assistive technology services, or rehabilitation technology to individuals with developmental disabilities;

(v) the numbers of individuals with developmental disabilities on waiting lists for services described in this subparagraph;

(vi) a description of the adequacy of current resources and projected availability of future resources to fund services described in this subparagraph;

(vii) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are in facilities receive (based in part on each independent review (pursuant to section 1396a(a)(30)(C) of this title) of an Intermediate Care Facility (Mental Retardation) within the State, which the State shall provide to the Council not later than 30 days after the availability of the review); and

(viii) to the extent that information is available, a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are served through home and community-based waivers (authorized under section 1396n(c) of this title) receive;

(D) a description of how entities funded under parts C and D, through interagency agreements or other mechanisms, collaborated with the entity funded under this part in the State, each other, and other entities to contribute to the achievement of the purpose of this part; and

(E) the rationale for the goals related to advocacy, capacity building, and systemic change to be undertaken by the Council to contribute to the achievement of the purpose of this part.

(4) Plan goals

The plan shall focus on Council efforts to bring about the purpose of this part, by—

(A) specifying 5-year goals, as developed through data driven strategic planning, for advocacy, capacity building, and systemic change related to the areas of emphasis, to be undertaken by the Council, that—

(i) are derived from the unmet needs of individuals with developmental disabilities and their families identified under paragraph (3); and

(ii) include a goal, for each year of the grant, to—

(I) establish or strengthen a program for the direct funding of a State self-advocacy organization led by individuals with developmental disabilities;

(II) support opportunities for individuals with developmental disabilities who are considered leaders to provide leadership training to individuals with developmental disabilities who may become leaders; and

(III) support and expand participation of individuals with developmental disabilities in cross-disability and culturally diverse leadership coalitions; and

(B) for each year of the grant, describing—

(i) the goals to be achieved through the grant, which, beginning in fiscal year 2002, shall be consistent with applicable indicators of progress described in section 15004(a)(3) of this title;

(ii) the strategies to be used in achieving each goal; and

(iii) the method to be used to determine if each goal has been achieved.

(5) Assurances

(A) In general

The plan shall contain or be supported by assurances and information described in subparagraphs (B) through (N) that are satisfactory to the Secretary.

(B) Use of funds

With respect to the funds paid to the State under section 15022 of this title, the plan shall provide assurances that—

(i) not less than 70 percent of such funds will be expended for activities related to the goals described in paragraph (4);

(ii) such funds will contribute to the achievement of the purpose of this part in various political subdivisions of the State;

(iii) such funds will be used to supplement, and not supplant, the non-Federal funds that would otherwise be made available for the purposes for which the funds paid under section 15022 of this title are provided;

(iv) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

(v) part of such funds will be made available by the State to public or private entities;

(vi) at the request of any State, a portion of such funds provided to such State under this part for any fiscal year shall be available to pay up to ½ (or the entire amount if the Council is the designated State agency) of the expenditures found to be necessary by the Secretary for the proper and efficient exercise of the functions of the designated State agency, except that not more than 5 percent of such funds provided to such State for any fiscal year, or $50,000, whichever is less, shall be made available for total expenditures for such purpose by the designated State agency; and

(vii) not more than 20 percent of such funds will be allocated to the designated State agency for service demonstrations by such agency that—

(I) contribute to the achievement of the purpose of this part; and

(II) are explicitly authorized by the Council.

(C) State financial participation

The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the plan.

(D) Conflict of interest

The plan shall provide an assurance that no member of such Council will cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

(E) Urban and rural poverty areas

The plan shall provide assurances that special financial and technical assistance will be given to organizations that provide community services, individualized supports, and other forms of assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

(F) Program accessibility standards

The plan shall provide assurances that programs, projects, and activities funded under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulations and all applicable Federal and State accessibility standards, including accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), section 794d of title 29, and the Fair Housing Act (42 U.S.C. 3601 et seq.).

(G) Individualized services

The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under the plan will be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individual.

(H) Human rights

The plan shall provide assurances that the human rights of the individuals with developmental disabilities (especially individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 15009 of this title (relating to rights of individuals with developmental disabilities).

(I) Minority participation

The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs funded under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

(J) Employee protections

The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions taken under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and provide training and retraining of such employees where necessary, and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

(K) Staff assignments

The plan shall provide assurances that the staff and other personnel of the Council, while working for the Council, will be responsible solely for assisting the Council in carrying out the duties of the Council under this part and will not be assigned duties by the designated State agency, or any other agency, office, or entity of the State.

(L) Noninterference

The plan shall provide assurances that the designated State agency, and any other agency, office, or entity of the State, will not interfere with the advocacy, capacity building, and systemic change activities, budget, personnel, State plan development, or plan implementation of the Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 15025(d)(3) of this title.

(M) State quality assurance

The plan shall provide assurances that the Council will participate in the planning, design or redesign, and monitoring of State quality assurance systems that affect individuals with developmental disabilities.

(N) Other assurances

The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions (including the purpose) of this part.

(d) Public input and review, submission, and approval

(1) Public input and review

The plan shall be based on public input. The Council shall make the plan available for public review and comment, after providing appropriate and sufficient notice in accessible formats of the opportunity for such review and comment. The Council shall revise the plan to take into account and respond to significant comments.

(2) Consultation with the designated State agency

Before the plan is submitted to the Secretary, the Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

(3) Plan approval

The Secretary shall approve any State plan and, as appropriate, amendments of such plan that comply with the provisions of subsections (a), (b), and (c) and this subsection. The Secretary may

take final action to disapprove a State plan after providing reasonable notice and an opportunity for a hearing to the State.

(Pub. L. 106–402, title I, §124, Oct. 30, 2000, 114 Stat. 1696; Pub. L. 108–364, §3(a)(1), Oct. 25, 2004, 118 Stat. 1736.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (c)(5)(F), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of this title and Tables.

The Fair Housing Act, referred to in subsec. (c)(5)(F), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

2004—Subsec. (c)(3)(B). Pub. L. 108–364 substituted "section 3003 or 3004 of title 29" for "section 3011 or 3012 of title 29".

§15025. State Councils on Developmental Disabilities and designated State agencies

(a) In general

Each State that receives assistance under this part shall establish and maintain a Council to undertake advocacy, capacity building, and systemic change activities (consistent with subsections (b) and (c) of section 15001 of this title) that contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of this part. The Council shall have the authority to fulfill the responsibilities described in subsection (c).

(b) Council membership

(1) Council appointments

(A) In general

The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State.

(B) Recommendations

The Governor shall select members of the Council, at the discretion of the Governor, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the initiative of the Council, or on the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations.

(C) Representation

The membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

(2) Membership rotation

The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members'

successors are appointed. The Council shall notify the Governor regarding membership requirements of the Council, and shall notify the Governor when vacancies on the Council remain unfilled for a significant period of time.

(3) Representation of individuals with developmental disabilities

Not less than 60 percent of the membership of each Council shall consist of individuals who are—

(A)(i) individuals with developmental disabilities;

(ii) parents or guardians of children with developmental disabilities; or

(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act (42 U.S.C. 1320a–5(b)) of any other entity that receives funds or provides services under this part.

(4) Representation of agencies and organizations

(A) In general

Each Council shall include—

(i) representatives of relevant State entities, including—

(I) State entities that administer funds provided under Federal laws related to individuals with disabilities, including the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), and titles V and XIX of the Social Security Act (42 U.S.C. 701 et seq. and 1396 et seq.);

(II) Centers in the State; and

(III) the State protection and advocacy system; and

(ii) representatives, at all times, of local and nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located.

(B) Authority and limitations

The representatives described in subparagraph (A) shall—

(i) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

(ii) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees, contractors, or applicants and comply with the conflict of interest assurance requirement under section 15024(c)(5)(D) of this title.

(5) Composition of membership with developmental disabilities

Of the members of the Council described in paragraph (3)—

(A) 1/3 shall be individuals with developmental disabilities described in paragraph (3)(A)(i);

(B) 1/3 shall be parents or guardians of children with developmental disabilities described in paragraph (3)(A)(ii), or immediate relatives or guardians of adults with developmental disabilities described in paragraph (3)(A)(iii); and

(C) 1/3 shall be a combination of individuals described in paragraph (3)(A).

(6) Institutionalized individuals

(A) In general

Of the members of the Council described in paragraph (5), at least 1 shall be an immediate relative or guardian of an individual with a developmental disability who resides or previously resided in an institution or shall be an individual with a developmental disability who resides or

previously resided in an institution.

(B) Limitation

Subparagraph (A) shall not apply with respect to a State if such an individual does not reside in that State.

(c) Council responsibilities

(1) In general

A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (2) through (10).

(2) Advocacy, capacity building, and systemic change activities

The Council shall serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects, and activities that carry out the purpose of this part.

(3) Examination of goals

At the end of each grant year, each Council shall—

(A) determine the extent to which each goal of the Council was achieved for that year;

(B) determine to the extent that each goal was not achieved, the factors that impeded the achievement;

(C) determine needs that require amendment of the 5-year strategic State plan required under section 15024 of this title;

(D) separately determine the information on the self-advocacy goal described in section 15024(c)(4)(A)(ii) of this title; and

(E) determine customer satisfaction with Council supported or conducted activities.

(4) State plan development

The Council shall develop the State plan and submit the State plan to the Secretary after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

(5) State plan implementation

(A) In general

The Council shall implement the State plan by conducting and supporting advocacy, capacity building, and systemic change activities such as those described in subparagraphs (B) through (L).

(B) Outreach

The Council may support and conduct outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council and assist and enable the individuals and families to obtain services, individualized supports, and other forms of assistance, including access to special adaptation of generic community services or specialized services.

(C) Training

The Council may support and conduct training for persons who are individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such persons to obtain access to, or to provide, community services, individualized supports, and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families. To the extent that the Council supports or conducts training activities under this subparagraph, such activities shall contribute to the achievement of the purpose of this part.

(D) Technical assistance

The Council may support and conduct technical assistance activities to assist public and private entities to contribute to the achievement of the purpose of this part.

(E) Supporting and educating communities

The Council may support and conduct activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families—

(i) by encouraging local networks to provide informal and formal supports;

(ii) through education; and

(iii) by enabling neighborhoods and communities to offer such individuals and their families access to and use of services, resources, and opportunities.

(F) Interagency collaboration and coordination

The Council may support and conduct activities to promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

(G) Coordination with related councils, committees, and programs

The Council may support and conduct activities to enhance coordination of services with—

(i) other councils, entities, or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State interagency coordinating council established under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), the State Rehabilitation Council and the Statewide Independent Living Council established under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the State mental health planning council established under subtitle B [1] of title XIX of the Public Health Service Act [42 U.S.C. 300x et seq.], and the activities authorized under section 3003 or 3004 of title 29, and entities carrying out other similar councils, entities, or committees);

(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) and other entities carrying out federally funded projects that assist parents of children with disabilities; and

(iii) other groups interested in advocacy, capacity building, and systemic change activities to benefit individuals with disabilities.

(H) Barrier elimination, systems design and redesign

The Council may support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

(I) Coalition development and citizen participation

The Council may support and conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, education of policymakers, and citizen leadership skills.

(J) Informing policymakers

The Council may support and conduct activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations. The Council may provide the information directly to Federal, State, and local policymakers, including Congress, the Federal executive branch, the Governors, State legislatures, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families.

(K) Demonstration of new approaches to services and supports

(i) In general

The Council may support and conduct, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change. The strategy may involve the education of policymakers and the public about how to deliver effectively, to individuals with developmental disabilities and their families, services, supports, and assistance that contribute to the achievement of the purpose of this part.

(ii) Sources of funding

The Council may carry out this subparagraph by supporting and conducting demonstration activities through sources of funding other than funding provided under this part, and by assisting entities conducting demonstration activities to develop strategies for securing funding from other sources.

(L) Other activities

The Council may support and conduct other advocacy, capacity building, and systemic change activities to promote the development of a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of this part.

(6) Review of designated State agency

The Council shall periodically review the designated State agency and activities carried out under this part by the designated State agency and make any recommendations for change to the Governor.

(7) Reports

Beginning in fiscal year 2002, the Council shall annually prepare and transmit to the Secretary a report. Each report shall be in a form prescribed by the Secretary by regulation under section 15004(b) of this title. Each report shall contain information about the progress made by the Council in achieving the goals of the Council (as specified in section 15024(c)(4) of this title), including—

(A) a description of the extent to which the goals were achieved;

(B) a description of the strategies that contributed to achieving the goals;

(C) to the extent to which the goals were not achieved, a description of factors that impeded the achievement;

(D) separate information on the self-advocacy goal described in section 15024(c)(4)(A)(ii) of this title;

(E)(i) as appropriate, an update on the results of the comprehensive review and analysis described in section 15024(c)(3) of this title; and

(ii) information on consumer satisfaction with Council supported or conducted activities;

(F)(i) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities in Intermediate Care Facilities (Mental Retardation) receive; and

(ii) a description of the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities served through home and community-based waivers (authorized under section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) receive;

(G) an accounting of the manner in which funds paid to the State under this part for a fiscal year were expended;

(H) a description of—

(i) resources made available to carry out activities to assist individuals with developmental disabilities that are directly attributable to Council actions; and

(ii) resources made available for such activities that are undertaken by the Council in collaboration with other entities; and

(I) a description of the method by which the Council will widely disseminate the annual report to affected constituencies and the general public and will assure that the report is available in accessible formats.

(8) Budget

Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities carried out under this part, including—

(A)(i) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council; and

(ii) as determined in Council policy—

(I) reimbursing members of the Council for reasonable and necessary expenses (including expenses for child care and personal assistance services) for attending Council meetings and performing Council duties;

(II) paying a stipend to a member of the Council, if such member is not employed or must forfeit wages from other employment, to attend Council meetings and perform other Council duties;

(III) supporting Council member and staff travel to authorized training and technical assistance activities including in-service training and leadership development activities; and

(IV) carrying out appropriate subcontracting activities;

(B) hiring and maintaining such numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical staff (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out the functions of the Council under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on travel, or other policies to the staff of the Council, to the extent that such policies would impact the staff or functions funded with Federal funds, or would prevent the Council from carrying out the functions of the Council under this part; and

(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the State plan approved under section 15024 of this title.

(9) Staff hiring and supervision

The Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment, hiring, and dismissal of staff shall be conducted in a manner consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be conducted in a manner consistent with State law and personnel policies.

(10) Staff assignments

The staff of the Council, while working for the Council, shall be responsible solely for assisting the Council in carrying out the duties of the Council under this part and shall not be assigned duties by the designated State agency or any other agency or entity of the State.

(11) Construction

Nothing in this subchapter shall be construed to authorize a Council to direct, control, or exercise any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) or the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(d) Designated State agency

(1) In general

Each State that receives assistance under this part shall designate a State agency that shall, on

behalf of the State, provide support to the Council. After April 6, 1994, any designation of a State agency under this paragraph shall be made in accordance with the requirements of this subsection.

(2) Designation

(A) Type of agency

Except as provided in this subsection, the designated State agency shall be—

(i) the Council if such Council may be the designated State agency under the laws of the State;

(ii) a State agency that does not provide or pay for services for individuals with developmental disabilities; or

(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

(B) Conditions for continuation of State service agency designation

(i) Designation before April 6, 1994

If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of part B of the Developmental Disabilities Assistance and Bill of Rights Act on April 6, 1994, and the Governor of the State (or the legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

(ii) Criteria for continued designation

The determination, at the discretion of the Governor (or the legislature, as the case may be), shall be made after—

(I) the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency; and

(II) the Governor (or the legislature, as the case may be) has made an independent assessment that the designation of such agency will not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an independent advocate for individuals with developmental disabilities.

(C) Review of designation

The Council may request a review of and change in the designation of the designated State agency by the Governor (or the legislature, as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or the legislature, as the case may be) regarding a preferred designated State agency.

(D) Appeal of designation

After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of and change in the designation of the designated State agency if the ability of the Council to serve as an independent advocate is not assured because of the actions or inactions of the designated State agency.

(3) Responsibilities

(A) In general

The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (B) through (G).

(B) Support services

The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

(C) Fiscal responsibilities

The designated State agency shall—

(i) receive, account for, and disburse funds under this part based on the State plan required in section 15024 of this title; and

(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under this part.

(D) Records, access, and financial reports

The designated State agency shall keep and provide access to such records as the Secretary and the Council may determine to be necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, and liquidation by the agency or the Council, and the use of the Federal and non-Federal shares described in section 15026 of this title, by the agency or the Council.

(E) Non-Federal share

The designated State agency, if other than the Council, shall provide the required non-Federal share described in section 15026(c) of this title.

(F) Assurances

The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

(G) Memorandum of understanding

On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

(4) Use of funds for designated State agency responsibilities

(A) Condition for Federal funding

(i) In general

The Secretary shall provide amounts to a State under section 15024(c)(5)(B)(vi) of this title for a fiscal year only if the State expends an amount from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) for the fiscal year that is not less than the total amount the State expended from such sources for carrying out similar responsibilities for the previous fiscal year.

(ii) Exception

Clause (i) shall not apply in a year in which the Council is the designated State agency.

(B) Support services provided by other agencies

With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

(Pub. L. 106–402, title I, §125, Oct. 30, 2000, 114 Stat. 1701; Pub. L. 108–364, §3(a)(2), Oct. 25, 2004, 118 Stat. 1736; Pub. L. 108–446, title III, §305(n)(1), Dec. 3, 2004, 118 Stat. 2806.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsecs. (b)(4)(A)(i)(I) and (c)(5)(G)(i), (11), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Individuals with Disabilities Education Act, referred to in subsecs. (b)(4)(A)(i)(I) and (c)(5)(G)(i), (ii),

(11), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20. Part D of the Act is classified generally to subchapter IV (§1450 et seq.) of chapter 33 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Older Americans Act of 1965, referred to in subsec. (b)(4)(A)(i)(I), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(4)(A)(i)(I), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§701 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Public Health Service Act, referred to in subsec. (c)(5)(G)(i), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. The reference to subtitle B of title XIX of the Act probably means part B of title XIX of the Act which is classified generally to part B (§300x et seq.) of subchapter XVII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsec. (d)(2)(B)(i), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, §2, Oct. 19, 1984, 98 Stat. 2662, as amended, which was repealed by Pub. L. 106–402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737. Part B of the Act was classified generally to subchapter II (§6021 et seq.) of chapter 75 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Subsec. (c)(5)(G)(i). Pub. L. 108–446 substituted "part C" for "subtitle C".
Pub. L. 108–364 substituted "section 3003 or 3004 of title 29" for "section 3011 or 3012 of title 29".

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

§15026. Federal and non-Federal share

(a) Aggregate cost

(1) In general

Except as provided in paragraphs (2) and (3), the Federal share of the cost of all projects in a State supported by an allotment to the State under this part may not be more than 75 percent of the aggregate necessary cost of such projects, as determined by the Secretary.

(2) Urban or rural poverty areas

In the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, as determined by the Secretary, the Federal share of the cost of all such projects may not be more than 90 percent of the aggregate necessary cost of such projects, as determined by the Secretary.

(3) State plan activities

In the case of projects undertaken by the Council or Council staff to implement State plan activities, the Federal share of the cost of all such projects may be not more than 100 percent of the aggregate necessary cost of such activities.

(b) Nonduplication

In determining the amount of any State's Federal share of the cost of such projects incurred by such State under a State plan approved under section 15024 of this title, the Secretary shall not consider—

(1) any portion of such cost that is financed by Federal funds provided under any provision of law other than section 15022 of this title; and

(2) the amount of any non-Federal funds required to be expended as a condition of receipt of the

Federal funds described in paragraph (1).

(c) Non-Federal share

(1) In-kind contributions

The non-Federal share of the cost of any project supported by an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

(2) Contributions of political subdivisions and public or private entities

(A) In general

Contributions to projects by a political subdivision of a State or by a public or private entity under an agreement with the State shall, subject to such limitations and conditions as the Secretary may by regulation prescribe under section 15004(b) of this title, be considered to be contributions by such State, in the case of a project supported under this part.

(B) State contributions

State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 15025(d)(4) of this title, may be counted as part of such State's non-Federal share of the cost of projects supported under this part.

(3) Variations of the non-Federal share

The non-Federal share required of each recipient of a grant from a Council under this part may vary.

(Pub. L. 106–402, title I, §126, Oct. 30, 2000, 114 Stat. 1710.)

§15027. Withholding of payments for planning, administration, and services

Whenever the Secretary, after providing reasonable notice and an opportunity for a hearing to the Council and the designated State agency, finds that—

(1) the Council or agency has failed to comply substantially with any of the provisions required by section 15024 of this title to be included in the State plan, particularly provisions required by paragraphs (4)(A) and (5)(B)(vii) of section 15024(c) of this title, or with any of the provisions required by section 15025(b)(3) of this title; or

(2) the Council or agency has failed to comply substantially with any regulations of the Secretary that are applicable to this part,

the Secretary shall notify such Council and agency that the Secretary will not make further payments to the State under section 15022 of this title (or, in the discretion of the Secretary, that further payments to the State under section 15022 of this title for activities for which there is such failure), until the Secretary is satisfied that there will no longer be such failure. Until the Secretary is so satisfied, the Secretary shall make no further payments to the State under section 15022 of this title, or shall limit further payments under section 15022 of this title to such State to activities for which there is no such failure.

(Pub. L. 106–402, title I, §127, Oct. 30, 2000, 114 Stat. 1711.)

§15028. Appeals by States

(a) Appeal

If any State is dissatisfied with the Secretary's action under section 15024(d)(3) or 15027 of this title, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court not later than 60 days after such action.

(b) Filing

The clerk of the court shall transmit promptly a copy of the petition to the Secretary, or any officer designated by the Secretary for that purpose. The Secretary shall file promptly with the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28.

(c) Jurisdiction

Upon the filing of the petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Secretary may modify or set aside the order of the Secretary relating to the action.

(d) Findings and remand

The findings of the Secretary about the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case involved to the Secretary for further proceedings to take further evidence. On remand, the Secretary may make new or modified findings of fact and may modify the previous action of the Secretary, and shall file with the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(e) Finality

The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(f) Effect

The commencement of proceedings under this section shall not, unless so specifically ordered by a court, operate as a stay of the Secretary's action.

(Pub. L. 106–402, title I, §128, Oct. 30, 2000, 114 Stat. 1711.)

§15029. Authorization of appropriations

(a) Funding for State allotments

Except as described in subsection (b), there are authorized to be appropriated for allotments under section 15022 of this title $76,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(b) Reservation for technical assistance

(1) Lower appropriation years

For any fiscal year for which the amount appropriated under subsection (a) is less than $76,000,000, the Secretary shall reserve funds in accordance with section 15083(c) of this title to provide technical assistance to entities funded under this part.

(2) Higher appropriation years

For any fiscal year for which the amount appropriated under subsection (a) is not less than $76,000,000, the Secretary shall reserve not less than $300,000 and not more than 1 percent of the amount appropriated under subsection (a) to provide technical assistance to entities funded under this part.

(Pub. L. 106–402, title I, §129, Oct. 30, 2000, 114 Stat. 1712.)

PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

§15041. Purpose

The purpose of this part is to provide for allotments to support a protection and advocacy system (referred to in this part as a "system") in each State to protect the legal and human rights of individuals with developmental disabilities in accordance with this part.

(Pub. L. 106–402, title I, §141, Oct. 30, 2000, 114 Stat. 1712.)

§15042. Allotments and payments

(a) Allotments

(1) In general

To assist States in meeting the requirements of section 15043(a) of this title, the Secretary shall allot to the States the amounts appropriated under section 15045 of this title and not reserved under paragraph (6). Allotments and reallotments of such sums shall be made on the same basis as the allotments and reallotments are made under subsections (a)(1)(A) and (e) of section 15022 of this title, except as provided in paragraph (2).

(2) Minimum allotments

In any case in which—

(A) the total amount appropriated under section 15045 of this title for a fiscal year is not less than $20,000,000, the allotment under paragraph (1) for such fiscal year—

(i) to each of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands may not be less than $107,000; and

(ii) to any State not described in clause (i) may not be less than $200,000; or

(B) the total amount appropriated under section 15045 of this title for a fiscal year is less than $20,000,000, the allotment under paragraph (1) for such fiscal year—

(i) to each of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands may not be less than $80,000; and

(ii) to any State not described in clause (i) may not be less than $150,000.

(3) Reduction of allotment

Notwithstanding paragraphs (1) and (2), if the aggregate of the amounts to be allotted to the States pursuant to such paragraphs for any fiscal year exceeds the total amount appropriated for such allotments under section 15045 of this title for such fiscal year, the amount to be allotted to each State for such fiscal year shall be proportionately reduced.

(4) Increase in allotments

In any year in which the total amount appropriated under section 15045 of this title for a fiscal year exceeds the total amount appropriated under such section (or a corresponding provision) for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29 (if the percentage change indicates an increase), the Secretary shall increase each of the minimum allotments described in subparagraphs (A) and (B) of paragraph (2). The Secretary shall increase each minimum allotment by an amount that bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph (or a corresponding provision) for prior fiscal years) as the amount that is equal to the difference between—

(A) the total amount appropriated under section 15045 of this title for the fiscal year for which the increase in the minimum allotment is being made; minus

(B) the total amount appropriated under section 15045 of this title (or a corresponding provision) for the immediately preceding fiscal year,

bears to the total amount appropriated under section 15045 of this title (or a corresponding provision) for such preceding fiscal year.

(5) Monitoring the administration of the system

In a State in which the system is housed in a State agency, the State may use not more than 5 percent of any allotment under this subsection for the costs of monitoring the administration of the system required under section 15043(a) of this title.

(6) Technical assistance and American Indian consortium

In any case in which the total amount appropriated under section 15045 of this title for a fiscal year is more than $24,500,000, the Secretary shall—

(A) use not more than 2 percent of the amount appropriated to provide technical assistance to eligible systems with respect to activities carried out under this part (consistent with requests by such systems for such assistance for the year); and

(B) provide a grant in accordance with section 15043(b) of this title, and in an amount described in paragraph (2)(A)(i), to an American Indian consortium to provide protection and advocacy services.

(b) Payment to systems

Notwithstanding any other provision of law, the Secretary shall pay directly to any system in a State that complies with the provisions of this part the amount of the allotment made for the State under this section, unless the system specifies otherwise.

(c) Unobligated funds

Any amount paid to a system under this part for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the next fiscal year, for the purposes for which such amount was paid.

(Pub. L. 106–402, title I, §142, Oct. 30, 2000, 114 Stat. 1712.)

§15043. System required

(a) System required

In order for a State to receive an allotment under part B or this part—

(1) the State shall have in effect a system to protect and advocate the rights of individuals with developmental disabilities;

(2) such system shall—

(A) have the authority to—

(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and

(ii) provide information on and referral to programs and services addressing the needs of individuals with developmental disabilities;

(B) have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

(C) on an annual basis, develop, submit to the Secretary, and take action with regard to goals (each of which is related to 1 or more areas of emphasis) and priorities, developed through data driven strategic planning, for the system's activities;

(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairment, and their representatives, and as appropriate, non-State agency

representatives of the State Councils on Developmental Disabilities, and Centers, in the State, an opportunity to comment on—

(i) the goals and priorities established by the system and the rationale for the establishment of such goals; and

(ii) the activities of the system, including the coordination of services with the entities carrying out advocacy programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [1] (42 U.S.C. 10801 et seq.), and with entities carrying out other related programs, including the parent training and information centers funded under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and activities authorized under section 3003 or 3004 of title 29;

(E) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with developmental disabilities have full access to services of the system;

(F) not be administered by the State Council on Developmental Disabilities;

(G) be independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities;

(H) have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual, in order to carry out the purpose of this part;

(I) have access to all records of—

(i) any individual with a developmental disability who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;

(ii) any individual with a developmental disability, in a situation in which—

(I) the individual, by reason of such individual's mental or physical condition, is unable to authorize the system to have such access;

(II) the individual does not have a legal guardian, conservator, or other legal representative, or the legal guardian of the individual is the State; and

(III) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect; and

(iii) any individual with a developmental disability, in a situation in which—

(I) the individual has a legal guardian, conservator, or other legal representative;

(II) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect;

(III) such representative has been contacted by such system, upon receipt of the name and address of such representative;

(IV) such system has offered assistance to such representative to resolve the situation; and

(V) such representative has failed or refused to act on behalf of the individual;

(J)(i) have access to the records of individuals described in subparagraphs (B) and (I), and other records that are relevant to conducting an investigation, under the circumstances described in those subparagraphs, not later than 3 business days after the system makes a written request for the records involved; and

(ii) have immediate access, not later than 24 hours after the system makes such a request, to the records without consent from another party, in a situation in which services, supports, and other assistance are provided to an individual with a developmental disability—

(I) if the system determines there is probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy; or

(II) in any case of death of an individual with a developmental disability;

(K) hire and maintain sufficient numbers and types of staff (qualified by training and experience) to carry out such system's functions, except that the State involved shall not apply hiring freezes, reductions in force, prohibitions on travel, or other policies to the staff of the system, to the extent that such policies would impact the staff or functions of the system funded with Federal funds or would prevent the system from carrying out the functions of the system under this part;

(L) have the authority to educate policymakers; and

(M) provide assurances to the Secretary that funds allotted to the State under section 15042 of this title will be used to supplement, and not supplant, the non-Federal funds that would otherwise be made available for the purposes for which the allotted funds are provided;

(3) to the extent that information is available, the State shall provide to the system—

(A) a copy of each independent review, pursuant to section 1396a(a)(30)(C) of this title, of an Intermediate Care Facility (Mental Retardation) within the State, not later than 30 days after the availability of such a review; and

(B) information about the adequacy of health care and other services, supports, and assistance that individuals with developmental disabilities who are served through home and community-based waivers (authorized under section 1396n(c) of this title) receive; and

(4) the agency implementing the system shall not be redesignated unless—

(A) there is good cause for the redesignation;

(B) the State has given the agency notice of the intention to make such redesignation, including notice regarding the good cause for such redesignation, and given the agency an opportunity to respond to the assertion that good cause has been shown;

(C) the State has given timely notice and an opportunity for public comment in an accessible format to individuals with developmental disabilities or their representatives; and

(D) the system has an opportunity to appeal the redesignation to the Secretary, on the basis that the redesignation was not for good cause.

(b) American Indian consortium

Upon application to the Secretary, an American Indian consortium established to provide protection and advocacy services under this part, shall receive funding pursuant to section 15042(a)(6) of this title to provide the services. Such consortium shall be considered to be a system for purposes of this part and shall coordinate the services with other systems serving the same geographic area. The tribal council that designates the consortium shall carry out the responsibilities and exercise the authorities specified for a State in this part, with regard to the consortium.

(c) Record

In this section, the term "record" includes—

(1) a report prepared or received by any staff at any location at which services, supports, or other assistance is provided to individuals with developmental disabilities;

(2) a report prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury, or death occurring at such location, that describes such incidents and the steps taken to investigate such incidents; and

(3) a discharge planning record.

(Pub. L. 106–402, title I, §143, Oct. 30, 2000, 114 Stat. 1714; Pub. L. 108–364, §3(a)(3), Oct. 25, 2004, 118 Stat. 1736.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (a)(2)(D)(ii), is Pub. L. 93–112, Sept. 26, 1973, 87

Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Older Americans Act of 1965, referred to in subsec. (a)(2)(D)(ii), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsec. (a)(2)(D)(ii), was Pub. L. 99–319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99–319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106–310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(2)(D)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

2004—Subsec. (a)(2)(D)(ii). Pub. L. 108–364 substituted "section 3003 or 3004 of title 29" for "section 3011 or 3012 of title 29".

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

§15044. Administration

(a) Governing board

In a State in which the system described in section 15043 of this title is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

(1)(A) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

(B) a majority of the members of the board shall be—

(i) individuals with disabilities, including individuals with developmental disabilities, who are eligible for services, or have received or are receiving services through the system; or

(ii) parents, family members, guardians, advocates, or authorized representatives of individuals referred to in clause (i); and

(C) the board may include a representative of the State Council on Developmental Disabilities, the Centers in the State, and the self-advocacy organization described in section 15024(c)(4)(A)(ii)(I) of this title;

(2) not more than 1/3 of the members of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint members of the board;

(3) the membership of the governing board shall be subject to term limits set by the system to ensure rotating membership;

(4) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs; and

(5) in a State in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council—

(A) that shall advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

(B) on which a majority of the members shall be—

(i) individuals with developmental disabilities who are eligible for services, or have received or are receiving services, through the system; or

(ii) parents, family members, guardians, advocates, or authorized representatives of individuals referred to in clause (i).

(b) Legal action

(1) In general

Nothing in this subchapter shall preclude a system from bringing a suit on behalf of individuals with developmental disabilities against a State, or an agency or instrumentality of a State.

(2) Use of amounts from judgment

An amount received pursuant to a suit described in paragraph (1) through a court judgment may only be used by the system to further the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

(3) Limitation

The system shall use assistance provided under this part in a manner consistent with section 14404 of this title.

(c) Disclosure of information

For purposes of any periodic audit, report, or evaluation required under this part, the Secretary shall not require an entity carrying out a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(d) Public notice of Federal onsite review

The Secretary shall provide advance public notice of any Federal programmatic or administrative onsite review of a system conducted under this part and solicit public comment on the system through such notice. The Secretary shall prepare an onsite visit report containing the results of such review, which shall be distributed to the Governor of the State and to other interested public and private parties. The comments received in response to the public comment solicitation notice shall be included in the onsite visit report.

(e) Reports

Beginning in fiscal year 2002, each system established in a State pursuant to this part shall annually prepare and transmit to the Secretary a report that describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year, including a description of the system's goals, the extent to which the goals were achieved, barriers to their achievement, the process used to obtain public input, the nature of such input, and how such input was used.

(Pub. L. 106–402, title I, §144, Oct. 30, 2000, 114 Stat. 1717.)

§15045. Authorization of appropriations

For allotments under section 15042 of this title, there are authorized to be appropriated $32,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(Pub. L. 106–402, title I, §145, Oct. 30, 2000, 114 Stat. 1718.)

PART D—NATIONAL NETWORK OF UNIVERSITY CENTERS FOR EXCELLENCE IN DEVELOPMENTAL DISABILITIES EDUCATION, RESEARCH, AND SERVICE

§15061. Grant authority

(a) National network

From appropriations authorized under section 15066(a)(1) of this title, the Secretary shall make 5-year grants to entities in each State designated as University Centers for Excellence in Developmental Disabilities Education, Research, and Service to carry out activities described in section 15063(a) of this title.

(b) National training initiatives

From appropriations authorized under section 15066(a)(1) of this title and reserved under section 15066(a)(2) of this title, the Secretary shall make grants to Centers to carry out activities described in section 15063(b) of this title.

(c) Technical assistance

From appropriations authorized under section 15066(a)(1) of this title and reserved under section 15066(a)(3) of this title (or from funds reserved under section 15083 of this title, as appropriate), the Secretary shall enter into 1 or more cooperative agreements or contracts for the purpose of providing technical assistance described in section 15063(c) of this title.

(Pub. L. 106–402, title I, §151, Oct. 30, 2000, 114 Stat. 1719.)

§15062. Grant awards

(a) Existing Centers

(1) In general

In awarding and distributing grant funds under section 15061(a)of this title for a fiscal year, the Secretary, subject to the availability of appropriations and the condition specified in subsection (d), shall award and distribute grant funds in equal amounts of $500,000 (adjusted in accordance with subsection (b)), to each Center that existed during the preceding fiscal year and that meets the requirements of this part, prior to making grants under subsection (c) or (d).

(2) Reduction of award

Notwithstanding paragraph (1), if the aggregate of the funds to be awarded to the Centers pursuant to paragraph (1) for any fiscal year exceeds the total amount appropriated under section 15066 of this title for such fiscal year, the amount to be awarded to each Center for such fiscal year shall be proportionately reduced.

(b) Adjustments

Subject to the availability of appropriations, for any fiscal year following a year in which each Center described in subsection (a) received a grant award of not less than $500,000 under subsection (a) (adjusted in accordance with this subsection), the Secretary shall adjust the awards to take into account the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29 (if the percentage change indicates an increase), prior to making grants under subsection (c) or (d).

(c) National training initiatives on critical and emerging needs

Subject to the availability of appropriations, for any fiscal year in which each Center described in subsection (a) receives a grant award of not less than $500,000, under subsection (a) (adjusted in accordance with subsection (b)), after making the grant awards, the Secretary shall make grants under section 15061(b) of this title to Centers to pay for the Federal share of the cost of training initiatives related to the unmet needs of individuals with developmental disabilities and their families, as described in section 15063(b) of this title.

(d) Additional grants

For any fiscal year in which each Center described in subsection (a) receives a grant award of not less than $500,000 under subsection (a) (adjusted in accordance with subsection (b)), after making the grant awards, the Secretary may make grants under section 15061(a) of this title for activities

described in section 15063(a) of this title to additional Centers, or additional grants to Centers, for States or populations that are unserved or underserved by Centers due to such factors as—

(1) population;

(2) a high concentration of rural or urban areas; or

(3) a high concentration of unserved or underserved populations.

(Pub. L. 106–402, title I, §152, Oct. 30, 2000, 114 Stat. 1719.)

§15063. Purpose and scope of activities

(a) National network of University Centers for Excellence in Developmental Disabilities Education, Research, and Service

(1) In general

In order to provide leadership in, advise Federal, State, and community policymakers about, and promote opportunities for individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life, the Secretary shall award grants to eligible entities designated as Centers in each State to pay for the Federal share of the cost of the administration and operation of the Centers. The Centers shall be interdisciplinary education, research, and public service units of universities (as defined by the Secretary) or public or not-for-profit entities associated with universities that engage in core functions, described in paragraph (2), addressing, directly or indirectly, 1 or more of the areas of emphasis.

(2) Core functions

The core functions referred to in paragraph (1) shall include the following:

(A) Provision of interdisciplinary pre-service preparation and continuing education of students and fellows, which may include the preparation and continuing education of leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities to achieve the purpose of this subchapter.

(B) Provision of community services—

(i) that provide training or technical assistance for individuals with developmental disabilities, their families, professionals, paraprofessionals, policymakers, students, and other members of the community; and

(ii) that may provide services, supports, and assistance for the persons described in clause (i) through demonstration and model activities.

(C) Conduct of research, which may include basic or applied research, evaluation, and the analysis of public policy in areas that affect or could affect, either positively or negatively, individuals with developmental disabilities and their families.

(D) Dissemination of information related to activities undertaken to address the purpose of this subchapter, especially dissemination of information that demonstrates that the network authorized under this part is a national and international resource that includes specific substantive areas of expertise that may be accessed and applied in diverse settings and circumstances.

(b) National training initiatives on critical and emerging needs

(1) Supplemental grants

After consultation with relevant, informed sources, including individuals with developmental disabilities and their families, the Secretary shall award, under section 15061(b) of this title, supplemental grants to Centers to pay for the Federal share of the cost of training initiatives related to the unmet needs of individuals with developmental disabilities and their families. The Secretary shall make the grants on a competitive basis, and for periods of not more than 5 years.

(2) Establishment of consultation process by the Secretary

Not later than 1 year after October 30, 2000, the Secretary shall establish a consultation process that, on an ongoing basis, allows the Secretary to identify and address, through supplemental grants authorized under paragraph (1), training initiatives related to the unmet needs of individuals with developmental disabilities and their families.

(c) Technical assistance

In order to strengthen and support the national network of Centers, the Secretary may enter into 1 or more cooperative agreements or contracts to—

(1) assist in national and international dissemination of specific information from multiple Centers and, in appropriate cases, other entities whose work affects the lives of individuals with developmental disabilities;

(2) compile, analyze, and disseminate state-of-the-art training, research, and demonstration results policies, and practices from multiple Centers and, in appropriate cases, other entities whose work affects the lives of persons with developmental disabilities;

(3) convene experts from multiple Centers to discuss and make recommendations with regard to national emerging needs of individuals with developmental disabilities;

(4)(A) develop portals that link users with every Center's website; and

(B) facilitate electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that impact individuals with disabilities and their families;

(5) serve as a research-based resource for Federal and State policymakers on information concerning and issues impacting individuals with developmental disabilities and entities that assist or serve those individuals; or

(6) undertake any other functions that the Secretary determines to be appropriate;

to promote the viability and use of the resources and expertise of the Centers nationally and internationally.

(Pub. L. 106–402, title I, §153, Oct. 30, 2000, 114 Stat. 1720.)

§15064. Applications

(a) Applications for core Center grants

(1) In general

To be eligible to receive a grant under section 15061(a) of this title for a Center, an entity shall submit to the Secretary, and obtain approval of, an application at such time, in such manner, and containing such information, as the Secretary may require.

(2) Application contents

Each application described in paragraph (1) shall describe a 5-year plan, including a projected goal related to 1 or more areas of emphasis for each of the core functions described in section 15063(a) of this title.

(3) Assurances

The application shall be approved by the Secretary only if the application contains or is supported by reasonable assurances that the entity designated as the Center will—

(A) meet regulatory standards as established by the Secretary for Centers;

(B) address the projected goals, and carry out goal-related activities, based on data driven strategic planning and in a manner consistent with the objectives of this part, that—

(i) are developed in collaboration with the consumer advisory committee established pursuant to subparagraph (E);

(ii) are consistent with, and to the extent feasible complement and further, the Council goals contained in the State plan submitted under section 15024 of this title and the system goals established under section 15043 of this title; and

(iii) will be reviewed and revised annually as necessary to address emerging trends and needs;

(C) use the funds made available through the grant to supplement, and not supplant, the funds that would otherwise be made available for activities described in section 15063(a) of this title;

(D) protect, consistent with the policy specified in section 15001(c) of this title (relating to rights of individuals with developmental disabilities), the legal and human rights of all individuals with developmental disabilities (especially those individuals under State guardianship) who are involved in activities carried out under programs assisted under this part;

(E) establish a consumer advisory committee—

(i) of which a majority of the members shall be individuals with developmental disabilities and family members of such individuals;

(ii) that is comprised of—

(I) individuals with developmental disabilities and related disabilities;

(II) family members of individuals with developmental disabilities;

(III) a representative of the State protection and advocacy system;

(IV) a representative of the State Council on Developmental Disabilities;

(V) a representative of a self-advocacy organization described in section 15024(c)(4)(A)(ii)(I) of this title; and

(VI) representatives of organizations that may include parent training and information centers assisted under section 1471 or 1472 of title 20, entities carrying out activities authorized under section 3003 or 3004 of title 29, relevant State agencies, and other community groups concerned with the welfare of individuals with developmental disabilities and their families;

(iii) that reflects the racial and ethnic diversity of the State; and

(iv) that shall—

(I) consult with the Director of the Center regarding the development of the 5-year plan, and shall participate in an annual review of, and comment on, the progress of the Center in meeting the projected goals contained in the plan, and shall make recommendations to the Director of the Center regarding any proposed revisions of the plan that might be necessary; and

(II) meet as often as necessary to carry out the role of the committee, but at a minimum twice during each grant year;

(F) to the extent possible, utilize the infrastructure and resources obtained through funds made available under the grant to leverage additional public and private funds to successfully achieve the projected goals developed in the 5-year plan;

(G)(i) have a director with appropriate academic credentials, demonstrated leadership, expertise regarding developmental disabilities, significant experience in managing grants and contracts, and the ability to leverage public and private funds; and

(ii) allocate adequate staff time to carry out activities related to each of the core functions described in section 15063(a) of this title; and

(H) educate, and disseminate information related to the purpose of this subchapter to, the legislature of the State in which the Center is located, and to Members of Congress from such State.

(b) Supplemental grant applications pertaining to national training initiatives in critical and emerging needs

To be eligible to receive a supplemental grant under section 15061(b) of this title, a Center may submit a supplemental application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, pursuant to the terms and conditions set by the Secretary consistent with section 15063(b) of this title.

(c) Peer review

(1) In general

The Secretary shall require that all applications submitted under this part be subject to technical and qualitative review by peer review groups established under paragraph (2). The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under this paragraph. In conducting the review, the group may conduct onsite visits or inspections of related activities as necessary.

(2) Establishment of peer review groups

(A) In general

The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

(i) the provisions of title 5 concerning appointments to the competitive service; and

(ii) the provisions of chapter 51, and subchapter III of chapter 53 of title 5 concerning classification and General Schedule pay rates;

establish such peer review groups and appoint and set the rates of pay of members of such groups.

(B) Composition

Each peer review group shall include such individuals with disabilities and parents, guardians, or advocates of or for individuals with developmental disabilities, as are necessary to carry out this subsection.

(3) Waivers of approval

The Secretary may waive the provisions of paragraph (1) with respect to review and approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.

(d) Federal share

(1) In general

The Federal share of the cost of administration or operation of a Center, or the cost of carrying out a training initiative, supported by a grant made under this part may not be more than 75 percent of the necessary cost of such project, as determined by the Secretary.

(2) Urban or rural poverty areas

In the case of a project whose activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, as determined by the Secretary, the Federal share of the cost of the project may not be more than 90 percent of the necessary costs of the project, as determined by the Secretary.

(3) Grant expenditures

For the purpose of determining the Federal share with respect to the project, expenditures on that project by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe under section 15004(b) of this title, be considered to be expenditures made by a Center under this part.

(e) Annual report

Each Center shall annually prepare and transmit to the Secretary a report containing—

(1) information on progress made in achieving the projected goals of the Center for the previous year, including—

(A) the extent to which the goals were achieved;

(B) a description of the strategies that contributed to achieving the goals;

(C) to the extent to which the goals were not achieved, a description of factors that impeded the achievement; and

(D) an accounting of the manner in which funds paid to the Center under this part for a fiscal

year were expended;

(2) information on proposed revisions to the goals; and

(3) a description of successful efforts to leverage funds, other than funds made available under this part, to pursue goals consistent with this part.

(Pub. L. 106–402, title I, §154, Oct. 30, 2000, 114 Stat. 1722; Pub. L. 108–364, §3(a)(4), Oct. 25, 2004, 118 Stat. 1737; Pub. L. 108–446, title III, §305(n)(2), Dec. 3, 2004, 118 Stat. 2806.)

EDITORIAL NOTES

AMENDMENTS

2004—Subsec. (a)(3)(E)(ii)(VI). Pub. L. 108–446 substituted "section 1471 or 1472 of title 20" for "section 1482 or 1483 of title 20".

Pub. L. 108–364 substituted "section 3003 or 3004 of title 29" for "section 3011 or 3012 of title 29".

§15065. Definition

In this part, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

(Pub. L. 106–402, title I, §155, Oct. 30, 2000, 114 Stat. 1725.)

§15066. Authorization of appropriations

(a) Authorization and reservations

(1) Authorization

There are authorized to be appropriated to carry out this part (other than section 15063(c)(4) of this title) $30,000,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(2) Reservation for training initiatives

From any amount appropriated for a fiscal year under paragraph (1) and remaining after each Center described in section 15062(a) of this title has received a grant award of not less than $500,000, as described in section 15062 of this title, the Secretary shall reserve funds for the training initiatives authorized under section 15063(b) of this title.

(3) Reservation for technical assistance

(A) Years before appropriation trigger

For any covered year, the Secretary shall reserve funds in accordance with section 15083(c) of this title to fund technical assistance activities under section 15063(c) of this title (other than section 15063(c)(4) of this title).

(B) Years after appropriation trigger

For any fiscal year that is not a covered year, the Secretary shall reserve not less than $300,000 and not more than 2 percent of the amount appropriated under paragraph (1) to fund technical assistance activities under section 15063(c) of this title (other than section 15063(c)(4) of this title).

(C) Covered year

In this paragraph, the term "covered year" means a fiscal year prior to the first fiscal year for which the amount appropriated under paragraph (1) is not less than $20,000,000.

(b) Limitation

The Secretary may not use, for peer review or other activities directly related to peer review conducted under this part—

(1) for fiscal year 2001, more than $300,000 of the funds made available under subsection (a); and

(2) for any succeeding fiscal year, more than the amount of funds used for the peer review and related activities in fiscal year 2001, adjusted to take into account the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29 (if the percentage change indicates an increase).

(Pub. L. 106–402, title I, §156, Oct. 30, 2000, 114 Stat. 1725.)

PART E—PROJECTS OF NATIONAL SIGNIFICANCE

§15081. Purpose

The purpose of this part is to provide grants, contracts, or cooperative agreements for projects of national significance that—

(1) create opportunities for individuals with developmental disabilities to directly and fully contribute to, and participate in, all facets of community life; and

(2) support the development of national and State policies that reinforce and promote, with the support of families, guardians, advocates, and communities, of individuals with developmental disabilities, the self-determination, independence, productivity, and integration and inclusion in all facets of community life of such individuals through—

(A) family support activities;

(B) data collection and analysis;

(C) technical assistance to entities funded under parts B and D, subject to the limitations described in sections 15029(b), 15066(a)(3), and 15083(c) of this title; and

(D) other projects of sufficient size and scope that hold promise to expand or improve opportunities for such individuals, including—

(i) projects that provide technical assistance for the development of information and referral systems;

(ii) projects that provide technical assistance to self-advocacy organizations of individuals with developmental disabilities;

(iii) projects that provide education for policymakers;

(iv) Federal interagency initiatives;

(v) projects that enhance the participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

(vi) projects that provide aid to transition youth with developmental disabilities from school to adult life, especially in finding employment and postsecondary education opportunities and in upgrading and changing any assistive technology devices that may be needed as a youth matures;

(vii) initiatives that address the development of community quality assurance systems and the training related to the development, implementation, and evaluation of such systems, including training of individuals with developmental disabilities and their families;

(viii) initiatives that address the needs of aging individuals with developmental disabilities and aging caregivers of adults with developmental disabilities in the community;

(ix) initiatives that create greater access to and use of generic services systems, community organizations, and associations, and initiatives that assist in community economic development;

(x) initiatives that create access to increased living options;

(xi) initiatives that address the challenging behaviors of individuals with developmental

disabilities, including initiatives that promote positive alternatives to the use of restraints and seclusion; and

(xii) initiatives that address other areas of emerging need.

(Pub. L. 106–402, title I, §161, Oct. 30, 2000, 114 Stat. 1725.)

§15082. Grant authority

(a) In general

The Secretary shall award grants, contracts, or cooperative agreements to public or private nonprofit entities for projects of national significance relating to individuals with developmental disabilities to carry out activities described in section 15081(2) of this title.

(b) Federal interagency initiatives

(1) In general

(A) Authority

The Secretary may—

(i) enter into agreements with Federal agencies to jointly carry out activities described in section 15081(2) of this title or to jointly carry out activities of common interest related to the objectives of such section; and

(ii) transfer to such agencies for such purposes funds appropriated under this part, and receive and use funds from such agencies for such purposes.

(B) Relation to program purposes

Funds transferred or received pursuant to this paragraph shall be used only in accordance with statutes authorizing the appropriation of such funds. Such funds shall be made available through grants, contracts, or cooperative agreements only to recipients eligible to receive such funds under such statutes.

(C) Procedures and criteria

If the Secretary enters into an agreement under this subsection for the administration of a jointly funded project—

(i) the agreement shall specify which agency's procedures shall be used to award grants, contracts, or cooperative agreements and to administer such awards;

(ii) the participating agencies may develop a single set of criteria for the jointly funded project, and may require applicants to submit a single application for joint review by such agencies; and

(iii) unless the heads of the participating agencies develop joint eligibility requirements, an applicant for an award for the project shall meet the eligibility requirements of each program involved.

(2) Limitation

The Secretary may not construe the provisions of this subsection to take precedence over a limitation on joint funding contained in an applicable statute.

(Pub. L. 106–402, title I, §162, Oct. 30, 2000, 114 Stat. 1727.)

§15083. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out the projects specified in this section $16,000,000 for fiscal year 2001, and such sums as may be necessary for each of fiscal years 2002 through 2007.

(b) Use of funds

(1) Grants, contracts, and agreements

Except as provided in paragraph (2), the amount appropriated under subsection (a) for each fiscal year shall be used to award grants, or enter into contracts, cooperative agreements, or other agreements, under section 15082 of this title.

(2) Administrative costs

Not more than 1 percent of the amount appropriated under subsection (a) for each fiscal year may be used to provide for the administrative costs (other than compensation of Federal employees) of the Administration on Developmental Disabilities for administering this part and parts B, C, and D, including monitoring the performance of and providing technical assistance to, entities that receive funds under this subchapter.

(c) Technical assistance for Councils and Centers

(1) In general

For each covered year, the Secretary shall expend, to provide technical assistance for entities funded under part B or D, an amount from funds appropriated under subsection (a) that is not less than the amount the Secretary expended on technical assistance for entities funded under that part (or a corresponding provision) in the previous fiscal year.

(2) Covered year

In this subsection, the term "covered year" means—

(A) in the case of an expenditure for entities funded under part B, a fiscal year for which the amount appropriated under section 15029(a) of this title is less than $76,000,000; and

(B) in the case of an expenditure for entities funded under part D, a fiscal year prior to the first fiscal year for which the amount appropriated under section 15066(a)(1) of this title is not less than $20,000,000.

(3) References

References in this subsection to part D shall not be considered to include section 15063(c)(4) of this title.

(d) Technical assistance on electronic information sharing

In addition to any funds reserved under subsection (c), the Secretary shall reserve $100,000 from the amount appropriated under subsection (a) for each fiscal year to carry out section 15063(c)(4) of this title.

(e) Limitation

For any fiscal year for which the amount appropriated under subsection (a) is not less than $10,000,000, not more than 50 percent of such amount shall be used for activities carried out under section 15081(2)(A) of this title.

(Pub. L. 106–402, title I, §163, Oct. 30, 2000, 114 Stat. 1727.)

SUBCHAPTER II—FAMILY SUPPORT

§15091. Findings, purposes, and policy

(a) Findings

Congress makes the following findings:

(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

(2) Families of children with disabilities provide support, care, and training to their children that

can save States millions of dollars. Without the efforts of family caregivers, many persons with disabilities would receive care through State-supported out-of-home placements.

(3) Most families of children with disabilities, especially families in unserved and underserved populations, do not have access to family-centered and family-directed services to support such families in their efforts to care for such children at home.

(4) Medical advances and improved health care have increased the life span of many people with disabilities, and the combination of the longer life spans and the aging of family caregivers places a continually increasing demand on the finite service delivery systems of the States.

(5) In 1996, 49 States provided family support initiatives in response to the needs of families of children with disabilities. Such initiatives included the provision of cash subsidies, respite care, and other forms of support. There is a need in each State, however, to strengthen, expand, and coordinate the activities of a system of family support services for families of children with disabilities that is easily accessible, avoids duplication, uses resources efficiently, and prevents gaps in services to families in all areas of the State.

(6) The goals of the Nation properly include the goal of providing to families of children with disabilities the family support services necessary—

(A) to support the family;

(B) to enable families of children with disabilities to nurture and enjoy their children at home;

(C) to enable families of children with disabilities to make informed choices and decisions regarding the nature of supports, resources, services, and other assistance made available to such families; and

(D) to support family caregivers of adults with disabilities.

(b) Purposes

The purposes of this subchapter are—

(1) to promote and strengthen the implementation of comprehensive State systems of family support services, for families with children with disabilities, that are family-centered and family-directed, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and support;

(2) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities;

(3) to promote and develop interagency coordination and collaboration between agencies responsible for providing the services; and

(4) to increase the availability of, funding for, access to, and provision of family support services for families of children with disabilities.

(c) Policy

It is the policy of the United States that all programs, projects, and activities funded under this subchapter shall be family-centered and family-directed, and shall be provided in a manner consistent with the goal of providing families of children with disabilities with the support the families need to raise their children at home.

(Pub. L. 106–402, title II, §202, Oct. 30, 2000, 114 Stat. 1728.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of this subchapter as the "Families of Children With Disabilities Support Act of 2000", see section 201 of Pub. L. 106–402, set out as a note under section 15001 of this title.

§15092. Definitions and special rule

(a) Definitions

In this subchapter:

(1) Child with a disability

The term "child with a disability" means an individual who—

(A) has a significant physical or mental impairment, as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; or

(B) is an infant or a young child from birth through age 8 and has a substantial developmental delay or specific congenital or acquired condition that presents a high probability of resulting in a disability if services are not provided to the infant or child.

(2) Family

(A) In general

Subject to subparagraph (B), for purposes of the application of this subchapter in a State, the term "family" has the meaning given the term by the State.

(B) Exclusion of employees

The term does not include an employee who, acting in a paid employment capacity, provides services to a child with a disability in an out-of-home setting such as a hospital, nursing home, personal care home, board and care home, group home, or other facility.

(3) Family support for families of children with disabilities

The term "family support for families of children with disabilities" means supports, resources, services, and other assistance provided to families of children with disabilities pursuant to State policy that are designed to—

(A) support families in the efforts of such families to raise their children with disabilities in the home;

(B) strengthen the role of the family as primary caregiver for such children;

(C) prevent involuntary out-of-the-home placement of such children and maintain family unity; and

(D) reunite families with children with disabilities who have been placed out of the home, whenever possible.

(4) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(5) State

The term "State" means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) Systems change activities

The term "systems change activities" means efforts that result in laws, regulations, policies, practices, or organizational structures—

(A) that are family-centered and family-directed;

(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

(C) that otherwise accomplish the purposes of this subchapter.

(b) Special rule

References in this subchapter to a child with a disability shall be considered to include references to an individual who is not younger than age 18 who—

(1) has a significant impairment described in subsection (a)(1)(A); and

(2) is residing with and receiving assistance from a family member.

(Pub. L. 106–402, title II, §203, Oct. 30, 2000, 114 Stat. 1729.)

§15093. Grants to States

(a) In general

The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this subchapter, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support services for families of children with disabilities that accomplishes the purposes of this subchapter.

(b) Award period and grant limitation

No grant shall be awarded under this section for a period of more than 3 years. No State shall be eligible for more than 1 grant under this section.

(c) Amount of grants

(1) Grants to States

(A) Federal matching share

From amounts appropriated under section 15101(a) of this title, the Secretary shall pay to each State that has an application approved under section 15094 of this title, for each year of the grant period, an amount that is—

(i) equal to not more than 75 percent of the cost of the systems change activities to be carried out by the State; and

(ii) not less than $100,000 and not more than $500,000.

(B) Non-Federal share

The non-Federal share of the cost of the systems change activities may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(2) Calculation of amounts

The Secretary shall calculate a grant amount described in paragraph (1) on the basis of—

(A) the amounts available for making grants under this section; and

(B) the child population of the State concerned.

(d) Priority for previously participating States

For the second and third fiscal years for which amounts are appropriated to carry out this section, the Secretary, in providing payments under this section, shall give priority to States that received payments under this section during the preceding fiscal year.

(e) Priorities for distribution

To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable;

(2) distributes the grants among States that have differing levels of development of statewide systems of family support services for families of children with disabilities; and

(3) distributes the grants among States that attempt to meet the needs of unserved and underserved populations, such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited English proficiency, and individuals from underserved geographic areas (rural or urban).

(Pub. L. 106–402, title II, §204, Oct. 30, 2000, 114 Stat. 1730.)

§15094. Application

To be eligible to receive a grant under this subchapter, a State shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require, including information about the designation of a lead entity, a description of available State resources, and assurances that systems change activities will be family-centered and family-directed.

(Pub. L. 106–402, title II, §205, Oct. 30, 2000, 114 Stat. 1731.)

§15095. Designation of the lead entity

(a) Designation

The Chief Executive Officer of a State that desires to receive a grant under section 15093 of this title, shall designate the office or entity (referred to in this subchapter as the "lead entity") responsible for—

(1) submitting the application described in section 15094 of this title on behalf of the State;

(2) administering and supervising the use of the amounts made available under the grant;

(3) coordinating efforts related to and supervising the preparation of the application;

(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements;

(5) coordinating efforts related to the participation by families of children with disabilities in activities carried out under a grant made under this subchapter; and

(6) submitting the report described in section 15097 of this title on behalf of the State.

(b) Qualifications

In designating the lead entity, the Chief Executive Officer may designate—

(1) an office of the Chief Executive Officer;

(2) a commission appointed by the Chief Executive Officer;

(3) a public agency;

(4) a council established under Federal or State law; or

(5) another appropriate office, agency, or entity.

(Pub. L. 106–402, title II, §206, Oct. 30, 2000, 114 Stat. 1731.)

§15096. Authorized activities

(a) In general

A State that receives a grant under section 15093 of this title shall use the funds made available through the grant to carry out systems change activities that accomplish the purposes of this subchapter.

(b) Special rule

In carrying out activities authorized under this subchapter, a State shall ensure that such activities address the needs of families of children with disabilities from unserved or underserved populations.

(Pub. L. 106–402, title II, §207, Oct. 30, 2000, 114 Stat. 1732.)

§15097. Reporting

A State that receives a grant under this subchapter shall prepare and submit to the Secretary, at the end of the grant period, a report containing the results of State efforts to develop and implement, or expand and enhance, a statewide system of family support services for families of children with disabilities.

(Pub. L. 106–402, title II, §208, Oct. 30, 2000, 114 Stat. 1732.)

§15098. Technical assistance

(a) In general

The Secretary shall enter into contracts or cooperative agreements with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support services for families of children with disabilities.

(b) Purpose

An agency or organization that provides technical assistance and information under this section in a State that receives a grant under this subchapter shall provide the technical assistance and information to the lead entity of the State, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such an agency or organization may also provide technical assistance and information to a State that does not receive a grant under this subchapter.

(c) Reports to the Secretary

An entity providing technical assistance and information under this section shall prepare and submit to the Secretary periodic reports regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support services to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies described in section 15091 of this title in Federal law, other than this subchapter.

(Pub. L. 106–402, title II, §209, Oct. 30, 2000, 114 Stat. 1732.)

§15099. Evaluation

(a) In general

The Secretary shall conduct a national evaluation of the program of grants to States authorized by this subchapter.

(b) Purpose

(1) In general

The Secretary shall conduct the evaluation under subsection (a) to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support services for families of children with disabilities in a manner consistent with the provisions of this subchapter. In particular, the Secretary shall assess the impact of such efforts on families of children with disabilities, and recommend amendments to this subchapter that are necessary to assist States to accomplish fully the purposes of this subchapter.

(2) Information systems

The Secretary shall work with the States to develop an information system designed to compile and report, from information provided by the States, qualitative and quantitative descriptions of the impact of the program of grants to States authorized by this subchapter on—

(A) families of children with disabilities, including families from unserved and underserved populations;

(B) access to and funding for family support services for families of children with disabilities;

(C) interagency coordination and collaboration between agencies responsible for providing the services; and

(D) the involvement of families of children with disabilities at all levels of the statewide systems.

(c) Report to Congress

Not later than 2½ years after October 30, 2000, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted

under this section.

(Pub. L. 106–402, title II, §210, Oct. 30, 2000, 114 Stat. 1733.)

§15100. Projects of national significance

(a) Study by the Secretary

The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support services for families of children with disabilities, consistent with the policies described in section 15091 of this title.

(b) Projects of national significance

The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support services for families of children with disabilities.

(Pub. L. 106–402, title II, §211, Oct. 30, 2000, 114 Stat. 1733.)

§15101. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter such sums as may be necessary for each of fiscal years 2001 through 2007.

(b) Reservation

(1) In general

The Secretary shall reserve for each fiscal year 10 percent, or $400,000 (whichever is greater), of the amount appropriated pursuant to subsection (a) to carry out—

(A) section 15098 of this title (relating to the provision of technical assistance and information to States); and

(B) section 15099 of this title (relating to the conduct of evaluations).

(2) Special rule

For each year that the amount appropriated pursuant to subsection (a) is $10,000,000 or greater, the Secretary may reserve 5 percent of such amount to carry out section 15100 of this title.

(Pub. L. 106–402, title II, §212, Oct. 30, 2000, 114 Stat. 1734.)

SUBCHAPTER III—PROGRAM FOR DIRECT SUPPORT WORKERS WHO ASSIST INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

§15111. Findings

Congress finds that—

(1) direct support workers, especially young adults, have played essential roles in providing the support needed by individuals with developmental disabilities and expanding community options for those individuals;

(2) 4 factors have contributed to a decrease in the available pool of direct support workers, specifically—

(A) the small population of individuals who are age 18 through 25, an age group that has been attracted to direct support work in the past;

(B) the rapid expansion of the service sector, which attracts individuals who previously would have elected to pursue employment as direct support workers;

(C) the failure of wages in the human services sector to keep pace with wages in other service sectors; and

(D) the lack of quality training and career advancement opportunities available to direct support workers; and

(3) individuals with developmental disabilities benefit from assistance from direct support workers who are well trained, and benefit from receiving services from professionals who have spent time as direct support workers.

(Pub. L. 106–402, title III, §301, Oct. 30, 2000, 114 Stat. 1734.)

§15112. Definitions

In this subchapter:

(1) Developmental disability

The term "developmental disability" has the meaning given the term in section 15002 of this title.

(2) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1141 [1] of title 20.

(3) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(Pub. L. 106–402, title III, §302, Oct. 30, 2000, 114 Stat. 1734.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1141 of title 20, referred to in par. (2), was repealed by Pub. L. 105–244, §3, title I, §101(b), title VII, §702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998. However, the term "institution of higher education" is defined in section 1001 of Title 20, Education.

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

§15113. Reaching up scholarship program

(a) Program authorization

The Secretary may award grants to eligible entities, on a competitive basis, to enable the entities to carry out scholarship programs by providing vouchers for postsecondary education to direct support workers who assist individuals with developmental disabilities residing in diverse settings. The Secretary shall award the grants to pay for the Federal share of the cost of providing the vouchers.

(b) Eligible entity

To be eligible to receive a grant under this section, an entity shall be—

(1) an institution of higher education;

(2) a State agency; or

(3) a consortium of such institutions or agencies.

(c) Application requirements

To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary

an application at such time, in such manner, and containing such information as the Secretary may require, including a description of—

(1) the basis for awarding the vouchers;

(2) the number of individuals to receive the vouchers; and

(3) the amount of funds that will be made available by the eligible entity to pay for the non-Federal share of the cost of providing the vouchers.

(d) Selection criteria

In awarding a grant under this section for a scholarship program, the Secretary shall give priority to an entity submitting an application that—

(1) specifies that individuals who receive vouchers through the program will be individuals—

(A) who are direct support workers who assist individuals with developmental disabilities residing in diverse settings, while pursuing postsecondary education; and

(B) each of whom verifies, prior to receiving the voucher, that the worker has completed 250 hours as a direct support worker in the past 90 days;

(2) states that the vouchers that will be provided through the program will be in amounts of not more than $2,000 per year;

(3) provides an assurance that the eligible entity (or another specified entity that is not a voucher recipient) will contribute the non-Federal share of the cost of providing the vouchers; and

(4) meets such other conditions as the Secretary may specify.

(e) Federal share

The Federal share of the cost of providing the vouchers shall be not more than 80 percent.

(Pub. L. 106–402, title III, §303, Oct. 30, 2000, 114 Stat. 1735.)

§15114. Staff development curriculum authorization

(a) Funding

(1) In general

The Secretary shall award funding, on a competitive basis, through a grant, cooperative agreement, or contract, to a public or private entity or a combination of such entities, for the development, evaluation, and dissemination of a staff development curriculum, and related guidelines, for computer-assisted, competency-based, multimedia, interactive instruction, relating to service as a direct support worker.

(2) Participants

The curriculum shall be developed for individuals who—

(A) seek to become direct support workers who assist individuals with developmental disabilities or are such direct support workers; and

(B) seek to upgrade their skills and competencies related to being a direct support worker.

(b) Application requirements

To be eligible to receive an award under this section, an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a comprehensive analysis of the content of direct support roles;

(2) information identifying an advisory group that—

(A) is comprised of individuals with experience and expertise with regard to the support provided by direct support workers, and effective ways to provide the support, for individuals with developmental disabilities in diverse settings; and

(B) will advise the entity throughout the development, evaluation, and dissemination of the staff development curriculum and guidelines;

(3) information describing how the entity will—

(A) develop, field test, and validate a staff development curriculum that—

(i) relates to the appropriate reading level for direct service workers who assist individuals with disabilities;

(ii) allows for multiple levels of instruction;

(iii) provides instruction appropriate for direct support workers who work in diverse settings; and

(iv) is consistent with subsections (b) and (c) of section 15001 of this title and section 15009 of this title;

(B) develop, field test, and validate guidelines for the organizations that use the curriculum that provide for—

(i) providing necessary technical and instructional support to trainers and mentors for the participants;

(ii) ensuring easy access to and use of such curriculum by workers that choose to participate in using, and agencies that choose to use, the curriculum;

(iii) evaluating the proficiency of the participants with respect to the content of the curriculum;

(iv) providing necessary support to the participants to assure that the participants have access to, and proficiency in using, a computer in order to participate in the development, testing, and validation process;

(v) providing necessary technical and instructional support to trainers and mentors for the participants in conjunction with the development, testing, and validation process;

(vi) addressing the satisfaction of participants, individuals with developmental disabilities and their families, providers of services for such individuals and families, and other relevant entities with the curriculum; and

(vii) developing methods to maintain a record of the instruction completed, and the content mastered, by each participant under the curriculum; and

(C) nationally disseminate the curriculum and guidelines, including dissemination through—

(i) parent training and information centers funded under part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.);

(ii) community-based organizations of and for individuals with developmental disabilities and their families;

(iii) entities funded under subchapter I;

(iv) centers for independent living;

(v) State educational agencies and local educational agencies;

(vi) entities operating appropriate medical facilities;

(vii) postsecondary education entities; and

(viii) other appropriate entities; and

(4) such other information as the Secretary may require.

(Pub. L. 106–402, title III, §304, Oct. 30, 2000, 114 Stat. 1735.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(3)(C)(i), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part D of the Act is classified generally to subchapter IV (§1450 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

§15115. Authorization of appropriations

(a) Scholarships

There are authorized to be appropriated to carry out section 15113 of this title $800,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 through 2007.

(b) Staff development curriculum

There are authorized to be appropriated to carry out section 15114 of this title $800,000 for fiscal year 2001 and such sums as may be necessary for each of fiscal years 2002 and 2003.

(Pub. L. 106–402, title III, §305, Oct. 30, 2000, 114 Stat. 1737.)

CHAPTER 145—PUBLIC SAFETY OFFICER MEDAL OF VALOR AND TRIBUTES

Sec.

§15201. Authorization of Medal

After September 1, 2001, the President may award, and present in the name of Congress, a Medal of Valor of appropriate design, with ribbons and appurtenances, to a public safety officer who is cited by the Attorney General, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty. The Public Safety Medal of Valor shall be the highest national award for valor by a public safety officer.

(Pub. L. 107–12, §2, May 30, 2001, 115 Stat. 20.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 107–12, §1, May 30, 2001, 115 Stat. 20, provided that: "This Act [enacting this chapter and amending section 2214 of Title 15, Commerce and Trade] may be cited as the 'Public Safety Officer Medal of Valor Act of 2001'."

§15202. Medal of Valor Board

(a) Establishment of Board

There is established a Medal of Valor Review Board (hereinafter in this chapter referred to as the "Board"), which shall be composed of 11 members appointed in accordance with subsection (b) and shall conduct its business in accordance with this chapter.

(b) Membership

(1) Members

The members of the Board shall be individuals with knowledge or expertise, whether by experience or training, in the field of public safety, of which—

(A) two shall be appointed by the majority leader of the Senate;
(B) two shall be appointed by the minority leader of the Senate;
(C) two shall be appointed by the Speaker of the House of Representatives;
(D) two shall be appointed by the minority leader of the House of Representatives; and
(E) three shall be appointed by the President, including one with experience in firefighting, one with experience in law enforcement, and one with experience in emergency services.

(2) Term

The term of a Board member shall be 4 years.

(3) Vacancies

Any vacancy in the membership of the Board shall not affect the powers of the Board and shall be filled in the same manner as the original appointment.

(4) Operation of the Board

(A) Chairman

The Chairman of the Board shall be elected by the members of the Board from among the members of the Board.

(B) Meetings

The Board shall conduct its first meeting not later than 90 days after the appointment of the last member appointed of the initial group of members appointed to the Board. Thereafter, the Board shall meet at the call of the Chairman of the Board. The Board shall meet not less often than twice each year.

(C) Voting and rules

A majority of the members shall constitute a quorum to conduct business, but the Board may establish a lesser quorum for conducting hearings scheduled by the Board. The Board may establish by majority vote any other rules for the conduct of the Board's business, if such rules are not inconsistent with this chapter or other applicable law.

(c) Duties

The Board shall select candidates as recipients of the Medal of Valor from among those applications received by the National Medal of Valor Office. Not more often than once each year, the Board shall present to the Attorney General the name or names of those it recommends as Medal of Valor recipients. In a given year, the Board shall not be required to select any recipients but may not select more than 5 individuals, or groups of individuals, as recipients. The Attorney General may in extraordinary cases increase the number of recipients in a given year. The Board shall set an annual timetable for fulfilling its duties under this chapter.

(d) Hearings

(1) In general

The Board may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Board considers advisable to carry out its duties.

(2) Witness expenses

Witnesses requested to appear before the Board may be paid the same fees as are paid to witnesses under section 1821 of title 28. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Board.

(e) Information from Federal agencies

The Board may secure directly from any Federal department or agency such information as the Board considers necessary to carry out its duties. Upon the request of the Board, the head of such department or agency may furnish such information to the Board.

(f) Information to be kept confidential

The Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

(Pub. L. 107–12, §3, May 30, 2001, 115 Stat. 20; Pub. L. 109–162, title XI, §1112, Jan. 5, 2006, 119 Stat. 3103.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(4)(C), and (c), was in the original "this Act", meaning Pub. L. 107–12, May. 30, 2001, 115 Stat. 20, which enacted this chapter and amended section 2214 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 15201 of this title and Tables.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–162 substituted "more than 5 individuals, or groups of individuals, as recipients" for "more than 5 recipients".

§15203. Board personnel matters

(a) Compensation of members

(1) Except as provided in paragraph (2), each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Board.

(2) All members of the Board who serve as officers or employees of the United States, a State, or a local government, shall serve without compensation in addition to that received for those services.

(b) Travel expenses

The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of service for the Board.

(Pub. L. 107–12, §4, May 30, 2001, 115 Stat. 21.)

§15204. Definitions

In this chapter:

(1) Public safety officer

The term "public safety officer" means a person serving a public agency, with or without compensation, as a firefighter, law enforcement officer, or emergency services officer, as determined by the Attorney General. For the purposes of this paragraph, the term "law enforcement officer" includes a person who is a corrections or court officer or a civil defense officer.

(2) State

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

(Pub. L. 107–12, §5, May 30, 2001, 115 Stat. 22.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in introductory provisions, was in the original "this Act", meaning Pub. L. 107–12, May. 30, 2001, 115 Stat. 20, known as the Public Safety Officer Medal of Valor Act of 2001, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15201 of this title and Tables.

§15205. Authorization of appropriations

There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out this chapter.

(Pub. L. 107–12, §6, May 30, 2001, 115 Stat. 22.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 107–12, May. 30, 2001, 115 Stat. 20, known as the Public Safety Officer Medal of Valor Act of 2001, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 15201 of this title and Tables.

§15206. National Medal of Valor Office

There is established within the Department of Justice a National Medal of Valor Office. The Office shall provide staff support to the Board to establish criteria and procedures for the submission of recommendations of nominees for the Medal of Valor and for the final design of the Medal of Valor.

(Pub. L. 107–12, §7, May 30, 2001, 115 Stat. 22.)

§15207. Consultation requirement

The Board shall consult with the Institute of Heraldry within the Department of Defense regarding the design and artistry of the Medal of Valor. The Board may also consider suggestions received by the Department of Justice regarding the design of the medal, including those made by persons not employed by the Department.

(Pub. L. 107–12, §9, May 30, 2001, 115 Stat. 22.)

§15208. Law enforcement tribute acts

(a) Short title

This section may be cited as the "Law Enforcement Tribute Act".

(b) Findings

Congress finds the following:

(1) The well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement and public safety personnel.

(2) More than 700,000 law enforcement officers, both men and women, at great risk to their personal safety, serve their fellow citizens as guardians of peace.

(3) Nationwide, 51 law enforcement officers were killed in the line of duty in 2000, according to statistics released by the Federal Bureau of Investigation. This number is an increase of 9 from the 1999 total of 42.

(4) In 1999, 112 firefighters died while on duty, an increase of 21 deaths from the previous

year.

(5) Every year, 1 in 9 peace officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty.

(6) In addition, recent statistics indicate that 83 officers were accidentally killed in the performance of their duties in 2000, an increase of 18 from the 65 accidental deaths in 1999.

(7) A permanent tribute is a powerful means of honoring the men and women who have served our Nation with distinction. However, many law enforcement and public safety agencies lack the resources to honor their fallen colleagues.

(c) Program authorized

From amounts made available to carry out this section, the Attorney General may make grants to States, units of local government, and Indian tribes to carry out programs to honor, through permanent tributes, men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

(d) Uses of funds

Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used for the purposes specified in subsection (c).

(e) $150,000 limitation

A grant under this section may not exceed $150,000 to any single recipient.

(f) Matching funds

(1) The Federal portion of the costs of a program provided by a grant under this section may not exceed 50 percent.

(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement or public safety functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

(g) Applications

To request a grant under this section, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(h) Annual report to Congress

Not later than November 30 of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this section. Each such report shall include, for the preceding fiscal year, the number of grants funded under this section, the amount of funds provided under those grants, and the activities for which those funds were used.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2002 through 2009.

(Pub. L. 107–273, div. C, title I, §11001, Nov. 2, 2002, 116 Stat. 1815; Pub. L. 109–162, title XI, §1185, Jan. 5, 2006, 119 Stat. 3127.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as the Law Enforcement Tribute Act, and also as part of the 21st Century Department of Justice Appropriations Authorization Act, and not as part of the Public Safety Officer Medal of Valor Act of 2001 which comprises this chapter.

AMENDMENTS

2006—Subsec. (i). Pub. L. 109–162 substituted "2009" for "2006".

CHAPTER 145A—LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY

§15231. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15231 was editorially reclassified as section 50301 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER I—FEDERAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY

§15241. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15241 was editorially reclassified as section 50311 of Title 34, Crime Control and Law Enforcement.

§15242. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15242 was editorially reclassified as section 50312 of Title 34, Crime Control and Law Enforcement.

§15243. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15243 was editorially reclassified as section 50313 of Title 34, Crime Control and Law Enforcement.

§15244. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15244 was editorially reclassified as section 50314 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—STATE AND LOCAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY

§15251. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15251 was editorially reclassified as section 50321 of Title 34, Crime Control and Law Enforcement.

§15252. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15252 was editorially reclassified as section 50322 of Title 34, Crime Control and Law Enforcement.

§15253. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15253 was editorially reclassified as section 50323 of Title 34, Crime Control and Law Enforcement.

§15254. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15254 was editorially reclassified as section 50324 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER III—CONGRESSIONAL BADGE OF BRAVERY OFFICE

§15261. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15261 was editorially reclassified as section 50331 of Title 34, Crime Control and Law Enforcement.

CHAPTER 146—ELECTION ADMINISTRATION IMPROVEMENT

SUBCHAPTER I—PAYMENTS TO STATES FOR ELECTION ADMINISTRATION IMPROVEMENTS AND REPLACEMENT OF PUNCH CARD AND LEVER VOTING MACHINES

§15301. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15301 was editorially reclassified as section 20901 of Title 52, Voting and Elections.

§15302. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15302 was editorially reclassified as section 20902 of Title 52, Voting and Elections.

§15303. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15303 was editorially reclassified as section 20903 of Title 52, Voting and Elections.

§15304. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15304 was editorially reclassified as section 20904 of Title 52, Voting and Elections.

§15305. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15305 was editorially reclassified as section 20905 of Title 52, Voting and Elections.

§15306. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15306 was editorially reclassified as section 20906 of Title 52, Voting and Elections.

SUBCHAPTER II—COMMISSION

PART A—ESTABLISHMENT AND GENERAL ORGANIZATION

SUBPART 1—ELECTION ASSISTANCE COMMISSION

§15321. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15321 was editorially reclassified as section 20921 of Title 52, Voting and Elections.

§15322. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15322 was editorially reclassified as section 20922 of Title 52, Voting and Elections.

§15323. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15323 was editorially reclassified as section 20923 of Title 52, Voting and Elections.

§15324. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15324 was editorially reclassified as section 20924 of Title 52, Voting and Elections.

§15325. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15325 was editorially reclassified as section 20925 of Title 52, Voting and Elections.

§15326. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15326 was editorially reclassified as section 20926 of Title 52, Voting and Elections.

§15327. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15327 was editorially reclassified as section 20927 of Title 52, Voting and Elections.

§15328. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15328 was editorially reclassified as section 20928 of Title 52, Voting and Elections.

§15329. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15329 was editorially reclassified as section 20929 of Title 52, Voting and Elections.

§15330. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15330 was editorially reclassified as section 20930 of Title 52, Voting and Elections.

SUBPART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

§15341. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15341 was editorially reclassified as section 20941 of Title 52, Voting and Elections.

§15342. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15342 was editorially reclassified as section 20942 of Title 52, Voting and Elections.

§15343. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15343 was editorially reclassified as section 20943 of Title 52, Voting and Elections.

§15344. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15344 was editorially reclassified as section 20944 of Title 52, Voting and Elections.

§15345. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15345 was editorially reclassified as section 20945 of Title 52, Voting and Elections.

§15346. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15346 was editorially reclassified as section 20946 of Title 52, Voting and Elections.

SUBPART 3—TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE

§15361. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15361 was editorially reclassified as section 20961 of Title 52, Voting and Elections.

§15362. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15362 was editorially reclassified as section 20962 of Title 52, Voting and Elections.

PART B—TESTING, CERTIFICATION, DECERTIFICATION, AND RECERTIFICATION OF VOTING SYSTEM HARDWARE AND SOFTWARE

§15371. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15371 was editorially reclassified as section 20971 of Title 52, Voting and Elections.

PART C—STUDIES AND OTHER ACTIVITIES TO PROMOTE EFFECTIVE ADMINISTRATION OF FEDERAL ELECTIONS

§15381. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15381 was editorially reclassified as section 20981 of Title 52, Voting and Elections.

§15382. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15382 was editorially reclassified as section 20982 of Title 52, Voting and Elections.

§15383. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15383 was editorially reclassified as section 20983 of Title 52, Voting and Elections.

§15384. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15384 was editorially reclassified as section 20984 of Title 52, Voting and Elections.

§15385. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15385 was editorially reclassified as section 20985 of Title 52, Voting and Elections.

§15386. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15386 was editorially reclassified as section 20986 of Title 52, Voting and Elections.

§15387. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15387 was editorially reclassified as section 20987 of Title 52, Voting and Elections.

PART D—ELECTION ASSISTANCE

SUBPART 1—REQUIREMENTS PAYMENTS

§15401. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15401 was editorially reclassified as section 21001 of Title 52, Voting and Elections.

§15402. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15402 was editorially reclassified as section 21002 of Title 52, Voting and Elections.

§15403. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15403 was editorially reclassified as section 21003 of Title 52, Voting and Elections.

§15404. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15404 was editorially reclassified as section 21004 of Title 52, Voting and Elections.

§15405. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15405 was editorially reclassified as section 21005 of Title 52, Voting and Elections.

§15406. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15406 was editorially reclassified as section 21006 of Title 52, Voting and Elections.

§15407. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15407 was editorially reclassified as section 21007 of Title 52, Voting and Elections.

§15408. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15408 was editorially reclassified as section 21008 of Title 52, Voting and Elections.

SUBPART 2—PAYMENTS TO STATES AND UNITS OF LOCAL GOVERNMENT TO ASSURE ACCESS FOR INDIVIDUALS WITH DISABILITIES

§15421. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15421 was editorially reclassified as section 21021 of Title 52, Voting and Elections.

§15422. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15422 was editorially reclassified as section 21022 of Title 52, Voting and Elections.

§15423. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15423 was editorially reclassified as section 21023 of Title 52, Voting and Elections.

§15424. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15424 was editorially reclassified as section 21024 of Title 52, Voting and Elections.

§15425. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15425 was editorially reclassified as section 21025 of Title 52, Voting and Elections.

SUBPART 3—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

§15441. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15441 was editorially reclassified as section 21041 of Title 52, Voting and Elections.

§15442. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15442 was editorially reclassified as section 21042 of Title 52, Voting and Elections.

§15443. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15443 was editorially reclassified as section 21043 of Title 52, Voting and Elections.

SUBPART 4—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

§15451. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15451 was editorially reclassified as section 21051 of Title 52, Voting and Elections.

§15452. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15452 was editorially reclassified as section 21052 of Title 52, Voting and Elections.

§15453. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15453 was editorially reclassified as section 21053 of Title 52, Voting and Elections.

SUBPART 5—PROTECTION AND ADVOCACY SYSTEMS

§15461. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15461 was editorially reclassified as section 21061 of Title 52, Voting and Elections.

§15462. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15462 was editorially reclassified as section 21062 of Title 52, Voting and Elections.

SUBPART 6—NATIONAL STUDENT AND PARENT MOCK ELECTION

§15471. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15471 was editorially reclassified as section 21071 of Title 52, Voting and Elections.

§15472. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15472 was editorially reclassified as section 21072 of Title 52, Voting and Elections.

SUBCHAPTER III—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

PART A—REQUIREMENTS

§15481. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15481 was editorially reclassified as section 21081 of Title 52, Voting and Elections.

§15482. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15482 was editorially reclassified as section 21082 of Title 52, Voting and Elections.

§15483. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15483 was editorially reclassified as section 21083 of Title 52, Voting and Elections.

§15484. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15484 was editorially reclassified as section 21084 of Title 52, Voting and Elections.

§15485. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15485 was editorially reclassified as section 21085 of Title 52, Voting and Elections.

PART B—VOLUNTARY GUIDANCE

§15501. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15501 was editorially reclassified as section 21101 of Title 52, Voting and Elections.

§15502. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15502 was editorially reclassified as section 21102 of Title 52, Voting and Elections.

SUBCHAPTER IV—ENFORCEMENT

§15511. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15511 was editorially reclassified as section 21111 of Title 52, Voting and Elections.

§15512. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15512 was editorially reclassified as section 21112 of Title 52, Voting and Elections.

SUBCHAPTER V—HELP AMERICA VOTE COLLEGE PROGRAM

§15521. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15521 was editorially reclassified as section 21121 of Title 52, Voting and Elections.

§15522. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15522 was editorially reclassified as section 21122 of Title 52, Voting and Elections.

§15523. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15523 was editorially reclassified as section 21123 of Title 52, Voting and Elections.

SUBCHAPTER VI—TRANSFER TO COMMISSION OF FUNCTIONS UNDER CERTAIN LAWS

§15531. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15531 was editorially reclassified as section 21131 of Title 52, Voting and Elections.

§15532. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15532 was editorially reclassified as section 21132 of Title 52, Voting and Elections.

§15533. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15533 was editorially reclassified as section 21133 of Title 52, Voting and Elections.

§15534. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15534 was editorially reclassified as section 21134 of Title 52, Voting and Elections.

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

§15541. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15541 was editorially reclassified as section 21141 of Title 52, Voting and Elections.

§15542. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15542 was editorially reclassified as section 21142 of Title 52, Voting and Elections.

§15543. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15543 was editorially reclassified as section 21143 of Title 52, Voting and Elections.

§15544. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15544 was editorially reclassified as section 21144 of Title 52, Voting and Elections.

§15545. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15545 was editorially reclassified as section 21145 of Title 52, Voting and Elections.

CHAPTER 147—PRISON RAPE ELIMINATION

Sec.

§15601. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15601 was editorially reclassified as section 30301 of Title 34, Crime Control and Law Enforcement.

§15602. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15602 was editorially reclassified as section 30302 of Title 34, Crime Control and Law Enforcement.

§15603. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15603 was editorially reclassified as section 30303 of Title 34, Crime Control and Law Enforcement.

§15604. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15604 was editorially reclassified as section 30304 of Title 34, Crime Control and Law Enforcement.

§15605. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15605 was editorially reclassified as section 30305 of Title 34, Crime Control and Law Enforcement.

§15606. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15606 was editorially reclassified as section 30306 of Title 34, Crime Control and Law Enforcement.

§15607. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15607 was editorially reclassified as section 30307 of Title 34, Crime Control and Law Enforcement.

§15608. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15608 was editorially reclassified as section 30308 of Title 34, Crime Control and Law Enforcement.

§15609. Transferred

EDITORIAL NOTES

CODIFICATION

Section 15609 was editorially reclassified as section 30309 of Title 34, Crime Control and Law Enforcement.

CHAPTER 148—WINDSTORM IMPACT REDUCTION

Sec.

§15701. Findings

The Congress finds the following:

(1) Hurricanes, tropical storms, tornadoes, and thunderstorms can cause significant loss of life, injury, destruction of property, and economic and social disruption. All States and regions are vulnerable to these hazards.

(2) The United States currently sustains several billion dollars in economic damages each year due to these windstorms. In recent decades, rapid development and population growth in high-risk areas has greatly increased overall vulnerability to windstorms.

(3) Improved windstorm impact reduction measures have the potential to reduce these losses through—

(A) cost-effective and affordable design and construction methods and practices;

(B) effective mitigation programs at the local, State, and national level;

(C) improved data collection and analysis and impact prediction methodologies;

(D) engineering research on improving new structures and retrofitting existing ones to better withstand windstorms, atmospheric-related research to better understand the behavior and impact of windstorms on the built environment, and subsequent application of those research results; and

(E) public education and outreach.

(4) There is an appropriate role for the Federal Government in supporting windstorm impact reduction. An effective Federal program in windstorm impact reduction will require interagency coordination, and input from individuals, academia, the private sector, and other interested non-Federal entities.

(Pub. L. 108–360, title II, §202, Oct. 25, 2004, 118 Stat. 1675.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–52, §1, Sept. 30, 2015, 129 Stat. 496, provided that: "This Act [amending sections 15702 to 15704 and 15706 of this title] may be cited as the 'National Windstorm Impact Reduction Act Reauthorization of 2015'."

SHORT TITLE

Pub. L. 108–360, title II, §201, Oct. 25, 2004, 118 Stat. 1675, provided that: "This Act [probably should be 'this title', enacting this chapter and amending section 1885d of this title] may be cited as the 'National Windstorm Impact Reduction Act of 2004'."

§15702. Definitions

In this chapter:

(1) Director

The term "Director" means the Director of the National Institute of Standards and Technology.

(2) Lifelines

The term "lifelines" means public works and utilities, including transportation facilities and infrastructure, oil and gas pipelines, electrical power and communication facilities and infrastructure, and water supply and sewage treatment facilities.

(3) Program

The term "Program" means the National Windstorm Impact Reduction Program established by section 15703(a) of this title.

(4) State

The term "State" means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(5) Windstorm

The term "windstorm" means any storm with a damaging or destructive wind component, such as a hurricane, tropical storm, northeaster, tornado, or thunderstorm.

(Pub. L. 108–360, title II, §203, Oct. 25, 2004, 118 Stat. 1676; Pub. L. 114–52, §2, Sept. 30, 2015, 129 Stat. 496.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 108–360, Oct. 25, 2004, 118 Stat. 1675, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 15701 of this title and Tables.

AMENDMENTS

2015—Par. (1). Pub. L. 114–52, §2(a), substituted "Director of the National Institute of Standards and Technology" for "Director of the Office of Science and Technology Policy".

Par. (2). Pub. L. 114–52, §2(b)(2), added par. (2). Former par. (2) redesignated (3).

Pars. (3), (4). Pub. L. 114–52, §2(b)(1), redesignated pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Par. (5). Pub. L. 114–52, §2(b)(1), (c), redesignated par. (4) as (5) and inserted "northeaster," after "tropical storm,".

§15703. National Windstorm Impact Reduction Program

(a) Establishment

There is established the National Windstorm Impact Reduction Program, the purpose of which is to achieve major measurable reductions in the losses of life and property from windstorms through a coordinated Federal effort, in cooperation with other levels of government, academia, and the private sector, aimed at improving the understanding of windstorms and their impacts and developing and encouraging the implementation of cost-effective mitigation measures to reduce those impacts.

(b) Responsibilities of Program agencies

(1) Lead agency

The National Institute of Standards and Technology shall have the primary responsibility for planning and coordinating the Program. In carrying out this paragraph, the Director shall—

(A) ensure that the Program includes the necessary components to promote the implementation of windstorm risk reduction measures by Federal, State, and local governments, national standards and model building code organizations, architects and engineers, and others with a role in planning and constructing buildings and lifelines;

(B) support the development of performance-based engineering tools, and work with appropriate groups to promote the commercial application of such tools, including through wind-related model building codes, voluntary standards, and construction best practices;

(C) request the assistance of Federal agencies other than the Program agencies, as necessary to assist in carrying out this chapter;

(D) coordinate all Federal post-windstorm investigations to the extent practicable; and

(E) when warranted by research or investigative findings, issue recommendations to assist in informing the development of model codes, and provide information to Congress on the use of such recommendations.

(2) National Institute of Standards and Technology

In addition to the lead agency responsibilities described under paragraph (1), the National Institute of Standards and Technology shall be responsible for carrying out research and development to improve model building codes, voluntary standards, and best practices for the design, construction, and retrofit of buildings, structures, and lifelines.

(3) National Science Foundation

The National Science Foundation shall support research in—

(A) engineering and the atmospheric sciences to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines; and

(B) economic and social factors influencing windstorm risk reduction measures.

(4) National Oceanic and Atmospheric Administration

The National Oceanic and Atmospheric Administration shall support atmospheric sciences research to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines.

(5) Federal Emergency Management Agency

The Federal Emergency Management Agency shall—

(A) support—

(i) the development of risk assessment tools and effective mitigation techniques;
(ii) windstorm-related data collection and analysis;
(iii) public outreach and information dissemination; and
(iv) promotion of the adoption of windstorm preparedness and mitigation measures, including for households, businesses, and communities, consistent with the Agency's all-hazards approach; and

(B) work closely with national standards and model building code organizations, in conjunction with the National Institute of Standards and Technology, to promote the implementation of research results and promote better building practices within the building design and construction industry, including architects, engineers, contractors, builders, and inspectors.

(c) Program components

(1) In general

The Program shall consist of three primary mitigation components: improved understanding of windstorms, windstorm impact assessment, and windstorm impact reduction. The components shall be implemented through activities such as data collection and analysis, risk assessment, outreach, technology transfer, and research and development. To the extent practicable, research activities authorized under this chapter shall be peer-reviewed, and the components shall be designed to be complementary to, and avoid duplication of, other public and private hazard reduction efforts.

(2) Understanding of windstorms

Activities to enhance the understanding of windstorms shall include research to improve knowledge of and data collection on the impact of severe wind on buildings, structures, and infrastructure.

(3) Windstorm impact assessment

Activities to improve windstorm impact assessment shall include—

(A) development of mechanisms for collecting and inventorying information on the performance of buildings, structures, and infrastructure in windstorms and improved collection of pertinent information from sources, including the design and construction industry, insurance companies, and building officials;

(B) research, development, and technology transfer to improve loss estimation and risk assessment systems; and

(C) research, development, and technology transfer to improve simulation and computational modeling of windstorm impacts.

(4) Windstorm impact reduction

Activities to reduce windstorm impacts shall include—

(A) development of improved outreach and implementation mechanisms to translate existing information and research findings into cost-effective and affordable practices for design and construction professionals, and State and local officials;

(B) development of cost-effective and affordable windstorm-resistant systems, structures, and materials for use in new construction and retrofit of existing construction; and

(C) outreach and information dissemination related to cost-effective and affordable construction techniques, loss estimation and risk assessment methodologies, and other pertinent information regarding windstorm phenomena to Federal, State, and local officials, the construction industry, and the general public.

(d) Budget activities

The Director of the National Institute of Standards and Technology, the Director of the National Science Foundation, the Director of the National Oceanic and Atmospheric Administration, and the Director of the Federal Emergency Management Agency shall each include in their agency's annual

budget request to Congress a description of their agency's projected activities under the Program for the fiscal year covered by the budget request, along with an assessment of what they plan to spend on those activities for that fiscal year.

(e) Interagency Coordinating Committee on Windstorm Impact Reduction

(1) Establishment

There is established an Interagency Coordinating Committee on Windstorm Impact Reduction, chaired by the Director or the Director's designee.

(2) Membership

In addition to the chair, the Committee shall be composed of—

(A) the heads or such designees of—

(i) the Federal Emergency Management Agency;

(ii) the National Oceanic and Atmospheric Administration;

(iii) the National Science Foundation;

(iv) the Office of Science and Technology Policy; and

(v) the Office of Management and Budget; and

(B) the head of any other Federal agency, or such designee, the chair considers appropriate.

(3) Meetings

The Committee shall meet not less than once a year at the call of the Director of the National Institute of Standards and Technology.

(4) General purpose and duties

The Committee shall oversee the planning and coordination of the Program.

(5) Strategic plan

The Committee shall develop and submit to Congress, not later than 1 year after September 30, 2015, a Strategic Plan for the Program that includes—

(A) prioritized goals for the Program that will mitigate against the loss of life and property from future windstorms;

(B) short-term, mid-term, and long-term research objectives to achieve those goals;

(C) a description of the role of each Program agency in achieving the prioritized goals;

(D) the methods by which progress towards the goals will be assessed; and

(E) an explanation of how the Program will foster the transfer of research results into outcomes, such as improved model building codes.

(6) Progress report

Not later than 18 months after September 30, 2015, the Committee shall submit to the Congress a report on the progress of the Program that includes—

(A) a description of the activities funded under the Program, a description of how these activities align with the prioritized goals and research objectives established in the Strategic Plan, and the budgets, per agency, for these activities;

(B) the outcomes achieved by the Program for each of the goals identified in the Strategic Plan;

(C) a description of any recommendations made to change existing building codes that were the result of Program activities; and

(D) a description of the extent to which the Program has incorporated recommendations from the Advisory Committee on Windstorm Impact Reduction.

(7) Coordinated budget

The Committee shall develop a coordinated budget for the Program, which shall be submitted to the Congress not later than 60 days after the date of the President's budget submission for each fiscal year.

(Pub. L. 108–360, title II, §204, Oct. 25, 2004, 118 Stat. 1676; Pub. L. 114–52, §3, Sept. 30, 2015, 129 Stat. 496.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(C), was in the original "this Act" and was translated as reading "this title", to reflect the probable intent of Congress. See below.

This chapter, referred to in subsec. (c)(1), was in the original "this title", meaning title II of Pub. L. 108–360, Oct. 25, 2004, 118 Stat. 1675, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 15701 of this title and Tables.

AMENDMENTS

2015—Subsecs. (a), (b). Pub. L. 114–52, §3(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to the establishment and objective of the National Windstorm Impact Reduction Program.

Subsec. (c). Pub. L. 114–52, §3(1), (2), redesignated subsec. (d) as (c) and struck out former subsec. (c) which established an Interagency Working Group.

Subsecs. (d), (e). Pub. L. 114–52, §3(2), (3), added subsecs. (d) and (e), redesignated former subsec. (d) as (c), and struck out former subsec. (e) which required an implementation plan from the Interagency Working Group.

Subsec. (f). Pub. L. 114–52, §3(2), struck out subsec. (f) which required biennial reports on the status of the windstorm impact reduction program.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

§15704. National Advisory Committee on Windstorm Impact Reduction

(a) In general

The Director of the National Institute of Standards and Technology shall establish an Advisory Committee on Windstorm Impact Reduction, which shall be composed of at least 7 and not more than 15 members who are qualified to provide advice on windstorm impact reduction and represent related scientific, architectural, and engineering disciplines, none of whom may be employees of the Federal Government, including—

(1) representatives of research and academic institutions;
(2) industry standards development organizations;
(3) emergency management agencies;
(4) State and local government; and
(5) business communities, including the insurance industry.

(b) Assessments

The Advisory Committee on Windstorm Impact Reduction shall offer assessments and recommendations on—

(1) trends and developments in the natural, engineering, and social sciences and practices of windstorm impact mitigation;
(2) the priorities of the Program's Strategic Plan;
(3) the coordination of the Program;
(4) the effectiveness of the Program in meeting its purposes; and

(5) any revisions to the Program which may be necessary.

(c) Compensation

The members of the Advisory Committee established under this section shall serve without compensation.

(d) Reports

At least every 2 years, the Advisory Committee shall report to the Director on the assessments carried out under subsection (b) and its recommendations for ways to improve the Program.

(e) Charter

Notwithstanding section 14(b)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall not be required to file a charter subsequent to its initial charter, filed under section 9(c) of such Act, before the termination date specified in subsection (f) of this section.

(f) Termination

The Advisory Committee shall terminate on September 30, 2017.

(g) Conflict of interest

An Advisory Committee member shall recuse himself from any Advisory Committee activity in which he has an actual pecuniary interest.

(Pub. L. 108–360, title II, §205, Oct. 25, 2004, 118 Stat. 1678; Pub. L. 114–52, §4, Sept. 30, 2015, 129 Stat. 499.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 9 and 14 of the Federal Advisory Committee Act, referred to in subsec. (e), are sections 9 and 14, respectively, of Pub. L. 92–463, which are set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2015—Pub. L. 114–52 amended section generally. Prior to amendment, section established a National Advisory Committee on Windstorm Impact Reduction.

§15705. Savings clause

Nothing in this chapter supersedes any provision of the National Manufactured Housing Construction and Safety Standards Act of 1974 [42 U.S.C. 5401 et seq.]. No design, construction method, practice, technology, material, mitigation methodology, or hazard reduction measure of any kind developed under this chapter shall be required for a home certified under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415), pursuant to standards issued under such Act, without being subject to the consensus development process and rulemaking procedures of that Act.

(Pub. L. 108–360, title II, §206, Oct. 25, 2004, 118 Stat. 1679.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 108–360, Oct. 25, 2004, 118 Stat. 1675, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 15701 of this title and Tables.

The National Manufactured Housing Construction and Safety Standards Act of 1974, referred to in text, is title VI of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 700, as amended, which is classified generally to chapter 70 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out

under section 5401 of this title and Tables.

§15706. Authorization of appropriations

(a) Federal Emergency Management Agency

There are authorized to be appropriated to the Federal Emergency Management Agency for carrying out this chapter—

(1) $5,332,000 for fiscal year 2015;
(2) $5,332,000 for fiscal year 2016; and
(3) $5,332,000 for fiscal year 2017.

(b) National Science Foundation

There are authorized to be appropriated to the National Science Foundation for carrying out this chapter—

(1) $9,682,000 for fiscal year 2015;
(2) $9,682,000 for fiscal year 2016; and
(3) $9,682,000 for fiscal year 2017.

(c) National Institute of Standards and Technology

There are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this chapter—

(1) $4,120,000 for fiscal year 2015;
(2) $4,120,000 for fiscal year 2016; and
(3) $4,120,000 for fiscal year 2017.

(d) National Oceanic and Atmospheric Administration

There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for carrying out this chapter—

(1) $2,266,000 for fiscal year 2015;
(2) $2,266,000 for fiscal year 2016; and
(3) $2,266,000 for fiscal year 2017.

(Pub. L. 108–360, title II, §207, Oct. 25, 2004, 118 Stat. 1679; Pub. L. 114–52, §5, Sept. 30, 2015, 129 Stat. 500.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 108–360, Oct. 25, 2004, 118 Stat. 1675, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 15701 of this title and Tables.

AMENDMENTS

2015—Pub. L. 114–52 amended section generally. Prior to amendment, section authorized appropriations for fiscal years 2006 to 2008.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

§15707. Coordination

The Secretary of Commerce, the Director of the National Institute of Standards and Technology, the Director of the Office of Science and Technology Policy and the heads of other Federal departments and agencies carrying out activities under this chapter and the statutes amended by this chapter shall work together to ensure that research, technologies, and response techniques are shared among the programs authorized in this chapter in order to coordinate the Nation's efforts to reduce vulnerability to the hazards described in this chapter.

(Pub. L. 108–360, title II, §209, Oct. 25, 2004, 118 Stat. 1680.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 108–360, Oct. 25, 2004, 118 Stat. 1675, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 15701 of this title and Tables.

CHAPTER 149—NATIONAL ENERGY POLICY AND PROGRAMS

Sec.

[1] *So in original.*

§15801. Definitions

Except as otherwise provided, in this Act:

(1) Department

The term "Department" means the Department of Energy.

(2) Institution of higher education

(A) In general

The term "institution of higher education" has the meaning given the term in section 1001(a) of title 20.

(B) Inclusion

The term "institution of higher education" includes an organization that—

(i) is organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the functions of one or more organizations referred to in subparagraph (A); and

(ii) is operated, supervised, or controlled by or in connection with one or more of those organizations.

(3) National Laboratory

The term "National Laboratory" means any of the following laboratories owned by the Department:

(A) Ames Laboratory.
(B) Argonne National Laboratory.
(C) Brookhaven National Laboratory.
(D) Fermi National Accelerator Laboratory.
(E) Idaho National Laboratory.
(F) Lawrence Berkeley National Laboratory.
(G) Lawrence Livermore National Laboratory.
(H) Los Alamos National Laboratory.
(I) National Energy Technology Laboratory.
(J) National Renewable Energy Laboratory.
(K) Oak Ridge National Laboratory.
(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.
(N) Sandia National Laboratories.
(O) Savannah River National Laboratory.
(P) Stanford Linear Accelerator Center.
(Q) Thomas Jefferson National Accelerator Facility.

(4) Secretary

The term "Secretary" means the Secretary of Energy.

(5) Small business concern

The term "small business concern" has the meaning given the term in section 632 of title 15.

(Pub. L. 109–58, §2, Aug. 8, 2005, 119 Stat. 604.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–248, §1, Sept. 28, 2018, 132 Stat. 3154, provided that: "This Act [enacting sections 16278 to 16280 of this title and amending sections 16021, 16271 to 16274, and 16275 to 16277 of this title] may be cited as the 'Nuclear Energy Innovation Capabilities Act of 2017'."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–364, §1, Jan. 4, 2011, 124 Stat. 4056, provided that: "This Act [amending sections 16131 to 16134 and 16137 of this title and enacting provisions set out as a note under section 16131 of this title] may be cited as the 'Diesel Emissions Reduction Act of 2010'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–69, title V, §5001, Aug. 9, 2007, 121 Stat. 600, provided that: "This title [enacting subchapter XVII of this chapter and sections 7381g to 7381r of this title, amending sections 7381a, 7381d, 7381e, and 16311 of this title, and enacting provisions set out as a note under section 7381g of this title] may be cited as the 'Protecting America's Competitive Edge Through Energy Act' or the 'PACE–Energy Act'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–375, §1, Dec. 1, 2006, 120 Stat. 2656, provided that: "This Act [amending section 15855 of this title] may be cited as the 'Sierra National Forest Land Exchange Act of 2006'."

SHORT TITLE

Pub. L. 109–58, §1(a), Aug. 8, 2005, 119 Stat. 594, provided that: "This Act [see Tables for classification] may be cited as the 'Energy Policy Act of 2005'."

Pub. L. 109–58, title IV, §431, Aug. 8, 2005, 119 Stat. 760, provided that: "This subtitle [subtitle D (§§431–438) of title IV of Pub. L. 109–58, enacting part C (§15991) of subchapter IV of this chapter, amending sections 201, 202a, 203, and 207 of Title 30, Mineral Lands and Mining, and enacting provisions set out as a note under section 201 of Title 30] may be cited as the 'Coal Leasing Amendments Act of 2005'."

Pub. L. 109–58, title V, §501, Aug. 8, 2005, 119 Stat. 763, provided that: "This title [enacting subchapter V of this chapter, section 7144e of this title, and chapter 37 (§3501 et seq.) of Title 25, Indians, amending section 5315 of Title 5, Government Organization and Employees, and section 4132 of Title 25, and enacting provisions set out as a note under section 3501 of Title 25] may be cited as the 'Indian Tribal Energy Development and Self-Determination Act of 2005'."

Pub. L. 109–58, title VIII, §801, Aug. 8, 2005, 119 Stat. 844, provided that: "This title [enacting subchapter VIII of this chapter] may be cited as the 'Spark M. Matsunaga Hydrogen Act of 2005'."

Pub. L. 109–58, title IX, §901, Aug. 8, 2005, 119 Stat. 856, provided that: "This title [enacting subchapter IX of this chapter, amending sections 8101 and 8102 of Title 7, Agriculture, and section 5523 of Title 15, Commerce and Trade, enacting provisions set out as notes under section 8102 of Title 7 and section 2001 of Title 30, Mineral Lands and Mining, amending provisions set out as notes under section 8101 of Title 7, and section 1902 of Title 30] may be cited as the 'Energy Research, Development, Demonstration, and Commercial Application Act of 2005'."

Pub. L. 109–58, title XII, §1201, Aug. 8, 2005, 119 Stat. 941, provided that: "This title [enacting subchapter XII of this chapter and sections 824j–1 and 824o to 824w of Title 16, Conservation, amending sections 796, 824, 824a–3, 824b, 824e, 824j, 824m, 825e, 825f, 825l to 825o, 825o–1, 2621, 2622, 2625, 2634, and 2642 of Title 16, repealing chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and sections 824n and 825q of Title 16, and enacting provisions set out as notes under section 16451 of this title and sections 824b, 824o, 824q, and 2642 of Title 16] may be cited as the 'Electricity Modernization Act of 2005'."

Pub. L. 109–58, title XII, §1261, Aug. 8, 2005, 119 Stat. 972, provided that: "This subtitle [subtitle F (§§1261–1277) of title XII of Pub.L. 109–58, enacting part D (§16451 et seq.) of subchapter XII of this chapter, amending sections 824 and 824m of Title 16, Conservation, repealing chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacting provisions set out as a note under section 16451 of this title] may be cited as the 'Public Utility Holding Company Act of 2005'."

SUBCHAPTER I—ENERGY EFFICIENCY

PART A—FEDERAL PROGRAMS

§15811. Voluntary commitments to reduce industrial energy intensity

(a) Definition of energy intensity

In this section, the term "energy intensity" means the primary energy consumed for each unit of physical output in an industrial process.

(b) Voluntary agreements

The Secretary may enter into voluntary agreements with one or more persons in industrial sectors that consume significant quantities of primary energy for each unit of physical output to reduce the energy intensity of the production activities of the persons.

(c) Goal

Voluntary agreements under this section shall have as a goal the reduction of energy intensity by not less than 2.5 percent each year during the period of calendar years 2007 through 2016.

(d) Recognition

The Secretary, in cooperation with other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(e) Technical assistance

A person that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance, as appropriate, to assist in the achievement of those goals.

(f) Report

Not later than each of June 30, 2012, and June 30, 2017, the Secretary shall submit to Congress a report that—

(1) evaluates the success of the voluntary agreements under this section; and

(2) provides independent verification of a sample of the energy savings estimates provided by

participating firms.

(Pub. L. 109–58, title I, §106, Aug. 8, 2005, 119 Stat. 611.)

§15812. Advanced Building Efficiency Testbed

(a) Establishment

The Secretary, in consultation with the Administrator of General Services, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) Participants

The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of the fiscal years 2006 through 2008, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide one-third of the total amount to the lead university described in subsection (b), and provide the remaining two-thirds to the other participants referred to in subsection (b) on an equal basis.

(Pub. L. 109–58, title I, §107, Aug. 8, 2005, 119 Stat. 612.)

§15813. Enhancing energy efficiency in management of Federal lands

(a) Sense of the Congress

It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) Energy efficient buildings

To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(c) Energy efficient vehicles

To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(Pub. L. 109–58, title I, §111, Aug. 8, 2005, 119 Stat. 615.)

PART B—ENERGY ASSISTANCE AND STATE PROGRAMS

§15821. Energy efficient appliance rebate programs

(a) Definitions

In this section:

(1) Eligible State

The term "eligible State" means a State that meets the requirements of subsection (b).

(2) Energy Star program

The term "Energy Star program" means the program established by section 6294a of this title.

(3) Residential Energy Star product

The term "residential Energy Star product" means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) State energy office

The term "State energy office" means the State agency responsible for developing State energy conservation plans under section 6322 of this title.

(5) State program

The term "State program" means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) Eligible States

A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products, or products with improved energy efficiency in cold climates, to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) Amount of allocations

(1) In general

Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) Minimum allocations

For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) Use of allocated funds

The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) Issuance of rebates

Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into

consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product or product with improved energy efficiency in a cold climate; and

(3) the difference between the cost of the residential Energy Star product or product with improved energy efficiency in a cold climate and the cost of an appliance that is not a residential Energy Star product or product with improved energy efficiency in a cold climate, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product or product with improved energy efficiency in a cold climate.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of the fiscal years 2006 through 2010.

(Pub. L. 109–58, title I, §124, Aug. 8, 2005, 119 Stat. 617; Pub. L. 110–140, title III, §315(b), Dec. 19, 2007, 121 Stat. 1572.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsec. (b)(1). Pub. L. 110–140, §315(b)(1), inserted ", or products with improved energy efficiency in cold climates," after "residential Energy Star products".

Subsec. (e)(2), (3). Pub. L. 110–140, §315(b)(2), inserted "or product with improved energy efficiency in a cold climate" after "residential Energy Star product" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§15822. Energy efficient public buildings

(a) Grants

The Secretary may make grants to the State agency responsible for developing State energy conservation plans under section 6322 of this title, or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in the most recent version of the International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) Administration

State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated to the Secretary $30,000,000 for each of fiscal years 2006 through 2010. Not more than 10 percent of appropriated funds shall be used for administration.

(Pub. L. 109–58, title I, §125, Aug. 8, 2005, 119 Stat. 618.)

§15823. Low income community energy efficiency pilot program

(a) Grants

The Secretary is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency; identify and develop alternative, renewable, and distributed energy supplies; and increase energy conservation in low income rural and urban communities.

(b) Purpose of grants

The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable, and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) Definition

For purposes of this section, the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) Authorization of appropriations

For the purposes of this section there are authorized to be appropriated to the Secretary $20,000,000 for each of fiscal years 2006 through 2008.

(Pub. L. 109–58, title I, §126, Aug. 8, 2005, 119 Stat. 618.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (c), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

§15824. State Technologies Advancement Collaborative

(a) In general

The Secretary, in cooperation with the States, shall establish a cooperative program for research, development, demonstration, and deployment of technologies in which there is a common Federal and State energy efficiency, renewable energy, and fossil energy interest, to be known as the "State Technologies Advancement Collaborative" (referred to in this section as the "Collaborative").

(b) Duties

The Collaborative shall—

(1) leverage Federal and State funding through cost-shared activity;

(2) reduce redundancies in Federal and State funding; and

(3) create multistate projects to be awarded through a competitive process.

(c) Administration

The Collaborative shall be administered through an agreement between the Department and appropriate State-based organizations.

(d) Funding sources

Funding for the Collaborative may be provided from—

(1) amounts specifically appropriated for the Collaborative; or

(2) amounts that may be allocated from other appropriations without changing the purpose for which the amounts are appropriated.

(e) Authorization of appropriations

There are authorized to carry out this section such sums as are necessary for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title I, §127, Aug. 8, 2005, 119 Stat. 619.)

PART C—ENERGY EFFICIENT PRODUCTS

§15831. Public energy education program

(a) In general

Not later than 180 days after August 8, 2005, the Secretary shall convene an organizational conference for the purpose of establishing an ongoing, self-sustaining national public energy education program.

(b) Participants

The Secretary shall invite to participate in the conference individuals and entities representing all aspects of energy production and distribution, including—

(1) industrial firms;

(2) professional societies;

(3) educational organizations;

(4) trade associations; and

(5) governmental agencies.

(c) Purpose, scope, and structure

(1) Purpose

The purpose of the conference shall be to establish an ongoing, self-sustaining national public energy education program to examine and recognize interrelationships between energy sources in all forms, including—

(A) conservation and energy efficiency;

(B) the role of energy use in the economy; and

(C) the impact of energy use on the environment.

(2) Scope and structure

Taking into consideration the purpose described in paragraph (1), the participants in the conference invited under subsection (b) shall design the scope and structure of the program described in subsection (a).

(d) Technical assistance

The Secretary shall provide technical assistance and other guidance necessary to carry out the program described in subsection (a).

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 109–58, title I, §133, Aug. 8, 2005, 119 Stat. 622.)

§15832. Energy efficiency public information initiative

(a) In general

The Secretary shall carry out a comprehensive national program, including advertising and media awareness, to inform consumers about—

(1) the need to reduce energy consumption during the 4-year period beginning on August 8, 2005;

(2) the benefits to consumers of reducing consumption of electricity, natural gas, and petroleum, particularly during peak use periods;

(3) the importance of low energy costs to economic growth and preserving manufacturing jobs in the United States; and

(4) practical, cost-effective measures that consumers can take to reduce consumption of electricity, natural gas, and gasoline, including—

(A) maintaining and repairing heating and cooling ducts and equipment;

(B) weatherizing homes and buildings;

(C) purchasing energy efficient products; and

(D) proper tire maintenance.

(b) Cooperation

The program carried out under subsection (a) shall—

(1) include collaborative efforts with State and local government officials and the private sector; and

(2) incorporate, to the maximum extent practicable, successful State and local public education programs.

(c) Report

Not later than July 1, 2009, the Secretary shall submit to Congress a report describing the effectiveness of the program under this section.

(d) Termination of authority

The program carried out under this section shall terminate on December 31, 2010.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $90,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title I, §134, Aug. 8, 2005, 119 Stat. 623.)

§15833. Energy efficiency pilot program

(a) In general

The Secretary shall establish a pilot program under which the Secretary provides financial assistance to at least 3, but not more than 7, States to carry out pilot projects in the States for—

(1) planning and adopting statewide programs that encourage, for each year in which the pilot project is carried out—

(A) energy efficiency; and

(B) reduction of consumption of electricity or natural gas in the State by at least 0.75 percent,

as compared to a baseline determined by the Secretary for the period preceding the implementation of the program; or

(2) for any State that has adopted a statewide program as of August 8, 2005, activities that reduce energy consumption in the State by expanding and improving the program.

(b) Verification

A State that receives financial assistance under subsection (a)(1) shall submit to the Secretary independent verification of any energy savings achieved through the statewide program.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

(Pub. L. 109–58, title I, §140, Aug. 8, 2005, 119 Stat. 647.)

§15834. Report on failure to comply with deadlines for new or revised energy conservation standards

(a) Initial report

The Secretary shall submit a report to Congress regarding each new or revised energy conservation or water use standard which the Secretary has failed to issue in conformance with the deadlines established in the Energy Policy and Conservation Act [42 U.S.C. 6201 et seq.]. Such report shall state the reasons why the Secretary has failed to comply with the deadline for issuances of the new or revised standard and set forth the Secretary's plan for expeditiously prescribing such new or revised standard. The Secretary's initial report shall be submitted not later than 6 months following August 8, 2005, and subsequent reports shall be submitted whenever the Secretary determines that additional deadlines for issuance of new or revised standards have been missed.

(b) Implementation report

Every 6 months following the submission of a report under subsection (a) until the adoption of a new or revised standard described in such report, the Secretary shall submit to the Congress an implementation report describing the Secretary's progress in implementing the Secretary's plan or the issuance of the new or revised standard.

(Pub. L. 109–58, title I, §141, Aug. 8, 2005, 119 Stat. 648.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (a), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended, which is classified principally to chapter 77 (§6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

PART D—PUBLIC HOUSING

§15841. Energy-efficient appliances

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 8259b of this title, unless the purchase of energy-efficient appliances is not cost-effective to the agency.

(Pub. L. 109–58, title I, §152, Aug. 8, 2005, 119 Stat. 649.)

§15842. Energy strategy for HUD

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after August 8, 2005, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

(Pub. L. 109–58, title I, §154, Aug. 8, 2005, 119 Stat. 650.)

SUBCHAPTER II—RENEWABLE ENERGY

PART A—GENERAL PROVISIONS

§15851. Assessment of renewable energy resources

(a) Resource assessment

Not later than 6 months after August 8, 2005, and each year thereafter, the Secretary shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, marine, geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) Contents of reports

Not later than 1 year after August 8, 2005, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title II, §201, Aug. 8, 2005, 119 Stat. 650; Pub. L. 116–260, div. Z, title III, §3006(b)(1), Dec. 27, 2020, 134 Stat. 2512.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260 substituted "marine" for "ocean (including tidal, wave, current, and thermal)".

§15852. Federal purchase requirement

(a) Requirement

The President, acting through the Secretary, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(b) Definitions

In this section:

(1) Biomass

The term "biomass" means any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency and any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) Renewable energy

The term "renewable energy" means marine energy (as defined in section 17211 of this title), or electric energy produced from solar, wind, biomass, landfill gas, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(c) Calculation

(1) In general

For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(A) the renewable energy is produced and used on-site at a Federal facility;

(B) the renewable energy is produced on Federal lands and used at a Federal facility; or

(C) the renewable energy is produced on Indian land as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

(2) Separate calculation

(A) In general

For purposes of determining compliance with the requirement of this section, any energy consumption that is avoided through the use of geothermal energy shall be considered to be renewable energy produced.

(B) Efficiency accounting

Energy consumption that is avoided through the use of geothermal energy that is considered

to be renewable energy under this section shall not be considered energy efficiency for the purpose of compliance with Federal energy efficiency goals, targets, and incentives.

(d) Report

Not later than April 15, 2007, and every 2 years thereafter, the Secretary shall provide a report to Congress on the progress of the Federal Government in meeting the goals established by this section.

(Pub. L. 109–58, title II, §203, Aug. 8, 2005, 119 Stat. 652; Pub. L. 116–260, div. Z, title III, §§3002(o), 3006(b)(2), Dec. 27, 2020, 134 Stat. 2497, 2512.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy Act of 1992, referred to in subsec. (c)(1)(C), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776. Title XXVI of the Act is classified generally to chapter 37 (§3501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

AMENDMENTS

2020—Subsec. (b)(2). Pub. L. 116–260, §3006(b)(2), inserted "marine energy (as defined in section 17202 of this title), or" before "electric energy" and struck out "ocean (including tidal, wave, current, and thermal)," before "geothermal".

Pub. L. 116–260, §3002(o)(1), substituted "produced" for "generated".

Subsec. (c). Pub. L. 116–260, §3002(o)(2), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), and added par. (2).

EXECUTIVE DOCUMENTS

FEDERAL LEADERSHIP ON ENERGY MANAGEMENT

Memorandum of President of the United States, Dec. 5, 2013, 78 F.R. 75209, which set a renewable energy target and building performance and energy management requirements for Federal agencies, was revoked by Ex. Ord. No. 13693, §16(b), Mar. 19, 2015, 80 F.R. 15880, formerly set out in a note under section 4321 of this title.

§15853. Rebate program

(1) Establishment

The Secretary shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) Amount of rebate

Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) $3,000.

(3) Definition

For purposes of this section, the term "renewable energy system" has the meaning given that term in section 6865(c)(6)(A) of this title.

(4) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section, to remain available until expended—

(A) $150,000,000 for fiscal year 2006;

(B) $150,000,000 for fiscal year 2007;

(C) $200,000,000 for fiscal year 2008;

(D) $250,000,000 for fiscal year 2009; and
(E) $250,000,000 for fiscal year 2010.

(Pub. L. 109–58, title II, §206(c), Aug. 8, 2005, 119 Stat. 655.)

§15854. Sugar Cane Ethanol Program

(a) Definition of program

In this section, the term "program" means the Sugar Cane Ethanol Program established by subsection (b).

(b) Establishment

There is established within the Environmental Protection Agency a program to be known as the "Sugar Cane Ethanol Program".

(c) Project

(1) In general

Subject to the availability of appropriations under subsection (d), in carrying out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

(A) carried out in multiple States—

(i) in each of which is produced cane sugar that is eligible for loans under section 7272 of title 7, or a similar subsequent authority; and

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) Requirements

A project described in paragraph (1) shall—

(A) be limited to sugar producers and the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii, divided equally among the States, to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section $36,000,000, to remain available until expended.

(Pub. L. 109–58, title II, §208, Aug. 8, 2005, 119 Stat. 656.)

§15855. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes

(a) Definitions

In this section:

(1) Biomass

The term "biomass" means nonmerchantable materials or precommercial thinnings that are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels;

(B) to reduce or contain disease or insect infestation; or
(C) to restore forest health.

(2) Indian tribe

The term "Indian tribe" has the meaning given the term in section 5304(e) of title 25.

(3) Nonmerchantable

For purposes of subsection (b), the term "nonmerchantable" means that portion of the byproducts of preventive treatments that would not otherwise be used for higher value products.

(4) Person

The term "person" includes—
(A) an individual;
(B) a community (as determined by the Secretary concerned);
(C) an Indian tribe;
(D) a small business or a corporation that is incorporated in the United States; and
(E) a nonprofit organization.

(5) Preferred community

The term "preferred community" means—
(A) any Indian tribe;
(B) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—
(i) has a population of not more than 50,000 individuals; and
(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(C) any county that—
(i) is not contained within a metropolitan statistical area; and
(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(6) Secretary concerned

The term "Secretary concerned" means the Secretary of Agriculture or the Secretary of the Interior.

(b) Biomass commercial use grant program

(1) In general

The Secretary concerned may make grants to any person in a preferred community that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, or transportation fuels to offset the costs incurred to purchase biomass for use by such facility.

(2) Grant amounts

A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) Monitoring of grant recipient activities

As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(c) Improved biomass use grant program

(1) In general

The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) Selection

The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to—

(A) the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy;

(B) opportunities for the creation or expansion of small businesses and micro-businesses;

(C) the potential for new job creation;

(D) the potential for the project to improve efficiency or develop cleaner technologies for biomass utilization; and

(E) the potential for the project to reduce the hazardous fuels from the areas in greatest need of treatment.

(3) Grant amount

A grant under this subsection may not exceed $500,000.

(d) Authorization of appropriations

There are authorized to be appropriated $50,000,000 for fiscal year 2006 and $35,000,000 for each of fiscal years 2007 through 2016 to carry out this section.

(e) Report

Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

(Pub. L. 109–58, title II, §210, Aug. 8, 2005, 119 Stat. 658; Pub. L. 109–375, §6, Dec. 1, 2006, 120 Stat. 2658.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–375 substituted "$50,000,000 for fiscal year 2006 and $35,000,000 for each of fiscal years 2007 through 2016" for "$50,000,000 for each of the fiscal years 2006 through 2016".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

PART B—GEOTHERMAL ENERGY

§15871. Coordination of geothermal leasing and permitting on Federal lands

(a) In general

Not later than 180 days after August 8, 2005, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act) [30 U.S.C. 1001 et seq.], and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) Lease and permit applications

The memorandum of understanding shall—

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on August 8, 2005, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

(c) Data retrieval system

The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

(Pub. L. 109–58, title II, §225, Aug. 8, 2005, 119 Stat. 665.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (a), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, as amended, which is classified principally to chapter 23 (§1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

This Act, referred to in subsec. (a), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

§15872. Assessment of geothermal energy potential

Not later than 3 years after August 8, 2005, and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

(1) update the Assessment of Geothermal Resources made during 1978; and

(2) submit to Congress the updated assessment.

(Pub. L. 109–58, title II, §226, Aug. 8, 2005, 119 Stat. 665.)

§15873. Deposit and use of geothermal lease revenues for 5 fiscal years

(a) Deposit of geothermal resources leases

Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after August 8, 2005, as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) Use of deposits

Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.] and this Act.

(c) Transfer of funds

For the purposes of coordination and processing of geothermal leases and geothermal use authorizations on Federal land the Secretary of the Interior may authorize the expenditure or transfer of such funds as are necessary to the Forest Service.

(Pub. L. 109–58, title II, §234, Aug. 8, 2005, 119 Stat. 671.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsecs. (a) and (b), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, as amended, which is classified principally to chapter 23 (§1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

This Act, referred to in subsec. (b), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

§15874. Intermountain West Geothermal Consortium

(a) Participation authorized

The Secretary, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

(b) Members

The consortium referred to in subsection (a) shall—

(1) be known as the "Intermountain West Geothermal Consortium";

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) Financial assistance

The Secretary, acting through the Idaho National Laboratory and subject to the availability of

appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

(Pub. L. 109–58, title II, §237, Aug. 8, 2005, 119 Stat. 673.)

PART C—HYDROELECTRIC

§15881. Hydroelectric production incentives

(a) Incentive payments

For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) Definitions

For purposes of this section:

(1) Qualified hydroelectric facility

The term "qualified hydroelectric facility" means a turbine or other generating device owned or solely operated by a non-Federal entity—

(A) that generates hydroelectric energy for sale; and

(B)(i) that is added to an existing dam or conduit; or

(ii)(I) that has a generating capacity of not more than 20 megawatts;

(II) for which the non-Federal entity has received a construction authorization from the Federal Energy Regulatory Commission, if applicable; and

(III) that is constructed in an area in which there is inadequate electric service, as determined by the Secretary, including by taking into consideration—

(aa) access to the electric grid;

(bb) the frequency of electric outages; or

(cc) the affordability of electricity.

(2) Existing dam or conduit

The term "existing dam or conduit" means any dam or conduit the construction of which was completed before November 15, 2021, and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) Conduit

The term "conduit" has the same meaning as when used in section 823a(a)(2) of title 16.

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after November 15, 2021.

(c) Eligibility window

Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 22 fiscal years beginning with the

first full fiscal year occurring after August 8, 2005.

(d) Incentive period

A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the "incentive period"). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) Amount of payment

(1) In general

Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $1,000,000 in 1 calendar year.

(2) Adjustments

The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 45K(d)(2)(B) of title 26, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

(f) Sunset

No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 32 fiscal years beginning with the first full fiscal year occurring after August 8, 2005, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $125,000,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 109–58, title II, §242, Aug. 8, 2005, 119 Stat. 677; Pub. L. 116–260, div. Z, title III, §3005(a), Dec. 27, 2020, 134 Stat. 2511; Pub. L. 117–58, div. D, title III, §40331, Nov. 15, 2021, 135 Stat. 1022.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §40331(2), substituted "November 15, 2021" for "August 8, 2005" in concluding provisions.

Subsec. (b)(2). Pub. L. 117–58, §40331(1), substituted "before November 15, 2021" for "before August 8, 2005".

Subsec. (e)(1). Pub. L. 117–58, §40331(3), substituted "$1,000,000" for "$750,000".

Subsec. (g). Pub. L. 117–58, §40331(4), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: "There are authorized to be appropriated to the Secretary to carry out the purposes of this section $10,000,000 for each of fiscal years 2021 through 2036."

2020—Subsec. (b)(1). Pub. L. 116–260, §3005(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The term 'qualified hydroelectric facility' means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit."

Subsec. (c). Pub. L. 116–260, §3005(a)(2), substituted "22" for "10".

Subsec. (e)(2). Pub. L. 116–260, §3005(a)(3), substituted "section 45K(d)(2)(B)" for "section 29(d)(2)(B)".

Subsec. (f). Pub. L. 116–260, §3005(a)(4), substituted "32" for "20".

Subsec. (g). Pub. L. 116–260, §3005(a)(5), substituted "each of fiscal years 2021 through 2036" for "each of the fiscal years 2006 through 2015".

§15882. Hydroelectric efficiency improvement incentives

(a) Incentive payments

The Secretary shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) Limitations

Incentive payments under this section shall not exceed 30 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of $5,000,000 may be made with respect to improvements at a single facility in any 1 fiscal year.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $75,000,000 for fiscal year 2022 to remain available until expended.

(Pub. L. 109–58, title II, §243, Aug. 8, 2005, 119 Stat. 678; Pub. L. 116–260, div. Z, title III, §3005(b), Dec. 27, 2020, 134 Stat. 2511; Pub. L. 117–58, div. D, title III, §40332(a), Nov. 15, 2021, 135 Stat. 1023.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, §40332(a)(1), inserted "incentives" after "improvement" in section catchline.

Subsec. (b). Pub. L. 117–58, §40332(a)(2), substituted "30 percent" for "10 percent" and "$5,000,000" for "$750,000" and inserted "in any 1 fiscal year" before period.

Subsec. (c). Pub. L. 117–58, §40332(a)(3), added subsec. (c) and struck out subsec. (c). Prior to amendment, text read as follows: "There are authorized to be appropriated to carry out this section not more than $10,000,000 for each of fiscal years 2021 through 2036."

2020—Subsec. (c). Pub. L. 116–260 substituted "each of fiscal years 2021 through 2036" for "each of the fiscal years 2006 through 2015".

§15883. Maintaining and enhancing hydroelectricity incentives

(a) Definition of qualified hydroelectric facility

In this section, the term "qualified hydroelectric facility" means a hydroelectric project that—

(1)(A) is licensed by the Federal Energy Regulatory Commission; or

(B) is a hydroelectric project constructed, operated, or maintained pursuant to a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to the Federal Power Act (16 U.S.C. 791a et seq.);

(2) is placed into service before November 15, 2021; and

(3)(A) is in compliance with all applicable Federal, Tribal, and State requirements; or

(B) would be brought into compliance with the requirements described in subparagraph (A) as a result of the capital improvements carried out using an incentive payment under this section.

(b) Incentive payments

The Secretary shall make incentive payments to the owners or operators of qualified hydroelectric facilities for capital improvements directly related to—

(1) improving grid resiliency, including—

(A) adapting more quickly to changing grid conditions;

(B) providing ancillary services (including black start capabilities, voltage support, and spinning reserves);

(C) integrating other variable sources of electricity generation; and

(D) managing accumulated reservoir sediments;

(2) improving dam safety to ensure acceptable performance under all loading conditions (including static, hydrologic, and seismic conditions), including—

(A) the maintenance or upgrade of spillways or other appurtenant structures;

(B) dam stability improvements, including erosion repair and enhanced seepage controls; and

(C) upgrades or replacements of floodgates or natural infrastructure restoration or protection to improve flood risk reduction; or

(3) environmental improvements, including—

(A) adding or improving safe and effective fish passage, including new or upgraded turbine technology, fish ladders, fishways, and all other associated technology, equipment, or other fish passage technology to a qualified hydroelectric facility;

(B) improving the quality of the water retained or released by a qualified hydroelectric facility;

(C) promoting downstream sediment transport processes and habitat maintenance; and

(D) improving recreational access to the project vicinity, including roads, trails, boat ingress and egress, flows to improve recreation, and infrastructure that improves river recreation opportunity.

(c) Limitations

(1) Costs

Incentive payments under this section shall not exceed 30 percent of the costs of the applicable capital improvement.

(2) Maximum amount

Not more than 1 incentive payment may be made under this section with respect to capital improvements at a single qualified hydroelectric facility in any 1 fiscal year, the amount of which shall not exceed $5,000,000.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $553,600,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 109–58, title II, §247, as added Pub. L. 117–58, div. D, title III, §40333(a), Nov. 15, 2021, 135 Stat. 1023.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (a)(1)(B), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

PART D—INSULAR ENERGY

§15891. Projects enhancing insular energy independence

(a) Project feasibility studies

(1) In general

On a request described in paragraph (2), the Secretary shall conduct a feasibility study of a

project to implement a strategy or project identified in the plans submitted to Congress pursuant to section 1492 of title 48 as having the potential to—

(A) significantly reduce the dependence of an insular area on imported fossil fuels; or

(B) provide needed distributed generation to an insular area.

(2) Request

The Secretary shall conduct a feasibility study under paragraph (1) on—

(A) the request of an electric utility located in an insular area that commits to fund at least 10 percent of the cost of the study; and

(B) if the electric utility is located in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, written support for that request by the President or the Ambassador of the affected freely associated state.

(3) Consultation

The Secretary shall consult with regional utility organizations in—

(A) conducting feasibility studies under paragraph (1); and

(B) determining the feasibility of potential projects.

(4) Feasibility

For the purpose of a feasibility study under paragraph (1), a project shall be determined to be feasible if the project would significantly reduce the dependence of an insular area on imported fossil fuels, or provide needed distributed generation to an insular area, at a reasonable cost.

(b) Implementation

(1) In general

On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project is feasible under subsection (a) and a commitment by an electric utility to operate and maintain the project, the Secretary may provide such technical and financial assistance as the Secretary determines is appropriate for the implementation of the project.

(2) Regional utility organizations

In providing assistance under paragraph (1), the Secretary shall consider providing the assistance through regional utility organizations.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the Secretary—

(A) $500,000 for each fiscal year for project feasibility studies under subsection (a); and

(B) $4,000,000 for each fiscal year for project implementation under subsection (b).

(2) Limitation of funds received by insular areas

No insular area may receive, during any 3-year period, more than 20 percent of the total funds made available during that 3-year period under subparagraphs (A) and (B) of paragraph (1) unless the Secretary determines that providing funding in excess of that percentage best advances existing opportunities to meet the objectives of this section.

(Pub. L. 109–58, title II, §252, Aug. 8, 2005, 119 Stat. 682.)

SUBCHAPTER III—OIL AND GAS

PART A—PRODUCTION INCENTIVES

§15901. Definition of Secretary

In this part, the term "Secretary" means the Secretary of the Interior.

(Pub. L. 109–58, title III, §341, Aug. 8, 2005, 119 Stat. 697.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle E (§§341–357) of title III of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 697, which enacted this part, amended sections 6504, 6506a, 6507, and 6508 of this title, sections 184 and 226 of Title 30, Mineral Lands and Mining, and section 1337 of Title 43, Public Lands, and enacted provisions set out as a note under section 226 of Title 30. For complete classification of subtitle E to the Code, see Tables.

§15902. Program on oil and gas royalties in-kind

(a) Applicability of section

Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after August 8, 2005, under any Federal oil or gas lease or permit under—

(1) section 192 of title 30;

(2) section 1353 of title 43; or

(3) any other Federal law governing leasing of Federal land for oil and gas development.

(b) Terms and conditions

All royalty accruing to the United States shall, on the demand of the Secretary, be paid in-kind. If the Secretary makes such a demand, the following provisions apply to the payment:

(1) Satisfaction of royalty obligation

Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Marketable condition

(A) Definition of marketable condition

In this paragraph, the term "in marketable condition" means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(B) Requirement

Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) Disposition by the Secretary

The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 1353(a)(3) of title 43 [1] for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) Retention by the Secretary

The Secretary may, notwithstanding section 3302 of title 31, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (referred to in this paragraph as "royalty production") to pay the cost of—

(A) transporting the royalty production;
(B) processing the royalty production;
(C) disposing of the royalty production; or
(D) any combination of transporting, processing, and disposing of the royalty production.

(5) Limitation

(A) In general

Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) Exception

Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from royalty in-kind sales, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty in-kind program.

(c) Reimbursement of cost

If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) Benefit to the United States required

The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) Deduction of expenses

(1) In general

Before making payments under section 191 of title 30 or section 1337(g) of title 43 of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) Accounting for deductions

When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(f) Consultation with States

The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this part within the State;

(2) may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(3) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to the revenues likely to have been received had royalties been taken in-value.

(g) Small refineries

(1) Preference

If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to those refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in those refineries at private sale at not less than the market price.

(2) Proration among refineries in production area

In disposing of oil under this subsection, the Secretary may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(h) Disposition to Federal agencies

(1) Onshore royalty

Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) Offshore royalty

Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 1353 of title 43.

(i) Federal low-income energy assistance programs

(1) Preference

In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) Report

Not later than 3 years after August 8, 2005, the Secretary shall submit a report to Congress—

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

(Pub. L. 109–58, title III, §342, Aug. 8, 2005, 119 Stat. 697; Pub. L. 113–188, title XI, §1101, Nov. 26, 2014, 128 Stat. 2023.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (f)(1), was in the original "this subtitle", meaning subtitle E (§§341–357) of title III of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 697, which enacted this part, amended sections 6504, 6506a, 6507, and 6508 of this title, sections 184 and 226 of Title 30, Mineral Lands and Mining, and section 1337 of Title 43, Public Lands, and enacted provisions set out as a note under section 226 of Title 30. For complete classification of subtitle E to the Code, see Tables.

AMENDMENTS

2014—Subsecs. (e) to (j). Pub. L. 113–188 redesignated subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which required various reports on oil and gas royalties in-kind.

[1] *So in original. Probably should be followed by a closing parenthesis.*

§15903. Marginal property production incentives

(a) Definition of marginal property

Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section, the term "marginal property" means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the

combined equivalent of less than 15 barrels of oil per well per day or 90,000,000 British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) Conditions for reduction of royalty rate

Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) if the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(c) Reduced royalty rate

(1) In general

When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) Period of effectiveness

The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) Termination of reduced royalty rate

A royalty rate prescribed in subsection (c)(1) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) Regulations prescribing different relief

(1) Discretionary regulations

The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) Mandatory regulations

Unless a determination is made under paragraph (3), not later than 18 months after August 8, 2005, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) Report

To the extent the Secretary determines that it is not practicable to issue the regulations referred to in paragraph (2), the Secretary shall provide a report to Congress explaining such determination by not later than 18 months after August 8, 2005.

(4) Considerations

In issuing regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) Savings provision

Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

(Pub. L. 109–58, title III, §343, Aug. 8, 2005, 119 Stat. 700.)

§15904. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico

(a) Royalty incentive regulations for ultra deep gas wells

(1) In general

Not later than 180 days after August 8, 2005, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35 billion cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(2) Suspension volumes

The Secretary may grant suspension volumes of not less than 35 billion cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(3) Definitions

In this subsection:

(A) Ultra deep well

The term "ultra deep well" means a well drilled with a perforated interval, the top of which is at least 20,000 true vertical depth below the datum at mean sea level.

(B) Sidetrack

(i) In general

The term "sidetrack" means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

(ii) Inclusion

The term "sidetrack" includes—

(I) drilling a well from a platform slot reclaimed from a previously drilled well;

(II) re-entering and deepening a previously drilled well; and

(III) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

(b) Royalty incentive regulations for deep gas wells

Not later than 180 days after August 8, 2005, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(c) Limitations

The Secretary may place limitations on the royalty relief granted under this section based on market price. The royalty relief granted under this section shall not apply to a lease for which deep water royalty relief is available.

(Pub. L. 109–58, title III, §344, Aug. 8, 2005, 119 Stat. 702.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsecs. (a)(1) and (b), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

§15905. Royalty relief for deep water production

(a) In general

Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on August 8, 2005, shall use the

bidding system authorized under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

(b) Suspension of royalties

The suspension of royalties under subsection (a) shall be established at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;

(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and

(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

(c) Limitation

The Secretary may place limitations on royalty relief granted under this section based on market price.

(Pub. L. 109–58, title III, §345, Aug. 8, 2005, 119 Stat. 703.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (a), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

§15906. North Slope Science Initiative

(a) Establishment

(1) In general

The Secretary of the Interior shall establish a long-term initiative to be known as the "North Slope Science Initiative" (referred to in this section as the "Initiative").

(2) Purpose

The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska.

(b) Objectives

To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

(1) identify and prioritize information needs for inventory, monitoring, and research activities to address the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope;

(2) develop an understanding of information needs for regulatory and land management agencies, local governments, and the public;

(3) focus on prioritization of pressing natural resource management and ecosystem information needs, coordination, and cooperation among agencies and organizations;

(4) coordinate ongoing and future inventory, monitoring, and research activities to minimize duplication of effort, share financial resources and expertise, and assure the collection of quality information;

(5) identify priority needs not addressed by agency science programs in effect on August 8, 2005, and develop a funding strategy to meet those needs;

(6) provide a consistent approach to high caliber science, including inventory, monitoring, and

research;

(7) maintain and improve public and agency access to—

(A) accumulated and ongoing research; and

(B) contemporary and traditional local knowledge; and

(8) ensure through appropriate peer review that the science conducted by participating agencies and organizations is of the highest technical quality.

(c) Membership

(1) In general

To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

(2) Cooperative agreements

The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

(d) Science technical advisory panel

(1) In general

The Initiative shall include a panel to provide advice on proposed inventory, monitoring, and research functions.

(2) Membership

The panel described in paragraph (1) shall consist of a representative group of not more than 15 scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Native Alaskan entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary.

(e) Reports

Not later than 3 years after August 8, 2005, and each year thereafter, the Secretary shall publish a report that describes the studies and findings of the Initiative.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 109–58, title III, §348, Aug. 8, 2005, 119 Stat. 708.)

§15907. Orphaned well site plugging, remediation, and restoration

(a) Definitions

In this section:

(1) Federal land

The term "Federal land" means land administered by a land management agency within—

(A) the Department of Agriculture; or

(B) the Department of the Interior.

(2) Idled well

The term "idled well" means a well—

(A) that has been nonoperational for not fewer than 4 years; and

(B) for which there is no anticipated beneficial future use.

(3) Indian Tribe

The term "Indian Tribe" has the meaning given the term in section 5304 of title 25.

(4) Operator

The term "operator", with respect to an oil or gas operation, means any entity, including a lessee or operating rights owner, that has provided to a relevant authority a written statement that the entity is responsible for the oil or gas operation, or any portion of the operation.

(5) Orphaned well

The term "orphaned well"—

(A) with respect to Federal land or Tribal land, means a well—

(i)(I) [1] that is not used for an authorized purpose, such as production, injection, or monitoring; and

(II)(aa) for which no operator can be located;

(bb) the operator of which is unable—

(AA) to plug the well; and

(BB) to remediate and reclaim the well site; or

(cc) that is within the National Petroleum Reserve–Alaska; and

(B) with respect to State or private land—

(i) has the meaning given the term by the applicable State; or

(ii) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

(6) Tribal land

The term "Tribal land" means any land or interest in land owned by an Indian Tribe, the title to which is—

(A) held in trust by the United States; or

(B) subject to a restriction against alienation under Federal law.

(b) Federal program

(1) Establishment

Not later than 60 days after November 15, 2021, the Secretary shall establish a program to plug, remediate, and reclaim orphaned wells located on Federal land.

(2) Included activities

The program under this subsection shall—

(A) include a method of—

(i) identifying, characterizing, and inventorying orphaned wells and associated pipelines, facilities, and infrastructure on Federal land; and

(ii) ranking those orphaned wells for priority in plugging, remediation, and reclamation, based on—

(I) public health and safety;

(II) potential environmental harm; and

(III) other subsurface impacts or land use priorities;

(B) distribute funding in accordance with the priorities established under subparagraph (A)(ii) for—

(i) plugging orphaned wells;

(ii) remediating and reclaiming well pads and facilities associated with orphaned wells;

(iii) remediating soil and restoring native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure; and

(iv) remediating land adjacent to orphaned wells and decommissioning or removing associated pipelines, facilities, and infrastructure;

(C) provide a public accounting of the costs of plugging, remediation, and reclamation for

each orphaned well;

(D) seek to determine the identities of potentially responsible parties associated with the orphaned well (or a surety or guarantor of such a party), to the extent such information can be ascertained, and make efforts to obtain reimbursement for expenditures to the extent practicable;

(E) measure or estimate and track—

(i) emissions of methane and other gases associated with orphaned wells; and

(ii) contamination of groundwater or surface water associated with orphaned wells; and

(F) identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.

(3) Idled wells

The Secretary, acting through the Director of the Bureau of Land Management, shall—

(A) periodically review all idled wells on Federal land; and

(B) reduce the inventory of idled wells on Federal land.

(4) Cooperation and consultation

In carrying out the program under this subsection, the Secretary shall—

(A) work cooperatively with—

(i) the Secretary of Agriculture;

(ii) affected Indian Tribes; and

(iii) each State within which Federal land is located; and

(B) consult with—

(i) the Secretary of Energy; and

(ii) the Interstate Oil and Gas Compact Commission.

(c) Funding for State programs

(1) In general

The Secretary shall provide to States, in accordance with this subsection—

(A) initial grants under paragraph (3);

(B) formula grants under paragraph (4); and

(C) performance grants under paragraph (5).

(2) Activities

(A) In general

A State may use funding provided under this subsection for any of the following purposes:

(i) To plug, remediate, and reclaim orphaned wells located on State-owned or privately owned land.

(ii) To identify and characterize undocumented orphaned wells on State and private land.

(iii) To rank orphaned wells based on factors including—

(I) public health and safety;

(II) potential environmental harm; and

(III) other land use priorities.

(iv) To make information regarding the use of funds received under this subsection available on a public website.

(v) To measure and track—

(I) emissions of methane and other gases associated with orphaned wells; and

(II) contamination of groundwater or surface water associated with orphaned wells.

(vi) To remediate soil and restore native species habitat that has been degraded due to the

presence of orphaned wells and associated pipelines, facilities, and infrastructure.

(vii) To remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure.

(viii) To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.

(ix) Subject to subparagraph (B), to administer a program to carry out any activities described in clauses (i) through (viii).

(B) Administrative cost limitation

(i) In general

Except as provided in clause (ii), a State shall not use more than 10 percent of the funds received under this subsection during a fiscal year for administrative costs under subparagraph (A)(ix).

(ii) Exception

The limitation under clause (i) shall not apply to funds used by a State as described in paragraph (3)(A)(ii).

(3) Initial grants

(A) In general

Subject to the availability of appropriations, the Secretary shall distribute—

(i) not more than $25,000,000 to each State that submits to the Secretary, by not later than 180 days after November 15, 2021, a request for funding under this clause, including—

(I) an estimate of the number of jobs that will be created or saved through the activities proposed to be funded; and

(II) a certification that—

(aa) the State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;

(bb) there are 1 or more documented orphaned wells located in the State; and

(cc) the State will use not less than 90 percent of the funding requested under this subsection to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of receipt of the funds; and

(ii) not more than $5,000,000 to each State that—

(I) requests funding under this clause;

(II) does not receive a grant under clause (i); and

(III) certifies to the Secretary that—

(aa) the State—

(AA) has in effect a plugging, remediation, and reclamation program for orphaned wells; or

(BB) the capacity to initiate such a program; or

(bb) the funds provided under this paragraph will be used to carry out any administrative actions necessary to develop an application for a formula grant under paragraph (4) or a performance grant under paragraph (5).

(B) Distribution

Subject to the availability of appropriations, the Secretary shall distribute funds to a State under this paragraph by not later than the date that is 30 days after the date on which the State submits to the Secretary the certification required under clause (i)(II) or (ii)(III) of subparagraph (A), as applicable.

(C) Deadline for expenditure

A State that receives funds under this paragraph shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 1 year after the date of receipt of the funds.

(D) Report

Not later than 15 months after the date on which a State receives funds under this paragraph, the State shall submit to the Secretary a report that describes the means by which the State used the funds in accordance with the certification submitted by the State under subparagraph (A).

(4) Formula grants

(A) Establishment

(i) In general

The Secretary shall establish a formula for the distribution to each State described in clause (ii) of funds under this paragraph.

(ii) Description of States

A State referred to in clause (i) is a State that, by not later than 45 days after November 15, 2021, submits to the Secretary a notice of the intent of the State to submit an application under subparagraph (B), including a description of the factors described in clause (iii) with respect to the State.

(iii) Factors

The formula established under clause (i) shall account for, with respect to an applicant State, the following factors:

(I) Job losses in the oil and gas industry in the State during the period—

(aa) beginning on March 1, 2020; and

(bb) ending on November 15, 2021.

(II) The number of documented orphaned wells located in the State, and the projected cost—

(aa) to plug or reclaim those orphaned wells;

(bb) to reclaim adjacent land; and

(cc) to decommission or remove associated pipelines, facilities, and infrastructure.

(iv) Publication

Not later than 75 days after November 15, 2021, the Secretary shall publish on a public website the amount that each State is eligible to receive under the formula under this subparagraph.

(B) Application

To be eligible to receive a formula grant under this paragraph, a State shall submit to the Secretary an application that includes—

(i) a description of—

(I) the State program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the State to carry out proposed activities using the grant;

(II) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells; and

(III) the means by which the information regarding the activities of the State under this paragraph will be made available on a public website;

(ii) an estimate of—

(I) the number of orphaned wells in the State that will be plugged, remediated, or

reclaimed;

(II) the projected cost of—

(aa) plugging, remediating, or reclaiming orphaned wells;

(bb) remediating or reclaiming adjacent land; and

(cc) decommissioning or removing associated pipelines, facilities, and infrastructure;

(III) the amount of that projected cost that will be offset by the forfeiture of financial assurance instruments, the estimated salvage of well site equipment, or other proceeds from the orphaned wells and adjacent land;

(IV) the number of jobs that will be created or saved through the activities to be funded under this paragraph; and

(V) the amount of funds to be spent on administrative costs;

(iii) a certification that any financial assurance instruments available to cover plugging, remediation, or reclamation costs will be used by the State; and

(iv) the definitions and processes used by the State to formally identify a well as—

(I) an orphaned well; or

(II) if the State uses different terminology, otherwise eligible for plugging, remediation, and reclamation by the State.

(C) Distribution

Subject to the availability of appropriations, the Secretary shall distribute funds to a State under this paragraph by not later than the date that is 60 days after the date on which the State submits to the Secretary a completed application under subparagraph (B).

(D) Deadline for expenditure

A State that receives funds under this paragraph shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 5 years after the date of receipt of the funds.

(E) Consultation

In making a determination under this paragraph regarding the eligibility of a State to receive a formula grant, the Secretary shall consult with—

(i) the Administrator of the Environmental Protection Agency;

(ii) the Secretary of Energy; and

(iii) the Interstate Oil and Gas Compact Commission.

(5) Performance grants

(A) Establishment

The Secretary shall provide to States, in accordance with this paragraph—

(i) regulatory improvement grants under subparagraph (E); and

(ii) matching grants under subparagraph (F).

(B) Application

To be eligible to receive a grant under this paragraph, a State shall submit to the Secretary an application including—

(i) each element described in an application for a grant under paragraph (4)(B);

(ii) activities carried out by the State to address orphaned wells located in the State, including—

(I) increasing State spending on well plugging, remediation, and reclamation; or

(II) improving regulation of oil and gas wells; and

(iii) the means by which the State will use funds provided under this paragraph—

(I) to lower unemployment in the State; and

(II) to improve economic conditions in economically distressed areas of the State.

(C) Distribution

Subject to the availability of appropriations, the Secretary shall distribute funds to a State under this paragraph by not later than the date that is 60 days after the date on which the State submits to the Secretary a completed application under subparagraph (B).

(D) Consultation

In making a determination under this paragraph regarding the eligibility of a State to receive a grant under subparagraph (E) or (F), the Secretary shall consult with—

(i) the Administrator of the Environmental Protection Agency;

(ii) the Secretary of Energy; and

(iii) the Interstate Oil and Gas Compact Commission.

(E) Regulatory improvement grants

(i) In general

Beginning on the date that is 180 days after the date on which an initial grant is provided to a State under paragraph (3), the Secretary shall, subject to the availability of appropriations, provide to the State a regulatory improvement grant under this subparagraph, if the State meets, during the 10-year period ending on the date on which the State submits to the Secretary an application under subparagraph (B), 1 of the following criteria:

(I) The State has strengthened plugging standards and procedures designed to ensure that wells located in the State are plugged in an effective manner that protects groundwater and other natural resources, public health and safety, and the environment.

(II) The State has made improvements to State programs designed to reduce future orphaned well burdens, such as financial assurance reform, alternative funding mechanisms for orphaned well programs, and reforms to programs relating to well transfer or temporary abandonment.

(ii) Limitations

(I) Number

The Secretary may issue to a State under this subparagraph not more than 1 grant for each criterion described in subclause (I) or (II) of clause (i).

(II) Maximum amount

The amount of a single grant provided to a State under this subparagraph shall be not more than $20,000,000.

(iii) Reimbursement for failure to maintain protections

A State that receives a grant under this subparagraph shall reimburse the Secretary in an amount equal to the amount of the grant in any case in which, during the 10-year period beginning on the date of receipt of the grant, the State enacts a law or regulation that, if in effect on the date of submission of the application under subparagraph (B), would have prevented the State from being eligible to receive the grant under clause (i).

(F) Matching grants

(i) In general

Beginning on the date that is 180 days after the date on which an initial grant is provided to a State under paragraph (3), the Secretary shall, subject to the availability of appropriations, provide to the State funding, in an amount equal to the difference between—

(I) the average annual amount expended by the State during the period of fiscal years 2010 through 2019—

(aa) to plug, remediate, and reclaim orphaned wells; and

(bb) to decommission or remove associated pipelines, facilities, or infrastructure; and

(II) the amount that the State certifies to the Secretary the State will expend, during the

fiscal year in which the State will receive the grant under this subparagraph—

(aa) to plug, remediate, and reclaim orphaned wells;

(bb) to remediate or reclaim adjacent land; and

(cc) to decommission or remove associated pipelines, facilities, and infrastructure.

(ii) Limitations

(I) Fiscal year

The Secretary may issue to a State under this subparagraph not more than 1 grant for each fiscal year.

(II) Total funds provided

The Secretary may provide to a State under this subparagraph a total amount equal to not more than $30,000,000 during the period of fiscal years 2022 through 2031.

(d) Tribal orphaned well site plugging, remediation, and restoration

(1) Establishment

The Secretary shall establish a program under which the Secretary shall—

(A) provide to Indian Tribes grants in accordance with this subsection; or

(B) on request of an Indian Tribe and in lieu of a grant under subparagraph (A), administer and carry out plugging, remediation, and reclamation activities in accordance with paragraph (7).

(2) Eligible activities

(A) In general

An Indian Tribe may use a grant received under this subsection—

(i) to plug, remediate, or reclaim an orphaned well on Tribal land;

(ii) to remediate soil and restore native species habitat that has been degraded due to the presence of an orphaned well or associated pipelines, facilities, or infrastructure on Tribal land;

(iii) to remediate Tribal land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;

(iv) to provide an online public accounting of the cost of plugging, remediation, and reclamation for each orphaned well site on Tribal land;

(v) to identify and characterize undocumented orphaned wells on Tribal land; and

(vi) to develop or administer a Tribal program to carry out any activities described in clauses (i) through (v).

(B) Administrative cost limitation

(i) In general

Except as provided in clause (ii), an Indian Tribe shall not use more than 10 percent of the funds received under this subsection during a fiscal year for administrative costs under subparagraph (A)(vi).

(ii) Exception

The limitation under clause (i) shall not apply to any funds used to carry out an administrative action necessary for the development of a Tribal program described in subparagraph (A)(vi).

(3) Factors for consideration

In determining whether to provide to an Indian Tribe a grant under this subsection, the Secretary shall take into consideration—

(A) the unemployment rate of the Indian Tribe on the date on which the Indian Tribe submits an application under paragraph (4); and

(B) the estimated number of orphaned wells on the Tribal land of the Indian Tribe.

(4) Application

To be eligible to receive a grant under this subsection, an Indian Tribe shall submit to the Secretary an application that includes—

(A) a description of—

(i) the Tribal program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the Indian Tribe to carry out the proposed activities, or plans to develop such a program; and

(ii) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells and remediating or reclaiming adjacent land; and

(B) an estimate of—

(i) the number of orphaned wells that will be plugged, remediated, or reclaimed; and

(ii) the projected cost of—

(I) plugging, remediating, or reclaiming orphaned wells;

(II) remediating or reclaiming adjacent land; and

(III) decommissioning or removing associated pipelines, facilities, and infrastructure.

(5) Distribution

Subject to the availability of appropriations, the Secretary shall distribute funds to an Indian Tribe under this subsection by not later than the date that is 60 days after the date on which the Indian Tribe submits to the Secretary a completed application under paragraph (4).

(6) Deadline for expenditure

An Indian Tribe that receives funds under this subsection shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 5 years after the date of receipt of the funds, except for cases in which the Secretary has granted the Indian Tribe an extended deadline for completion of the eligible activities after consultation.

(7) Delegation to Secretary in lieu of a grant

(A) In general

In lieu of a grant under this subsection, an Indian Tribe may submit to the Secretary a request for the Secretary to administer and carry out plugging, remediation, and reclamation activities relating to an orphaned well on behalf of the Indian Tribe.

(B) Administration

Subject to the availability of appropriations under subsection (h)(1)(E), on submission of a request under subparagraph (A), the Secretary shall administer or carry out plugging, remediation, and reclamation activities for an orphaned well on Tribal land.

(e) Technical assistance

The Secretary of Energy, in cooperation with the Secretary and the Interstate Oil and Gas Compact Commission, shall provide technical assistance to the Federal land management agencies and oil and gas producing States and Indian Tribes to support practical and economical remedies for environmental problems caused by orphaned wells on Federal land, Tribal land, and State and private land, including the sharing of best practices in the management of oil and gas well inventories to ensure the availability of funds to plug, remediate, and restore oil and gas well sites on cessation of operation.

(f) Report to Congress

Not later than 1 year after November 15, 2021, and not less frequently than annually thereafter, the Secretary shall submit to the Committees on Appropriations and Energy and Natural Resources of

the Senate and the Committees on Appropriations and Natural Resources of the House of Representatives a report describing the program established and grants awarded under this section, including—

(1) an updated inventory of wells located on Federal land, Tribal land, and State and private land that are—

(A) orphaned wells; or

(B) at risk of becoming orphaned wells;

(2) an estimate of the quantities of—

(A) methane and other gasses emitted from orphaned wells; and

(B) emissions reduced as a result of plugging, remediating, and reclaiming orphaned wells;

(3) the number of jobs created and saved through the plugging, remediation, and reclamation of orphaned wells; and

(4) the acreage of habitat restored using grants awarded to plug, remediate, and reclaim orphaned wells and to remediate or reclaim adjacent land, together with a description of the purposes for which that land is likely to be used in the future.

(g) Effect of section

(1) No expansion of liability

Nothing in this section establishes or expands the responsibility or liability of any entity with respect to—

(A) plugging any well; or

(B) remediating or reclaiming any well site.

(2) Tribal land

Nothing in this section—

(A) relieves the Secretary of any obligation under section 396c of title 25, to plug, remediate, or reclaim an orphaned well located on Tribal land; or

(B) absolves the United States from a responsibility to plug, remediate, or reclaim an orphaned well located on Tribal land or any other responsibility to an Indian Tribe, including any responsibility that derives from—

(i) the trust relationship between the United States and Indian Tribes;

(ii) any treaty, law, or Executive order; or

(iii) any agreement between the United States and an Indian Tribe.

(3) Owner or operator not absolved

Nothing in this section absolves the owner or operator of an oil or gas well of any potential liability for—

(A) reimbursement of any plugging or reclamation costs associated with the well; or

(B) any adverse effect of the well on the environment.

(h) Authorization of appropriations

There are authorized to be appropriated for fiscal year 2022, to remain available until September 30, 2030:

(1) to the Secretary—

(A) $250,000,000 to carry out the program under subsection (b);

(B) $775,000,000 to provide grants under subsection (c)(3);

(C) $2,000,000,000 to provide grants under subsection (c)(4);

(D) $1,500,000,000 to provide grants under subsection (c)(5); and

(E) $150,000,000 to carry out the program under subsection (d);

(2) to the Secretary of Energy, $30,000,000 to conduct research and development activities in cooperation with the Interstate Oil and Gas Compact Commission to assist the Federal land

management agencies, States, and Indian Tribes in—

(A) identifying and characterizing undocumented orphaned wells; and

(B) mitigating the environmental risks of undocumented orphaned wells; and

(3) to the Interstate Oil and Gas Compact Commission, $2,000,000 to carry out this section.

(Pub. L. 109–58, title III, §349, Aug. 8, 2005, 119 Stat. 709; Pub. L. 113–40, §10(b), Oct. 2, 2013, 127 Stat. 545; Pub. L. 117–58, div. D, title VI, §40601, Nov. 15, 2021, 135 Stat. 1080.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58 amended section generally. Prior to amendment, section related to orphaned, abandoned, or idled wells on Federal land.

2013—Subsec. (i). Pub. L. 113–40 added subsec. (i).

[1] *So in original. No cl. (ii) enacted.*

§15908. Preservation of geological and geophysical data

(a) Short title

This section may be cited as the "National Geological and Geophysical Data Preservation Program Act of 2005".

(b) Program

The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material;

(3) to provide technical and financial assistance related to the archival material; and

(4) to provide for preservation of samples to track geochemical signatures from critical mineral (as defined in section 1606(a) of title 30) ore bodies for use in provenance tracking frameworks.

(c) Plan

Not later than 1 year after August 8, 2005, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) Data archive system

(1) Establishment

The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) System components

The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) Limitation of designation

The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) Data from Federal land

The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) National catalog

(1) In general

As soon as practicable after August 8, 2005, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) Availability

The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) Advisory Committee

(1) In general

The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) New duties

In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) [1] of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) Financial assistance

(1) Archive facilities

Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) Studies

Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) Federal share

The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) Private contributions

The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) Report

The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) Maintenance of State effort

It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) Definitions

In this section:

(1) Advisory Committee

The term "Advisory Committee" means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) Program

The term "Program" means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) Secretary

The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) Survey

The term "Survey" means the United States Geological Survey.

(k) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2021 through 2029, to remain available until expended.

(Pub. L. 109–58, title III, §351, Aug. 8, 2005, 119 Stat. 711; Pub. L. 116–260, div. Z, title VII, §7002(l), Dec. 27, 2020, 134 Stat. 2575; Pub. L. 117–58, div. D, title II, §40203, Nov. 15, 2021, 135 Stat. 959.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Geologic Mapping Act of 1992, referred to in subsec. (f)(2), is Pub. L. 102–285, May 18, 1992, 106 Stat. 166, which is classified principally to sections 31a to 31h of Title 43, Public Lands. Par. (3) of section 5(b) of the Act was redesignated par. (4) by Pub. L. 111–11, title XI, §11001(f)(2)(B), Mar. 30, 2009, 123 Stat. 1415, and is now classified to section 31d(b)(4) of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 31a of Title 43 and Tables.

AMENDMENTS

2021—Subsec. (b)(4). Pub. L. 117–58 added par. (4).

2020—Subsec. (k). Pub. L. 116–260 substituted "$5,000,000 for each of fiscal years 2021 through 2029, to remain available until expended" for "$30,000,000 for each of fiscal years 2006 through 2010".

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

§15909. Gas hydrate production incentive

(a) Purpose

The purpose of this section is to promote natural gas production from the natural gas hydrate resources on the outer Continental Shelf and Federal lands in Alaska by providing royalty incentives.

(b) Suspension of royalties

(1) In general

The Secretary may grant royalty relief in accordance with this section for natural gas produced from gas hydrate resources under an eligible lease.

(2) Eligible leases

A lease shall be an eligible lease for purposes of this section if—

(A) it is issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or is an oil and gas lease issued for onshore Federal lands in Alaska;

(B) it is issued prior to January 1, 2016; and

(C) production under the lease of natural gas from gas hydrate resources commences prior to January 1, 2018.

(3) Amount of relief

The Secretary shall conduct a rulemaking and grant royalty relief under this section as a suspension volume if the Secretary determines that such royalty relief would encourage production of natural gas from gas hydrate resources from an eligible lease. The maximum suspension volume shall be 30 billion cubic feet of natural gas per lease. Such relief shall be in addition to any other royalty relief under any other provision applicable to the lease that does not specifically grant a gas hydrate production incentive. Such royalty suspension volume shall be applied to any eligible production occurring on or after the date of publication of the advanced notice of proposed rulemaking.

(4) Limitation

The Secretary may place limitations on royalty relief granted under this section based on market price.

(c) Application

This section shall apply to any eligible lease issued before, on, or after August 8, 2005.

(d) Rulemakings

(1) Requirement

The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after August 8, 2005, and complete the rulemaking implementing this section within 365 days after August 8, 2005.

(2) Gas hydrate resources defined

Such regulations shall define the term "gas hydrate resources" to include both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone.

(e) Review

Not later than 365 days after August 8, 2005, the Secretary, in consultation with the Secretary of

Energy, shall carry out a review of, and submit to Congress a report on, further opportunities to enhance production of natural gas from gas hydrate resources on the outer Continental Shelf and on Federal lands in Alaska through the provision of other production incentives or through technical or financial assistance.

(Pub. L. 109–58, title III, §353, Aug. 8, 2005, 119 Stat. 714.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (b)(2)(A), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of Title 43 and Tables.

§15910. Enhanced oil and natural gas production through carbon dioxide injection

(a) Production incentive

(1) Findings

Congress finds the following:

(A) Approximately two-thirds of the original oil in place in the United States remains unproduced.

(B) Enhanced oil and natural gas production from the sequestering of carbon dioxide and other appropriate gases has the potential to increase oil and natural gas production.

(C) Capturing and productively using carbon dioxide would help reduce the carbon intensity of the economy.

(2) Purpose

The purpose of this section is—

(A) to promote the capturing, transportation, and injection of produced carbon dioxide, natural carbon dioxide, and other appropriate gases or other matter for sequestration into oil and gas fields; and

(B) to promote oil and natural gas production from the outer Continental Shelf and onshore Federal lands under lease by providing royalty incentives to use enhanced recovery techniques using injection of the substances referred to in subparagraph (A).

(b) Suspension of royalties

(1) In general

If the Secretary determines that reduction of the royalty under a Federal oil and gas lease that is an eligible lease is in the public interest and promotes the purposes of this section, the Secretary shall undertake a rulemaking to provide for such reduction for an eligible lease.

(2) Rulemakings

The Secretary shall publish the advanced notice of proposed rulemaking within 180 days after August 8, 2005, and complete the rulemaking implementing this section within 365 days after August 8, 2005.

(3) Eligible leases

A lease shall be an eligible lease for purposes of this section if—

(A) it is a lease for production of oil and gas from the outer Continental Shelf or Federal onshore lands;

(B) the injection of the substances referred to in subsection (a)(2)(A) will be used as an enhanced recovery technique on such lease; and

(C) the Secretary determines that the lease contains oil or gas that would not likely be produced without the royalty reduction provided under this section.

(4) Amount of relief

The rulemaking shall provide for a suspension volume, which shall not exceed 5,000,000 barrels of oil equivalent for each eligible lease. Such suspension volume shall be applied to any production from an eligible lease occurring on or after the date of publication of any advanced notice of proposed rulemaking under this subsection.

(5) Limitation

The Secretary may place limitations on the royalty reduction granted under this section based on market price.

(6) Application

This section shall apply to any eligible lease issued before, on, or after August 8, 2005.

(c) Demonstration program

(1) Establishment

(A) In general

The Secretary of Energy shall establish a competitive grant program to provide grants to producers of oil and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(B) Projects

The demonstration program shall provide for—

(i) not more than 10 projects in the Willistin Basin in North Dakota and Montana; and

(ii) 1 project in the Cook Inlet Basin in Alaska.

(2) Requirements

(A) In general

The Secretary of Energy shall issue requirements relating to applications for grants under paragraph (1).

(B) Rulemaking

The issuance of requirements under subparagraph (A) shall not require a rulemaking.

(C) Minimum requirements

At a minimum, the Secretary shall require under subparagraph (A) that an application for a grant include—

(i) a description of the project proposed in the application;

(ii) an estimate of the production increase and the duration of the production increase from the project, as compared to conventional recovery techniques, including water flooding;

(iii) an estimate of the carbon dioxide sequestered by project, over the life of the project;

(iv) a plan to collect and disseminate data relating to each project to be funded by the grant;

(v) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(vi) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(vii) a description of which costs of the project will be supported by Federal assistance under this section; and

(viii) a description of any secondary or tertiary recovery efforts in the field and the efficacy of water flood recovery techniques used.

(3) Partners

An applicant for a grant under paragraph (1) may carry out a project under a pilot program in

partnership with 1 or more other public or private entities.

(4) Selection criteria

In evaluating applications under this subsection, the Secretary of Energy shall—

(A) consider the previous experience with similar projects of each applicant; and

(B) give priority consideration to applications that—

(i) are most likely to maximize production of oil and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is completed; and

(iv) minimize any adverse environmental effects from the project.

(5) Demonstration program requirements

(A) Maximum amount

The Secretary of Energy shall not provide more than $3,000,000 in Federal assistance under this subsection to any applicant.

(B) Cost sharing

The Secretary of Energy shall require cost-sharing under this subsection in accordance with section 16352 of this title.

(C) Period of grants

(i) In general

A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.

(ii) Term

The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.

(6) Transfer of information and knowledge

The Secretary of Energy shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested persons, including other applicants that submitted applications for a grant under this subsection.

(7) Schedule

(A) Publication

Not later than 180 days after August 8, 2005, the Secretary of Energy shall publish in the Federal Register, and elsewhere, as appropriate, a request for applications to carry out projects under this subsection.

(B) Date for applications

An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).

(C) Selection

After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary of Energy, in a timely manner, shall select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.

(d) Records and inventory

The Secretary of the Interior, acting through the Bureau of Land Management, shall maintain

records on, and an inventory of, the quantity of carbon dioxide stored within Federal mineral leaseholds.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 109–58, title III, §354, Aug. 8, 2005, 119 Stat. 715; Pub. L. 110–140, title VII, §713, Dec. 19, 2007, 121 Stat. 1715.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsecs. (d), (e). Pub. L. 110–140 added subsec. (d) and redesignated former subsec. (d) as (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§15911. Denali Commission

(a) Definition of Commission

In this section, the term "Commission" means the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(b) Energy programs

The Commission shall use amounts made available under subsection (d) to carry out energy programs, including—

(1) energy generation and development, including—
(A) fuel cells, hydroelectric, solar, wind, wave, and tidal energy; and
(B) alternative energy sources;

(2) the construction of energy transmission, including interties;
(3) the replacement and cleanup of fuel tanks;
(4) the construction of fuel transportation networks and related facilities;
(5) power cost equalization programs; and
(6) projects using coal as a fuel, including coal gasification projects.

(c) Open meetings

(1) In general

Except as provided in paragraph (2), a meeting of the Commission shall be open to the public if—

(A) the Commission members take action on behalf of the Commission; or
(B) the deliberations of the Commission determine, or result in the joint conduct or disposition of, official Commission business.

(2) Exceptions

Paragraph (1) shall not apply to any portion of a Commission meeting for which the Commission, in public session, votes to close the meeting for the reasons described in paragraph (2), (4), (5), or (6) of subsection (c) of section 552b of title 5.

(3) Public notice

(A) In general

At least 1 week before a meeting of the Commission, the Commission shall make a public announcement of the meeting that describes—

(i) the time, place, and subject matter of the meeting;

(ii) whether the meeting is to be open or closed to the public; and

(iii) the name and telephone number of an appropriate person to respond to requests for information about the meeting.

(B) Additional notice

The Commission shall make a public announcement of any change to the information made available under subparagraph (A) at the earliest practicable time.

(4) Minutes

The Commission shall keep, and make available to the public, a transcript, electronic recording, or minutes from each Commission meeting, except for portions of the meeting closed under paragraph (2).

(d) Authorization of appropriations

There is authorized to be appropriated to the Commission not more than $55,000,000 for each of fiscal years 2006 through 2015 to carry out subsection (b).

(Pub. L. 109–58, title III, §356, Aug. 8, 2005, 119 Stat. 719.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Denali Commission Act of 1998, referred to in subsec. (a), is title III of Pub. L. 105–277, div. C, Oct. 21, 1998, 112 Stat. 2681–637, which is set out as a note under section 3121 of this title. For complete classification of this Act to the Code, see Tables.

§15912. Comprehensive inventory of OCS oil and natural gas resources

(a) In general

The Secretary shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf ("OCS"). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal Government and coastal States, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) Reports

The Secretary shall submit a report to Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within 6 months of August 8, 2005. The report shall be publicly available and updated at least every 5 years.

(Pub. L. 109–58, title III, §357, Aug. 8, 2005, 119 Stat. 720.)

PART B—ACCESS TO FEDERAL LANDS

§15921. Management of Federal oil and gas leasing programs

(a) Timely action on leases and permits

(1) Secretary of the Interior

To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the "Secretary") shall—

(A) ensure expeditious compliance with section 4332(2)(C) of this title and any other applicable environmental and cultural resources laws;

(B) improve consultation and coordination with the States and the public; and

(C) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(2) Secretary of Agriculture

To ensure timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing, the Secretary of Agriculture shall—

(A) ensure expeditious compliance with all applicable environmental and cultural resources laws; and

(B) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(b) Best management practices

(1) In general

Not later than 18 months after August 8, 2005, the Secretary shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing.

(2) Considerations

In developing the best management practices under paragraph (1), the Secretary shall consider any recommendations from the review under section 361.[1]

(3) Regulations

Not later than 180 days after the development of the best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the best management practices, including deadlines for—

(A) approving or disapproving—

(i) resource management plans and related documents;

(ii) lease applications;

(iii) applications for permits to drill; and

(iv) surface use plans; and

(B) related administrative appeals.

(c) Improved enforcement

The Secretary and the Secretary of Agriculture shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill on land under the jurisdiction of the Secretary and the Secretary of Agriculture, respectively.

(d) Authorization of appropriations

In addition to amounts made available to carry out activities relating to oil and gas leasing on public land administered by the Secretary and National Forest System land administered by the Secretary of Agriculture, there are authorized to be appropriated for each of fiscal years 2006 through 2010—

(1) to the Secretary, acting through the Director of the Bureau of Land Management—

(A) $40,000,000 to carry out subsections (a)(1) and (b); and

(B) $20,000,000 to carry out subsection (c);

(2) to the Secretary, acting through the Director of the United States Fish and Wildlife Service, $5,000,000 to carry out subsection (a)(1); and

(3) to the Secretary of Agriculture, acting through the Chief of the Forest Service, $5,000,000 to carry out subsections (a)(2) and (c).

(Pub. L. 109–58, title III, §362, Aug. 8, 2005, 119 Stat. 721.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Mineral Leasing Act, referred to in subsec. (b)(1)(A), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Section 361, referred to in subsec. (b)(2), is section 361 of Pub. L. 109–58, title III, Aug. 8, 2005, 119 Stat. 720, which is not classified to the Code.

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

§15922. Consultation regarding oil and gas leasing on public land

(a) In general

Not later than 180 days after August 8, 2005, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public land under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System land under the jurisdiction of the Secretary of Agriculture.

(b) Contents

The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of—

(A) oil and gas lease applications;

(B) surface use plans of operation, including steps for processing surface use plans; and

(C) applications for permits to drill consistent with applicable timelines;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts;

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are

applied;

(4) establish a joint data retrieval system that is capable of—
(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and
(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture; and

(5) establish a joint geographic information system mapping system for use in—
(A) tracking surface resource values to aid in resource management; and
(B) processing surface use plans of operation and applications for permits to drill.

(Pub. L. 109–58, title III, §363, Aug. 8, 2005, 119 Stat. 722.)

§15923. Methodology

The Secretary of the Interior shall use the same assessment methodology across all geological provinces, areas, and regions in preparing and issuing national geological assessments to ensure accurate comparisons of geological resources.

(Pub. L. 109–58, title III, §364(b), Aug. 8, 2005, 119 Stat. 723.)

§15924. Project to improve Federal permit coordination

(a) Establishment

The Secretary of the Interior (referred to in this section as the "Secretary") shall establish a Federal Permit Streamlining Project (referred to in this section as the "Project").

(b) Memorandum of understanding

(1) In general

Not later than 90 days after August 8, 2005, the Secretary shall enter into a memorandum of understanding for purposes of this section with—
(A) the Secretary of Agriculture;
(B) the Administrator of the Environmental Protection Agency; and
(C) the Chief of Engineers.

(2) State participation

The Secretary may request that the Governors of the States in which Project offices are located be signatories to the memorandum of understanding.

(c) Designation of qualified staff

(1) In general

Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall, if appropriate, assign to each of the field offices identified in subsection (d) an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—
(A) the consultations and the preparation of biological opinions under section 1536 of title 16;
(B) permits under section 1344 of title 33;
(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);
(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and
(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) Duties

Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) Project offices

The following Bureau of Land Management Offices shall serve as the Project offices:

(1) Rawlins Field Office, Wyoming.

(2) High Plains District Office, Wyoming.

(3) Montana/Dakotas State Office, Montana.

(4) Farmington Field Office, New Mexico.

(5) Carlsbad Field Office, New Mexico.

(6) Grand Junction/Glenwood Springs Field Office, Colorado.

(7) Vernal Field Office, Utah.

(8) Any other State, district, or field office of the Bureau of Land Management determined by the Secretary.

(e) Report to Congress

Not later than February 1 of the first fiscal year beginning after the date of enactment of the National Defense Authorization Act for Fiscal Year 2015 and each February 1 thereafter, the Secretary shall report to the Chairman and ranking minority Member of the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, which shall include—

(1) the allocation of funds to each Project office for the previous fiscal year; and

(2) the accomplishments of each Project office relating to the coordination and processing of oil and gas use authorizations during that fiscal year.

(f) Additional personnel

The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) Omitted

(h) Transfer of funds

For the purposes of coordination and processing of oil and gas use authorizations on Federal land under the administration of the Project offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(1) the United States Fish and Wildlife Service;

(2) the Bureau of Indian Affairs;

(3) the Forest Service;

(4) the Environmental Protection Agency;

(5) the Corps of Engineers; and

(6) the States in which Project offices are located.

(i) Savings provision

Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Project.

(Pub. L. 109–58, title III, §365, Aug. 8, 2005, 119 Stat. 723; Pub. L. 113–69, §1, Dec. 26, 2013, 127 Stat. 1207; Pub. L. 113–291, div. B, title XXX, §3021(a), Dec. 19, 2014, 128 Stat. 3759.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (c)(1)(C), 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.

The National Forest Management Act of 1976, referred to in subsec. (c)(1)(D), is Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended, which enacted sections 472a, 521b, 1600, and 1611 to 1614 of Title 16, Conservation, amended sections 500, 515, 516, 518, 576b, and 1601 to 1610 of Title 16, repealed sections 476, 513, and 514 of Title 16, and enacted provisions set out as notes under sections 476, 513, 528, 594–2, and 1600 of Title 16. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of Title 16 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(1)(E), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The date of enactment of the National Defense Authorization Act for Fiscal Year 2015, referred to in subsec. (e), probably means the date of enactment of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, Pub. L. 113–291, which was approved Dec. 19, 2014.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (f)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

CODIFICATION

Section is comprised of section 365 of Pub. L. 109–58. Subsec. (g) of section 365 of Pub. L. 109–58 amended section 191 of Title 30, Mineral Lands and Mining.

AMENDMENTS

2014—Pub. L. 113–291, §3021(a)(1), struck out "Pilot" before "Project" in section catchline.

Subsec. (a). Pub. L. 113–291, §3021(a)(2), substituted "Project" for "Pilot Project" in two places.

Subsec. (b)(2). Pub. L. 113–291, §3021(a)(3), substituted "the States in which Project offices are located" for "Wyoming, Montana, Colorado, Utah, and New Mexico".

Subsec. (d). Pub. L. 113–291, §3021(a)(4)(A), struck out "Pilot" before "Project" in heading.

Pub. L. 113–291, §3021(a)(2), substituted "Project" for "Pilot Project" in introductory provisions.

Subsec. (d)(8). Pub. L. 113–291, §3021(a)(4)(B), added par. (8).

Subsec. (e). Pub. L. 113–291, §3021(a)(5), added subsec. (e) and struck out former subsec. (e) which required the Secretary to submit to Congress a report about the Pilot Project not later than 3 years after Aug. 8, 2005.

Subsecs. (e)(1), (2), (f)(1), (h). Pub. L. 113–291, §3021(a)(2), substituted "Project" for "Pilot Project".

Subsec. (h)(6). Pub. L. 113–291, §3021(a)(6), added par. (6) and struck out former par. (6) which read as follows: "the States of Wyoming, Montana, Colorado, Utah, and New Mexico."

Subsec. (i). Pub. L. 113–291, §3021(a)(7), (8), redesignated subsec. (j) as (i) and struck out former subsec. (i). Prior to amendment, text read as follows: "During the period in which the Project is authorized, the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations."

Pub. L. 113–291, §3021(a)(2), substituted "Project" for "Pilot Project".

Subsec. (j)(2). Pub. L. 113–291, §3021(a)(2), substituted "Project" for "Pilot Project".

2013—Subsec. (d). Pub. L. 113–69 added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: "The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

"(1) Rawlins, Wyoming.

"(2) Buffalo, Wyoming.
"(3) Miles City, Montana.
"(4) Farmington, New Mexico.
"(5) Carlsbad, New Mexico.
"(6) Grand Junction/Glenwood Springs, Colorado.
"(7) Vernal, Utah."

§15925. Fair market value determinations for linear rights-of-way across public lands and national forests

(a) Update of fee schedule

Not later than 1 year after August 8, 2005—

(1) the Secretary of the Interior shall update section 2806.20 of title 43, Code of Federal Regulations, as in effect on August 8, 2005, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone; and

(2) the Secretary of Agriculture shall make the same revision for linear rights-of-way granted, issued, or renewed under title V of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) on National Forest System land.

(b) Fair market value rental determination for linear rights-of-way

The fair market value rent of a linear right-of-way across public lands or National Forest System lands issued under section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) or section 185 of title 30 shall be determined in accordance with subpart 2806 of title 43, Code of Federal Regulations, as in effect on August 8, 2005 (including the annual or periodic updates specified in the regulations), and as updated in accordance with subsection (a).

(Pub. L. 109–58, title III, §367, Aug. 8, 2005, 119 Stat. 726.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (a)(2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended. Title V of the Act is classified generally to subchapter V (§1761 et seq.) of chapter 35 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

§15926. Energy right-of-way corridors on Federal land

(a) Western States

Not later than 2 years after August 8, 2005, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior (in this section referred to collectively as "the Secretaries"), in consultation with the Federal Energy Regulatory Commission, States, tribal or local units of governments as appropriate, affected utility industries, and other interested persons, shall consult with each other and shall—

(1) designate, under their respective authorities, corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the eleven contiguous Western States (as defined in section 1702(o) of title 43; [1]

(2) perform any environmental reviews that may be required to complete the designation of such corridors; and

(3) incorporate the designated corridors into the relevant agency land use and resource management plans or equivalent plans.

(b) Other States

Not later than 4 years after August 8, 2005, the Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested persons, shall jointly—

(1) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in States other than those described in subsection (a); and

(2) schedule prompt action to identify, designate, and incorporate the corridors into the applicable land use plans.

(c) Ongoing responsibilities

The Secretaries, in consultation with the Federal Energy Regulatory Commission, affected utility industries, and other interested parties, shall establish procedures under their respective authorities that—

(1) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated as necessary; and

(2) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within such corridors, taking into account prior analyses and environmental reviews undertaken during the designation of such corridors.

(d) Considerations

In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

(1) improve reliability;

(2) relieve congestion; and

(3) enhance the capability of the national grid to deliver electricity.

(e) Specifications of corridor

A corridor designated under this section shall, at a minimum, specify the centerline, width, and compatible uses of the corridor.

(Pub. L. 109–58, title III, §368, Aug. 8, 2005, 119 Stat. 727.)

EXECUTIVE DOCUMENTS

TRANSFORMING OUR NATION'S ELECTRIC GRID THROUGH IMPROVED SITING, PERMITTING, AND REVIEW

Memorandum of President of the United States, June 7, 2013, 78 F.R. 35539, provided:

Memorandum for the Heads of Executive Departments and Agencies

Our Nation's electric transmission grid is the backbone of our economy, a key factor in future economic growth, and a critical component of our energy security. Countries that harness the power of clean, renewable energy will be best positioned to thrive in the global economy while protecting the environment and increasing prosperity. In order to ensure the growth of America's clean energy economy and improve energy security, we must modernize and expand our electric transmission grid. Modernizing our grid will improve energy reliability and resiliency, allowing us to minimize power outages and manage cyber-security threats. By diversifying power sources and reducing congestion, a modernized grid will also create cost savings for consumers and spur economic growth.

Modernizing our Nation's electric transmission grid requires improvements in how transmission lines are sited, permitted, and reviewed. As part of our efforts to improve the performance of Federal siting, permitting, and review processes for infrastructure development, my Administration created a Rapid Response Team for Transmission (RRTT), a collaborative effort involving nine different executive departments and agencies (agencies), which is working to improve the efficiency and effectiveness of transmission siting, permitting, and review, increase interagency coordination and transparency, and increase the predictability of the siting, permitting, and review processes. In furtherance of Executive Order 13604 of March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects), this memorandum builds upon the

work of the RRTT to improve the Federal siting, permitting, and review processes for transmission projects. Because a single project may cross multiple governmental jurisdictions over hundreds of miles, robust collaboration among Federal, State, local, and tribal governments must be a critical component of this effort.

An important avenue to improve these processes is the designation of energy right-of-way corridors (energy corridors) on Federal lands. Section 368 of the Energy Policy Act of 2005 (the "Act") (42 U.S.C. 15926), requires the Secretaries of Agriculture, Commerce, Defense, Energy, and the Interior (Secretaries) to undertake a continued effort to identify and designate such energy corridors. Energy corridors include areas on Federal lands that are most suitable for siting transmission projects because the chosen areas minimize regulatory conflicts and impacts on environmental and cultural resources, and also address concerns of local communities. Designated energy corridors provide an opportunity to co-locate projects and share environmental and cultural resource impact data to reduce overall impacts on environmental and cultural resources and reduce the need for land use plan amendments in support of the authorization of transmission rights-of-way. The designation of energy corridors can help expedite the siting, permitting, and review processes for projects within such corridors, as well as improve the predictability and transparency of these processes. Pursuant to the Act, in 2009, the Secretaries of the Interior and Agriculture each designated energy corridors for the 11 contiguous Western States, as defined in section 368 of the Act. Energy corridors have not yet been designated in States other than those identified as Western States. It is important that agencies build on their existing efforts in a coordinated manner.

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. *Principles for Establishing Energy Corridors*. (a) In carrying out the requirements of this memorandum regarding energy corridors, the Secretaries shall:

(i) collaborate with Member Agencies of the Steering Committee on Federal Infrastructure Permitting and Review Process Improvement (Steering Committee), established by Executive Order 13604, which shall provide prompt and adequate information to ensure that additional corridor designations and revisions are consistent with the statutory responsibilities and activities of the Member Agencies and enable timely actions by the Secretaries;

(ii) focus on facilitating renewable energy resources and improving grid resiliency and comply with the requirements in section 368 of the Act, by ensuring that energy corridors address the need for upgraded and new electric transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the national grid to deliver electricity;

(iii) use integrated project planning and consult with other Federal agencies, State, local, and tribal governments, non-governmental organizations, and the public early in the process of designating the energy corridors, so as to avoid resource conflicts to the extent practicable and make strategic decisions to balance policy priorities;

(iv) collaborate with State, local, and tribal governments to ensure, to the extent practicable, that energy corridors can connect effectively between Federal lands;

(v) minimize the proliferation of dispersed and duplicative rights-of-way crossing Federal lands while acting consistent with subsection (a)(ii) of this section;

(vi) design energy corridors to minimize impacts on environmental and cultural resources to the extent practicable, including impacts that may occur outside the boundaries of Federal lands, and minimize impacts on the Nation's aviation system and the mission of the Armed Forces; and

(vii) develop interagency mitigation plans, where appropriate, for environmental and cultural resources potentially impacted by projects sited in the energy corridors to provide project developers predictability on how to seek first to avoid, then attempt to minimize any negative effects from, and lastly to mitigate such impacts, where otherwise unavoidable. Mitigation plans shall:

(A) be developed at the landscape or watershed scale with interagency collaboration, be based on conservation and resource management plans and regional environmental and cultural resource analyses, and identify priority areas for compensatory mitigation where appropriate;

(B) be developed in consultation with other Federal agencies, State, local, and tribal governments, non-governmental organizations, and the public;

(C) include clear and measurable mitigation goals, apply adaptive management methods, and use performance measures to evaluate outcomes and ensure accountability and the long-term effectiveness of mitigation activities;

(D) include useful mechanisms, such as mitigation banks and in lieu fee programs, where appropriate for achieving statutory and regulatory goals; and

(E) be considered in the energy corridor designation process.

(b) The Secretary of Energy shall assess and synthesize current research related to the requirements set forth

in subsection (a)(ii) of this section, such as transmission planning authority studies, congestion studies, and renewable energy assessments. Based on that analysis, the Secretary of Energy shall provide to the Steering Committee a Transmission Corridor Assessment Report (Report) that provides recommendations on how to best achieve the requirements set forth in subsection (a)(ii) of this section. Where research is available, the Report shall include an assessment of whether investment in co-locating with or upgrading existing transmission facilities, distributed generation, improved energy efficiency, or demand response may play a role in meeting these requirements. In preparing the Report, the Secretary of Energy shall consult with Federal, State, local, and tribal governments, affected industries, environmental and community representatives, transmission planning authorities, and other interested parties. The Report shall be provided in two parts. The first part, which shall provide recommendations with respect to the Western States, shall be provided by December 1, 2013, and the second part, which shall provide recommendations with respect to States other than the Western States, shall be provided by April 1, 2014.

SEC. 2. *Energy Corridors for the Western States*. (a) The Secretaries shall strongly encourage the use of designated energy corridors on Federal land in the Western States where the energy corridors are consistent with the requirements in this memorandum and other applicable requirements, unless it can be demonstrated that a project cannot be constructed within a designated corridor due to resource constraints on Federal lands. Additionally, the Secretaries, pursuant to section 368 of the Act, shall continue to evaluate designated energy corridors to determine the necessity for revisions, deletions, or additions to those energy corridors. Also, the Secretaries, coordinated by the Secretaries of the Interior and Agriculture, shall:

(i) by July 12, 2013, provide to the Steering Committee a plan for producing the Western corridor study and regional corridor assessments (as specified in subsection (a)(ii) and (a)(iii) of this section), which shall include descriptions of timelines and milestones, existing resources to be utilized, plans for collaborating with Member Agencies, and plans for consulting with other Federal agencies, State, local, and tribal governments, affected industries, environmental and community representatives, and other interested parties;

(ii) within 12 months of completion of the plan pursuant to subsection (a)(i) of this section, provide to the Steering Committee a Western corridor study, which shall assess the utility of the existing designated energy corridors;

(iii) provide to the Steering Committee regional corridor assessments, which shall examine the need for additions, deletions, and revisions to the existing energy corridors for the Western States by region. The regional corridor assessments shall evaluate energy corridors based on the requirements set forth in subsection (a) of section 1, the Report issued pursuant to subsection (b) of section 1, and the Western corridor study. The regional corridor assessments shall be completed promptly, depending on resource availability, with at least the first assessment completed within 12 months of completion of the plan pursuant to subsection (a)(i) of this section;

(iv) by November 12, 2014, provide to the Steering Committee and the Office of Management and Budget (OMB) an implementation plan for achieving the requirements set forth in subsections (a)(v) and (a)(vi) of this section based on the regional corridor assessments. The implementation plan shall include timelines and milestones that prioritize coordinated agency actions and a detailed budget;

(v) promptly after the completion of the regional corridor assessments and prioritized based on the availability of resources, undertake coordinated land use planning and environmental and cultural resource review processes to consider additions, deletions, or revisions to the current Western energy corridors, consistent with the requirements set forth in subsection (a) of section 1, the Report required issued pursuant to subsection (b) of section 1, and the Western corridor study; and

(vi) as appropriate, after completing the required environmental and cultural resource analyses, promptly incorporate the designated Western corridor additions, deletions, or revisions and any mitigation plans developed pursuant to subsection (a)(vii) of section 1 into relevant agency land use and resource management plans or equivalent plans prioritized based on the availability of resources.

(b) The Member Agencies, where authorized, shall complete any required land use planning, internal policy, and interagency agreements to formalize the designation of energy corridors implemented pursuant to subsection (a)(vi) of this section. The Secretaries and Member Agencies shall also develop and implement a process for expediting applications for applicants whose projects are sited primarily within the designated energy corridors in the Western States, and who have committed to implement the necessary mitigation activities, including those required by the interagency mitigation plans required by subsection (a)(vii) of section 1.

SEC. 3. *Energy Corridors for the Non-Western States*. The Secretaries, in collaboration with the Member Agencies, shall continue to analyze where energy corridors on Federal land in States other than those identified as Western States may be necessary to address the recommendations in the Report issued pursuant to subsection (b) of section 1 and the requirements set forth in subsection (a) of section 1, and to expedite the

siting, permitting, and review of electric transmission projects on Federal lands in those States. By September 1, 2014, the Secretaries shall provide the Steering Committee with updated recommendations regarding designating energy corridors in those States.

SEC. 4. *Improved Transmission Siting, Permitting, and Review Processes*. (a) Member Agencies shall develop an integrated, interagency pre-application process for significant onshore electric transmission projects requiring Federal approval. The process shall be designed to: promote predictability in the Federal siting, permitting, and review processes; encourage early engagement, coordination, and collaboration of Federal, State, local, and tribal governments, non-governmental organizations, and the public; increase the use of integrated project planning early in the siting, permitting, and review processes; facilitate early identification of issues that could diminish the likelihood that projects will ultimately be permitted; promote early planning for integrated and strategic mitigation plans; expedite siting, permitting, and review processes through a mutual understanding of the needs of all affected Federal agencies and State, local, and tribal governments; and improve environmental and cultural outcomes.

By September 30, 2013, Member Agencies shall provide to the Chief Performance Officer (CPO) and the Chair of the Council on Environmental Quality a plan, including timelines and milestones, for implementing this process.

(b) In implementing Executive Order 13604, Member Agencies shall:

(i) improve siting, permitting, and review processes for all electric transmission projects, both onshore and offshore, requiring Federal approval. Such improvements shall include: increasing efficiency and interagency coordination; increasing accountability; ensuring an efficient decision-making process within each agency; to the extent possible, unifying and harmonizing processes among agencies; improving consistency and transparency within each agency and among all agencies; improving environmental and cultural outcomes; providing mechanisms for early and frequent public and local community outreach; and enabling innovative mechanisms for mitigation and mitigation at the landscape or watershed scale; and

(ii) facilitate coordination, integration, and harmonization of the siting, permitting, and review processes of Federal, State, local, and tribal governments for transmission projects to reduce the overall regulatory burden while improving environmental and cultural outcomes.

SEC. 5. *General Provisions*. (a) The Secretaries and the Member Agencies shall coordinate the activities required by this memorandum with the Steering Committee and shall report to the Steering Committee their progress on meeting the milestones identified pursuant to this memorandum, consistent with the plans developed pursuant to sections 2 and 4 of this memorandum. The CPO shall report on the implementation of this memorandum in the report to the President submitted pursuant to section 2(e) of Executive Order 13604.

(b) In carrying out their responsibilities under this memorandum, Member Agencies shall consult relevant independent agencies, including the Federal Energy Regulatory Commission.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum shall be implemented consistent with Executive Order 13175 of November 6, 2000 (Consultation and Coordination with Indian Tribal Governments) and my memorandum of November 5, 2009 (Tribal Consultation).

(e) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(f) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(g) The Director of OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *So in original. A closing parenthesis probably should follow "title 43".*

§15927. Oil shale, tar sands, and other strategic unconventional fuels

(a) Short title

This section may be cited as the "Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005".

(b) Declaration of policy

Congress declares that it is the policy of the United States that—

(1) United States oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale, tar sands, and other strategic unconventional fuels, for research and commercial development, should be conducted in an environmentally sound manner, using practices that minimize impacts; and

(3) development of those strategic unconventional fuels should occur, with an emphasis on sustainability, to benefit the United States while taking into account affected States and communities.

(c) Leasing program for research and development of oil shale and tar sands

In accordance with section 241 of title 30 and any other applicable law, except as provided in this section, not later than 180 days after August 8, 2005, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the "Secretary") shall make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to technologies for the recovery of liquid fuels from oil shale and tar sands resources on public lands. Prospective public lands within each of the States of Colorado, Utah, and Wyoming shall be made available for such research and development leasing.

(d) Programmatic environmental impact statement and commercial leasing program for oil shale and tar sands

(1) Programmatic environmental impact statement

Not later than 18 months after August 8, 2005, in accordance with section 4332(2)(C) of this title, the Secretary shall complete a programmatic environmental impact statement for a commercial leasing program for oil shale and tar sands resources on public lands, with an emphasis on the most geologically prospective lands within each of the States of Colorado, Utah, and Wyoming.

(2) Final regulation

Not later than 6 months after the completion of the programmatic environmental impact statement under this subsection, the Secretary shall publish a final regulation establishing such program.

(e) Commencement of commercial leasing of oil shale and tar sands

Not later than 180 days after publication of the final regulation required by subsection (d), the Secretary shall consult with the Governors of States with significant oil shale and tar sands resources on public lands, representatives of local governments in such States, interested Indian tribes, and other interested persons, to determine the level of support and interest in the States in the development of tar sands and oil shale resources. If the Secretary finds sufficient support and interest exists in a State, the Secretary may conduct a lease sale in that State under the commercial leasing program regulations. Evidence of interest in a lease sale under this subsection shall include, but not be limited to, appropriate areas nominated for leasing by potential lessees and other interested parties.

(f) Diligent development requirements

The Secretary shall, by regulation, designate work requirements and milestones to ensure the diligent development of the lease.

(g) Initial report by the Secretary of the Interior

Within 90 days after August 8, 2005, the Secretary of the Interior shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(1) the interim actions necessary to—

(A) develop the program, complete the programmatic environmental impact statement, and promulgate the final regulation as required by subsection (d); and

(B) conduct the first lease sales under the program as required by subsection (e); and

(2) a schedule to complete such actions within the time limits mandated by this section.

(h) Task Force

(1) Establishment

The Secretary of Energy, in cooperation with the Secretary of the Interior and the Secretary of Defense, shall establish a task force to develop a program to coordinate and accelerate the commercial development of strategic unconventional fuels, including but not limited to oil shale and tar sands resources within the United States, in an integrated manner.

(2) Composition

The Task Force shall be composed of—

(A) the Secretary of Energy (or the designee of the Secretary);

(B) the Secretary of the Interior (or the designee of the Secretary of the Interior);

(C) the Secretary of Defense (or the designee of the Secretary of Defense);

(D) the Governors of affected States; and

(E) representatives of local governments in affected areas.

(3) Recommendations

The Task Force shall make such recommendations regarding promoting the development of the strategic unconventional fuels resources within the United States as it may deem appropriate.

(4) Partnerships

The Task Force shall make recommendations with respect to initiating a partnership with the Province of Alberta, Canada, for purposes of sharing information relating to the development and production of oil from tar sands, and similar partnerships with other nations that contain significant oil shale resources.

(5) Reports

(A) Initial report

Not later than 180 days after August 8, 2005, the Task Force shall submit to the President and Congress a report that describes the analysis and recommendations of the Task Force.

(B) Subsequent reports

The Secretary shall provide an annual report describing the progress in developing the strategic unconventional fuels resources within the United States for each of the 5 years following submission of the report provided for in subparagraph (A).

(i) Office of Petroleum Reserves

(1) In general

The Office of Petroleum Reserves of the Department of Energy shall—

(A) coordinate the creation and implementation of a commercial strategic fuel development program for the United States;

(B) evaluate the strategic importance of unconventional sources of strategic fuels to the security of the United States;

(C) promote and coordinate Federal Government actions that facilitate the development of strategic fuels in order to effectively address the energy supply needs of the United States;

(D) identify, assess, and recommend appropriate actions of the Federal Government required to assist in the development and manufacturing of strategic fuels; and

(E) coordinate and facilitate appropriate relationships between private industry and the Federal Government to promote sufficient and timely private investment to commercialize strategic fuels for domestic and military use.

(2) Consultation and coordination

The Office of Petroleum Reserves shall work closely with the Task Force and coordinate its staff support.

(j) Omitted

(k) Interagency coordination and expeditious review of permitting process

(1) Department of the Interior as lead agency

Upon written request of a prospective applicant for Federal authorization to develop a proposed oil shale or tar sands project, the Department of the Interior shall act as the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews.

(2) Implementing regulations

Not later than 6 months after August 8, 2005, the Secretary shall issue any regulations necessary to implement this subsection.

(l) Cost-shared demonstration technologies

(1) Identification

The Secretary of Energy shall identify technologies for the development of oil shale and tar sands that—

(A) are ready for demonstration at a commercially-representative scale; and

(B) have a high probability of leading to commercial production.

(2) Assistance

For each technology identified under paragraph (1), the Secretary of Energy may provide—

(A) technical assistance;

(B) assistance in meeting environmental and regulatory requirements; and

(C) cost-sharing assistance.

(m) National oil shale and tar sands assessment

(1) Assessment

(A) In general

The Secretary shall carry out a national assessment of oil shale and tar sands resources for the purposes of evaluating and mapping oil shale and tar sands deposits, in the geographic areas described in subparagraph (B). In conducting such an assessment, the Secretary shall make use of the extensive geological assessment work for oil shale and tar sands already conducted by the United States Geological Survey.

(B) Geographic areas

The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are—

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales and other hydrocarbon-bearing rocks having the nomenclature of "shale" located east of the Mississippi River; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale and tar sands, as determined by the Secretary.

(2) Use of State surveys and universities

In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(n) Land exchanges

(1) In general

To facilitate the recovery of oil shale and tar sands, especially in areas where Federal, State, and private lands are intermingled, the Secretary shall consider the use of land exchanges where appropriate and feasible to consolidate land ownership and mineral interests into manageable areas.

(2) Identification and priority of public lands

The Secretary shall identify public lands containing deposits of oil shale or tar sands within the Green River, Piceance Creek, Uintah, and Washakie geologic basins, and shall give priority to implementing land exchanges within those basins. The Secretary shall consider the geology of the respective basin in determining the optimum size of the lands to be consolidated.

(3) Compliance with section 1716 of title 43

A land exchange undertaken in furtherance of this subsection shall be implemented in accordance with section 1716 of title 43.

(o) Royalty rates for leases

The Secretary shall establish royalties, fees, rentals, bonus, or other payments for leases under this section that shall—

(1) encourage development of the oil shale and tar sands resource; and

(2) ensure a fair return to the United States.

(p) Heavy oil technical and economic assessment

The Secretary of Energy shall update the 1987 technical and economic assessment of domestic heavy oil resources that was prepared by the Interstate Oil and Gas Compact Commission. Such an update should include all of North America and cover all unconventional oil, including heavy oil, tar sands (oil sands), and oil shale.

(q) Omitted

(r) State water rights

Nothing in this section preempts or affects any State water law or interstate compact relating to water.

(s) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 109–58, title III, §369, Aug. 8, 2005, 119 Stat. 728; Pub. L. 113–188, title VI, §601(b), Nov. 26, 2014, 128 Stat. 2019.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 369 of Pub. L. 109–58. Subsecs. (j) and (q) of section 369 of Pub. L. 109–58 enacted section 2398a of Title 10, Armed Forces, and amended the table of sections for chapter 141 of Title 10 and sections 226 and 241 of Title 30, Mineral Lands and Mining.

AMENDMENTS

2014—Subsec. (i)(3). Pub. L. 113–188 struck out par. (3). Text read as follows: "Not later than 180 days after August 8, 2005, and annually thereafter, the Secretary shall submit to Congress a report that describes the activities of the Office of Petroleum Reserves carried out under this subsection."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§15928. Consultation regarding energy rights-of-way on public land

(a) Memorandum of understanding

(1) In general

Not later than 6 months after August 8, 2005, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility.

(2) Contents

The memorandum of understanding shall include provisions that—

(A) establish—

(i) a unified right-of-way application form; and

(ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(B) provide for coordination of planning relating to the granting of the rights-of-way;

(C) provide for an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) Natural gas pipelines

(1) In general

With respect to permitting activities for interstate natural gas pipelines, the May 2002 document entitled "Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission" shall constitute compliance with subsection (a).

(2) Report

(A) In general

Not later than 1 year after August 8, 2005, and every 2 years thereafter, agencies that are signatories to the document referred to in paragraph (1) shall transmit to Congress a report on how the agencies under the jurisdiction of the Secretaries are incorporating and implementing the provisions of the document referred to in paragraph (1).

(B) Contents

The report shall address—

(i) efforts to implement the provisions of the document referred to in paragraph (1);

(ii) whether the efforts have had a streamlining effect;

(iii) further improvements to the permitting process of the agency; and

(iv) recommendations for inclusion of State and tribal governments in a coordinated permitting process.

(c) Definition of utility facility

In this section, the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system—

(1) for the transportation of—

(A) oil, natural gas, synthetic liquid fuel, or gaseous fuel;

(B) any refined product produced from oil, natural gas, synthetic liquid fuel, or gaseous fuel; or

(C) products in support of the production of material referred to in subparagraph (A) or (B);

(2) for storage and terminal facilities in connection with the production of material referred to in paragraph (1); or

(3) for the generation, transmission, and distribution of electric energy.

(Pub. L. 109–58, title III, §372, Aug. 8, 2005, 119 Stat. 734.)

PART C—MISCELLANEOUS

§15941. Great Lakes oil and gas drilling ban

No Federal or State permit or lease shall be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

(Pub. L. 109–58, title III, §386, Aug. 8, 2005, 119 Stat. 744.)

§15942. NEPA review

(a) NEPA review

Action by the Secretary of the Interior in managing the public lands, or the Secretary of Agriculture in managing National Forest System Lands, with respect to any of the activities described in subsection (b) shall be subject to a rebuttable presumption that the use of a categorical exclusion under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] (NEPA) would apply if the activity is conducted pursuant to the Mineral Leasing Act [30 U.S.C. 181 et seq.] for the purpose of exploration or development of oil or gas.

(b) Activities described

The activities referred to in subsection (a) are the following:

(1) Individual surface disturbances of less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.

(2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within 5 years prior to the date of spudding the well.

(3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.

(4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within 5 years prior to the date of placement of the pipeline.

(5) Maintenance of a minor activity, other than any construction or major renovation or a building or facility.

(Pub. L. 109–58, title III, §390, Aug. 8, 2005, 119 Stat. 747.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91–190, Jan. 1, 1970,

83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The Mineral Leasing Act, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to chapter 3A (§181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

§15943. Certain gathering lines located on Federal land and Indian land

(a) Definitions

In this section:

(1) Federal land

(A) In general

The term "Federal land" means land the title to which is held by the United States.

(B) Exclusions

The term "Federal land" does not include—

(i) a unit of the National Park System;

(ii) a unit of the National Wildlife Refuge System;

(iii) a component of the National Wilderness Preservation System;

(iv) a wilderness study area within the National Forest System; or

(v) Indian land.

(2) Gathering line and associated field compression or pumping unit

(A) In general

The term "gathering line and associated field compression or pumping unit" means—

(i) a pipeline that is installed to transport oil, natural gas and related constituents, or produced water from 1 or more wells drilled and completed to produce oil or gas; and

(ii) if necessary, 1 or more compressors or pumps to raise the pressure of the transported oil, natural gas and related constituents, or produced water to higher pressures necessary to enable the oil, natural gas and related constituents, or produced water to flow into pipelines and other facilities.

(B) Inclusions

The term "gathering line and associated field compression or pumping unit" includes a pipeline or associated compression or pumping unit that is installed to transport oil or natural gas from a processing plant to a common carrier pipeline or facility.

(C) Exclusions

The term "gathering line and associated field compression or pumping unit" does not include a common carrier pipeline.

(3) Indian land

The term "Indian land" means land the title to which is held by—

(A) the United States in trust for an Indian Tribe or an individual Indian; or

(B) an Indian Tribe or an individual Indian subject to a restriction by the United States against alienation.

(4) Produced water

The term "produced water" means water produced from an oil or gas well bore that is not a fluid prepared at, or transported to, the well site to resolve a specific oil or gas well bore or reservoir condition.

(5) Secretary

The term "Secretary" means the Secretary of the Interior.

(b) Certain gathering lines

(1) In general

Subject to paragraph (2), the issuance of a sundry notice or right-of-way for a gathering line and associated field compression or pumping unit that is located on Federal land or Indian land and that services any oil or gas well may be considered by the Secretary to be an action that is categorically excluded (as defined in section 1508.1 of title 40, Code of Federal Regulations (as in effect on November 15, 2021)) for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the gathering line and associated field compression or pumping unit—

(A) are within a field or unit for which an approved land use plan or an environmental document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzed transportation of oil, natural gas, or produced water from 1 or more oil or gas wells in the field or unit as a reasonably foreseeable activity;

(B) are located adjacent to or within—

(i) any existing disturbed area; or

(ii) an existing corridor for a right-of-way; and

(C) would reduce—

(i) in the case of a gathering line and associated field compression or pumping unit transporting methane, the total quantity of methane that would otherwise be vented, flared, or unintentionally emitted from the field or unit; or

(ii) in the case of a gathering line and associated field compression or pumping unit not transporting methane, the vehicular traffic that would otherwise service the field or unit.

(2) Applicability

Paragraph (1) shall apply to Indian land, or a portion of Indian land—

(A) to which the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies; and

(B) for which the Indian Tribe with jurisdiction over the Indian land submits to the Secretary a written request that paragraph (1) apply to that Indian land (or portion of Indian land).

(c) Effect on other law

Nothing in this section—

(1) affects or alters any requirement—

(A) relating to prior consent under—

(i) section 324 of title 25; or

(ii) section 5123(e) of title 25 (commonly known as the "Indian Reorganization Act" [1]);

(B) under section 306108 of title 54; or

(C) under any other Federal law (including regulations) relating to Tribal consent for rights-of-way across Indian land; or

(2) makes the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to land to which that Act otherwise would not apply.

(Pub. L. 117–58, div. A, title I, §11318, Nov. 15, 2021, 135 Stat. 543.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (b)(1), (2)(A) and (c)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

The Indian Reorganization Act, referred to in subsec. (c)(1)(A)(ii), is act June 18, 1934, ch. 576, 48 Stat.

984, which is classified generally to chapter 45 (§5101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of Title 25 and Tables.

CODIFICATION

Section was enacted as part of the Surface Transportation Reauthorization Act of 2021, and also as part of the Infrastructure Investment and Jobs Act, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective Oct. 1, 2021, see section 10003 of Pub. L. 117–58, set out as an Effective Date of 2021 Amendment note under section 101 of Title 23, Highways.

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

PART D—REFINERY REVITALIZATION

§15951. Findings and definitions

(a) Findings

Congress finds that—

(1) it serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks wherever located within the United States, to bring more supply to the markets for the use of the American people;

(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products;

(3) this excess demand has been met with increased imports;

(4) due to lack of capacity, refined petroleum product imports are expected to grow from 7.9 percent to 10.7 percent of total refined product by 2025;

(5) refiners are still subject to significant environmental and other regulations and face several new requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) over the next decade; and

(6) better coordination of Federal and State regulatory reviews may help facilitate siting and construction of new refineries to meet the demand in the United States for refined products.

(b) Definitions

In this part:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) State

The term "State" means—

(A) a State;

(B) the Commonwealth of Puerto Rico; and

(C) any other territory or possession of the United States.

(Pub. L. 109–58, title III, §391, Aug. 8, 2005, 119 Stat. 748.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(5), 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.

§15952. Federal-State regulatory coordination and assistance

(a) In general

At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Federal and State environmental permits for a new refinery.

(b) Authority under agreement

The Administrator shall be authorized to—

(1) accept from a refiner a consolidated application for all permits required from the Environmental Protection Agency, to the extent consistent with other applicable law;

(2) enter into memoranda of agreement with other Federal agencies to coordinate consideration of refinery applications and permits among Federal agencies; and

(3) enter into memoranda of agreement with a State, under which Federal and State review of refinery permit applications will be coordinated and concurrently considered, to the extent practicable.

(c) State assistance

The Administrator is authorized to provide financial assistance to State governments to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of refinery permits.

(d) Other assistance

The Administrator is authorized to provide technical, legal, or other assistance to State governments to facilitate their review of applications to build new refineries.

(Pub. L. 109–58, title III, §392, Aug. 8, 2005, 119 Stat. 749.)

SUBCHAPTER IV—COAL

PART A—CLEAN COAL POWER INITIATIVE

§15961. Authorization of appropriations

(a) Clean coal power initiative

There are authorized to be appropriated to the Secretary to carry out the activities authorized by this part $200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) Report

The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2007. The report shall include, with respect to subsection (a), a plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in Government Accountability Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(Pub. L. 109–58, title IV, §401, Aug. 8, 2005, 119 Stat. 749.)

§15962. Project criteria

(a) In general

To be eligible to receive assistance under this part, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of August 8, 2005.

(b) Technical criteria for clean coal power initiative

(1) Gasification projects

(A) In general

In allocating the funds made available under section 15961(a) of this title, the Secretary shall ensure that at least 70 percent of the funds are used only to fund projects on coal-based gasification technologies, including—

(i) gasification combined cycle;

(ii) gasification fuel cells and turbine combined cycle;

(iii) gasification coproduction;

(iv) hybrid gasification and combustion; and

(v) other advanced coal based technologies capable of producing a concentrated stream of carbon dioxide.

(B) Technical milestones

(i) Periodic determination

(I) In general

The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this part shall be designed, and reasonably expected, to achieve.

(II) Prescriptive milestones

The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 goals

The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I)(aa) to remove at least 99 percent of sulfur dioxide; or

(bb) to emit not more than 0.04 pound SO_2 per million Btu, based on a 30-day average;

(II) to emit not more than .05 lbs of NO_x per million Btu;

(III) to achieve at least 95 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 50 percent for coal of more than 9,000 Btu;

(bb) 48 percent for coal of 7,000 to 9,000 Btu; and

(cc) 46 percent for coal of less than 7,000 Btu.

(2) Other projects

(A) Allocation of funds

The Secretary shall ensure that up to 30 percent of the funds made available under section 15961(a) of this title are used to fund projects other than those described in paragraph (1).

(B) Technical milestones

(i) Periodic determination

(I) In general

The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

(II) Prescriptive milestones

The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 goals

The Secretary shall set the periodic milestones so as to achieve by the year 2020 projects able—

(I) to remove at least 97 percent of sulfur dioxide;

(II) to emit no more than .08 lbs of NO_x per million Btu;

(III) to achieve at least 90 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(3) Consultation

Before setting the technical milestones under paragraphs (1)(B) and (2)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal or advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers.

(4) Existing units

In the case of projects at units in existence on August 8, 2005, in lieu of the thermal efficiency requirements described in paragraphs (1)(B)(ii)(IV) and (2)(B)(ii)(IV), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) Administration

(A) Elevation of site

In evaluating project proposals to achieve thermal efficiency levels established under paragraphs (1)(B)(i) and (2)(B)(i) and in determining progress towards thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Secretary shall take into account and make adjustments for the elevation of the site at which a project is proposed to be constructed.

(B) Applicability of milestones

In applying the thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) to projects that separate and capture at least 50 percent of the potential emissions of carbon dioxide by a facility, the energy used for separation and capture of carbon dioxide shall not be counted in calculating the thermal efficiency.

(C) Permitted uses

In carrying out this section, the Secretary may give priority to projects that include, as part of the project—

(i) the separation or capture of carbon dioxide; or

(ii) the reduction of the demand for natural gas if deployed.

(c) Financial criteria

The Secretary shall not provide financial assistance under this part for a project unless the recipient documents to the satisfaction of the Secretary that—

(1) the recipient is financially responsible;

(2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) Financial assistance

The Secretary shall provide financial assistance to projects that, as determined by the Secretary—

(1) meet the requirements of subsections (a), (b), and (c); and

(2) are likely—

(A) to achieve overall cost reductions in the use of coal to generate useful forms of energy or chemical feedstocks;

(B) to improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(C) to demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of August 8, 2005.

(e) Cost-sharing

In carrying out this part, the Secretary shall require cost sharing in accordance with section 16352 of this title.

(f) Scheduled completion of selected projects

(1) In general

In selecting a project for financial assistance under this section, the Secretary shall establish a reasonable period of time during which the owner or operator of the project shall complete the construction or demonstration phase of the project, as the Secretary determines to be appropriate.

(2) Condition of financial assistance

The Secretary shall require as a condition of receipt of any financial assistance under this part that the recipient of the assistance enter into an agreement with the Secretary not to request an extension of the time period established for the project by the Secretary under paragraph (1).

(3) Extension of time period

(A) In general

Subject to subparagraph (B), the Secretary may extend the time period established under paragraph (1) if the Secretary determines, in the sole discretion of the Secretary, that the owner or operator of the project cannot complete the construction or demonstration phase of the project within the time period due to circumstances beyond the control of the owner or operator.

(B) Limitation

The Secretary shall not extend a time period under subparagraph (A) by more than 4 years.

(g) Fee title

The Secretary may vest fee title or other property interests acquired under cost-share clean coal power initiative agreements under this part in any entity, including the United States.

(h) Data protection

For a period not exceeding 5 years after completion of the operations phase of a cooperative agreement, the Secretary may provide appropriate protections (including exemptions from subchapter II of chapter 5 of title 5) against the dissemination of information that—

(1) results from demonstration activities carried out under the clean coal power initiative program; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a clean coal power initiative project.

(i) Applicability

No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be—

(1) adequately demonstrated for purposes of section 7411 of this title;

(2) achievable for purposes of section 7479 of this title; or

(3) achievable in practice for purposes of section 7501 of this title.

(Pub. L. 109–58, title IV, §402, Aug. 8, 2005, 119 Stat. 750; Pub. L. 110–140, title VI, §653, Dec. 19, 2007, 121 Stat. 1695.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (i), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

AMENDMENTS

2007—Subsec. (b)(1)(B)(ii)(I). Pub. L. 110–140 added subcl. (I) and struck out former subcl. (I) which read as follows: "to remove at least 99 percent of sulfur dioxide;".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§15963. Report

Not later than 1 year after August 8, 2005, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 15962 of this title and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 15962 of this title; and

(2) the status of projects funded under this part.

(Pub. L. 109–58, title IV, §403, Aug. 8, 2005, 119 Stat. 753.)

§15964. Clean coal centers of excellence

(a) In general

As part of the clean coal power initiative, the Secretary shall award competitive, merit-based grants to institutions of higher education for the establishment of centers of excellence for energy systems of the future.

(b) Basis for grants

The Secretary shall award grants under this section to institutions of higher education that show the greatest potential for advancing new clean coal technologies.

(Pub. L. 109–58, title IV, §404, Aug. 8, 2005, 119 Stat. 753.)

§15965. Time limit for award; extension

If a Clean Coal Power Initiative project selected after March 11, 2009, for negotiation under this or any other Act in any fiscal year, is not awarded within 2 years from the date the application was selected, negotiations shall cease and the Federal funds committed to the application shall be retained by the Department for future coal-related research, development and demonstration projects, except that the time limit may be extended at the Secretary's discretion for matters outside the control of the applicant, or if the Secretary determines that extension of the time limit is in the public interest.

(Pub. L. 111–8, div. C, title III, Mar. 11, 2009, 123 Stat. 616.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

PART B—CLEAN POWER PROJECTS

§15971. Integrated coal/renewable energy system

(a) In general

Subject to the availability of appropriations, the Secretary may provide loan guarantees for a project to produce energy from coal of less than 7,000 Btu/lb. using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that—

(1) is combined with wind and other renewable sources;

(2) minimizes and offers the potential to sequester carbon dioxide emissions; and

(3) provides a ready source of hydrogen for near-site fuel cell demonstrations.

(b) Requirements

The facility—

(1) may be built in stages;

(2) shall have a combined output of at least 200 megawatts at successively more competitive rates; and

(3) shall be located in the Upper Great Plains.

(c) Technical criteria

Technical criteria described in section 15962(b) of this title shall apply to the facility.

(d) Investment tax credits

(1) In general

The loan guarantees provided under this section do not preclude the facility from receiving an allocation for investment tax credits under section 48A of title 26.

(2) Other funding

Use of the investment tax credit described in paragraph (1) does not prohibit the use of other clean coal program funding.

(Pub. L. 109–58, title IV, §411, Aug. 8, 2005, 119 Stat. 754.)

§15972. Loan to place Alaska clean coal technology facility in service

(a) Definitions

In this section:

(1) Borrower

The term "borrower" means the owner of the clean coal technology plant.

(2) Clean coal technology plant

The term "clean coal technology plant" means the plant located near Healy, Alaska, constructed under Department cooperative agreement number DE–FC–22–91PC90544.

(3) Cost of a direct loan

The term "cost of a direct loan" has the meaning given the term in section 661a(5)(B) of title 2.

(b) Authorization

Subject to subsection (c), the Secretary shall use amounts made available under subsection (e) to provide the cost of a direct loan to the borrower for purposes of placing the clean coal technology plant into reliable operation for the generation of electricity.

(c) Requirements

(1) Maximum loan amount

The amount of the direct loan provided under subsection (b) shall not exceed $80,000,000.

(2) Determinations by Secretary

Before providing the direct loan to the borrower under subsection (b), the Secretary shall determine that—

(A) the plan of the borrower for placing the clean coal technology plant in reliable operation has a reasonable prospect of success;

(B) the amount of the loan (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project; and

(C) there is a reasonable prospect that the borrower will repay the principal and interest on the loan.

(3) Interest; term

The direct loan provided under subsection (b) shall bear interest at a rate and for a term that the Secretary determines appropriate, after consultation with the Secretary of the Treasury, taking into account the needs and capacities of the borrower and the prevailing rate of interest for similar loans made by public and private lenders.

(4) Additional terms and conditions

The Secretary may require any other terms and conditions that the Secretary determines to be

appropriate.

(d) Use of payments

The Secretary shall retain any payments of principal and interest on the direct loan provided under subsection (b) to support energy research and development activities, to remain available until expended, subject to any other conditions in an applicable appropriations Act.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to provide the cost of a direct loan under subsection (b).

(Pub. L. 109–58, title IV, §412, Aug. 8, 2005, 119 Stat. 754.)

§15973. Western integrated coal gasification demonstration project

(a) In general

Subject to the availability of appropriations, the Secretary shall carry out a project to demonstrate production of energy from coal mined in the western United States using integrated gasification combined cycle technology (referred to in this section as the "demonstration project").

(b) Components

The demonstration project—

(1) may include repowering of existing facilities;

(2) shall be designed to demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb.; and

(3) shall be capable of removing and sequestering carbon dioxide emissions.

(c) All types of western coals

Notwithstanding the foregoing, and to the extent economically feasible, the demonstration project shall also be designed to demonstrate the ability to use a variety of types of coal (including subbituminous and bituminous coal with an energy content of up to 13,000 Btu/lb.) mined in the western United States.

(d) Location

The demonstration project shall be located in a western State at an altitude of greater than 4,000 feet above sea level.

(e) Cost sharing

The Federal share of the cost of the demonstration project shall be determined in accordance with section 16352 of this title.

(f) Loan guarantees

Notwithstanding subchapter XIII, the demonstration project shall not be eligible for Federal loan guarantees.

(Pub. L. 109–58, title IV, §413, Aug. 8, 2005, 119 Stat. 755.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subchapter XIII, referred to in subsec. (f), was in the original "title XIV", meaning title XIV of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 1061, which enacted subchapter XIII of this chapter and section 13557 of this title. For complete classification of title XIV to the Code, see Tables.

§15974. Coal gasification

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

(Pub. L. 109–58, title IV, §414, Aug. 8, 2005, 119 Stat. 755.)

§15975. Petroleum coke gasification

The Secretary is authorized to provide loan guarantees for at least 5 petroleum coke gasification projects.

(Pub. L. 109–58, title IV, §415, Aug. 8, 2005, 119 Stat. 756.)

§15976. Electron scrubbing demonstration

The Secretary shall use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

(Pub. L. 109–58, title IV, §416, Aug. 8, 2005, 119 Stat. 756.)

§15977. Department of Energy transportation fuels from Illinois basin coal

(a) In general

The Secretary shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of Fischer-Tropsch transportation fuels, and other transportation fuels, manufactured from Illinois basin coal, including the capital modification of existing facilities and the construction of testing facilities under subsection (b).

(b) Facilities

For the purpose of evaluating the commercial and technical viability of different processes for producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal, the Secretary shall support the use and capital modification of existing facilities and the construction of new facilities at—

(1) Southern Illinois University Coal Research Center;
(2) University of Kentucky Center for Applied Energy Research; and
(3) Energy Center at Purdue University.

(c) Gasification products test center

In conjunction with the activities described in subsections (a) and (b), the Secretary shall construct a test center to evaluate and confirm liquid and gas products from syngas catalysis in order that the system has an output of at least 500 gallons of Fischer-Tropsch transportation fuel per day in a 24-hour operation.

(d) Milestones

(1) Selection of processes

Not later than 180 days after August 8, 2005, the Secretary shall select processes for evaluating the commercial and technical viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(2) Agreements

Not later than 1 year after August 8, 2005, the Secretary shall offer to enter into agreements—

(A) to carry out the activities described in this section, at the facilities described in subsection (b); and

(B) for the capital modifications or construction of the facilities at the locations described in subsection (b).

(3) Evaluations

Not later than 3 years after August 8, 2005, the Secretary shall begin, at the facilities described in subsection (b), evaluation of the technical and commercial viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(4) Construction of facilities

(A) In general

The Secretary shall construct the facilities described in subsection (b) at the lowest cost practicable.

(B) Grants or agreements

The Secretary may make grants or enter into agreements or contracts with the institutions of higher education described in subsection (b).

(e) Cost sharing

The cost of making grants under this section shall be shared in accordance with section 16352 of this title.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section $85,000,000 for the period of fiscal years 2006 through 2010.

(Pub. L. 109–58, title IV, §417, Aug. 8, 2005, 119 Stat. 756.)

PART C—FEDERAL COAL LEASES

§15991. Inventory requirement

(a) Review of assessments

(1) In general

The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary, shall review coal assessments and other available data to identify—

(A) Federal lands with coal resources that are available for development;

(B) the extent and nature of any restrictions on the development of coal resources on Federal lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) Definitions

For purposes of this subsection—

(A) the term "compliant coal" means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term "supercompliant coal" means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) Completion and updating of the inventory

The Secretary—

(1) shall complete the inventory under subsection (a) by not later than 2 years after August 8, 2005; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) Report

The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

(Pub. L. 109–58, title IV, §437, Aug. 8, 2005, 119 Stat. 762.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (c)(1), probably means the date of enactment of Pub. L. 109–58, which enacted this section.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SHORT TITLE

For short title of subtitle D of title IV of Pub. L. 109–58, which enacted this part, as the "Coal Leasing Amendments Act of 2005", see section 431 of Pub. L. 109–58, set out as a note under section 15801 of this title.

SUBCHAPTER V—INDIAN ENERGY

§16001. Energy efficiency in federally assisted housing

The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(Pub. L. 109–58, title V, §506(a), Aug. 8, 2005, 119 Stat. 779.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of title V of Pub. L. 109–58, which enacted this subchapter, as the "Indian Tribal Energy Development and Self-Determination Act of 2005", see section 501 of Pub. L. 109–58, set out as a note under section 15801 of this title.

SUBCHAPTER VI—NUCLEAR MATTERS

PART A—GENERAL NUCLEAR MATTERS

§16011. Demonstration hydrogen production at existing nuclear power plants

(a) Demonstration projects

The Secretary shall provide for the establishment of 2 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial production of hydrogen at existing nuclear power plants.

(b) Economic analysis

Prior to making an award under subsection (a), the Secretary shall determine whether the use of existing nuclear power plants is a cost-effective means of producing hydrogen.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary for the purposes of carrying out this section not more than $100,000,000.

(Pub. L. 109–58, title VI, §634, Aug. 8, 2005, 119 Stat. 790.)

§16012. Prohibition on assumption by United States Government of liability for certain foreign incidents

(a) In general

Notwithstanding any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear incidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 2371(a) of title 22, section 4605(j)(1) [1] of title 50, or section 2780(d) of title 22 to have repeatedly provided support for acts of international terrorism). This section shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear materials for nuclear safety or nonproliferation purposes.

(b) Definitions

The terms used in this section shall have the same meaning as those terms have under section 2014 of this title, unless otherwise expressly provided in this section.

(Pub. L. 109–58, title VI, §635, Aug. 8, 2005, 119 Stat. 790.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4605(j)(1) of title 50, referred to in subsec. (a), was repealed by Pub. L. 115–232, div. A, title XVII, §1766(a), Aug. 13, 2018, 132 Stat. 2232.

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

§16013. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

(Pub. L. 109–58, title VI, §636, Aug. 8, 2005, 119 Stat. 791.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle B (§§621–639) of title VI of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 782, which enacted this part and sections 2015b, 2210c, and 5853 of this title, amended sections 2133, 2135, 2158, 2160d, 2201, 2210a, 2214, 2297h–8, and 5851 of this title, repealed section 2213 of this title, and enacted provisions set out as notes under sections 2158 and 2214 of this title. For complete classification of this subtitle to the Code, see Tables.

§16014. Standby support for certain nuclear plant delays

(a) Definitions

In this section:

(1) Advanced nuclear facility

The term "advanced nuclear facility" means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Commission (and such design or a substantially similar design of comparable capacity was not approved on or before that date).

(2) Combined license

The term "combined license" means a combined construction and operating license for an advanced nuclear facility issued by the Commission.

(3) Commission

The term "Commission" means the Nuclear Regulatory Commission.

(4) Sponsor

The term "sponsor" means a person who has applied for or been granted a combined license.

(b) Contract authority

(1) In general

The Secretary may enter into contracts under this section with sponsors of an advanced nuclear facility that cover a total of 6 reactors, with the 6 reactors consisting of not more than 3 different reactor designs, in accordance with paragraph (2).

(2) Requirement for contracts

(A) Definition of loan cost

In this paragraph, the term "loan cost" has the meaning given the term "cost of a loan guarantee" under section 661a(5)(C) of title 2.

(B) Establishment of accounts

There is established in the Department 2 separate accounts, which shall be known as the—

(i) "Standby Support Program Account"; and

(ii) "Standby Support Grant Account".

(C) Requirement

The Secretary shall not enter into a contract under this section unless the Secretary deposits—

(i) in the Standby Support Program Account established under subparagraph (B), funds appropriated to the Secretary in advance of the contract or a combination of appropriated funds and loan guarantee fees that are in an amount sufficient to cover the loan costs described in subsection (d)(5)(A); and

(ii) in the Standby Support Grant Account established under subparagraph (B), funds appropriated to the Secretary in advance of the contract, paid to the Secretary by the sponsor of the advanced nuclear facility, or a combination of appropriations and payments that are in an amount sufficient [1] cover the costs described in subparagraphs (B), (C), and (D) of subsection (d)(5).

(c) Covered delays

(1) Inclusions

Under each contract authorized by this section, the Secretary shall pay the costs specified in subsection (d), using funds appropriated or collected for the covered costs, if full power operation of the advanced nuclear facility is delayed by—

(A) the failure of the Commission to comply with schedules for review and approval of inspections, tests, analyses, and acceptance criteria established under the combined license or the conduct of preoperational hearings by the Commission for the advanced nuclear facility; or

(B) litigation that delays the commencement of full-power operations of the advanced nuclear facility.

(2) Exclusions

The Secretary may not enter into any contract under this section that would obligate the Secretary to pay any costs resulting from—

(A) the failure of the sponsor to take any action required by law or regulation;

(B) events within the control of the sponsor; or

(C) normal business risks.

(d) Covered costs

(1) In general

Subject to paragraphs (2), (3), and (4), the costs that shall be paid by the Secretary pursuant to a contract entered into under this section are the costs that result from a delay covered by the contract.

(2) Initial 2 reactors

In the case of the first 2 reactors that receive combined licenses and on which construction is commenced, the Secretary shall pay—

(A) 100 percent of the covered costs of delay; but

(B) not more than $500,000,000 per contract.

(3) Subsequent 4 reactors

In the case of the next 4 reactors that receive a combined license and on which construction is commenced, the Secretary shall pay—

(A) 50 percent of the covered costs of delay that occur after the initial 180-day period of covered delay; but

(B) not more than $250,000,000 per contract.

(4) Conditions on payment of certain covered costs

(A) In general

The obligation of the Secretary to pay the covered costs described in subparagraph (B) of paragraph (5) is subject to the Secretary receiving from appropriations or payments from other non-Federal sources amounts sufficient to pay the covered costs.

(B) Non-Federal sources

The Secretary may receive and accept payments from any non-Federal source, which shall be made available without further appropriation for the payment of the covered costs.

(5) Types of covered costs

Subject to paragraphs (2), (3), and (4), the contract entered into under this section for an advanced nuclear facility shall include as covered costs those costs that result from a delay during construction and in gaining approval for fuel loading and full-power operation, including—

(A) principal or interest on any debt obligation of an advanced nuclear facility owned by a non-Federal entity; and

(B) the incremental difference between—

(i) the fair market price of power purchased to meet the contractual supply agreements that would have been met by the advanced nuclear facility but for the delay; and

(ii) the contractual price of power from the advanced nuclear facility subject to the delay.

(e) Requirements

Any contract between a sponsor and the Secretary covering an advanced nuclear facility under this section shall require the sponsor to use due diligence to shorten, and to end, the delay covered by the contract.

(f) Reports

For each advanced nuclear facility that is covered by a contract under this section, the Commission shall submit to Congress and the Secretary quarterly reports summarizing the status of licensing actions associated with the advanced nuclear facility.

(g) Regulations

(1) In general

Subject to paragraphs (2) and (3), the Secretary shall issue such regulations as are necessary to carry out this section.

(2) Interim final rulemaking

Not later than 270 days after August 8, 2005, the Secretary shall issue for public comment an interim final rule regulating contracts authorized by this section.

(3) Notice of final rulemaking

Not later than 1 year after August 8, 2005, the Secretary shall issue a notice of final rulemaking regulating the contracts.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 109–58, title VI, §638, Aug. 8, 2005, 119 Stat. 791.)

[1] *So in original. Probably should be followed by "to".*

PART B—NEXT GENERATION NUCLEAR PLANT PROJECT

§16021. Project establishment

(a) Establishment

The Secretary shall establish a project to be known as the "Next Generation Nuclear Plant Project" (referred to in this part as the "Project").

(b) Content

The Project shall consist of the research, development, design, construction, and operation of a

prototype plant, including a nuclear reactor that—

(1) is based on research and development activities supported by the Generation IV Nuclear Energy Systems Initiative under section 16272(c) [1] of this title; and

(2) shall be used—

(A) to generate electricity;

(B) to produce hydrogen; or

(C) both to generate electricity and to produce hydrogen.

(Pub. L. 109–58, title VI, §641, Aug. 8, 2005, 119 Stat. 794; Pub. L. 115–248, §2(b)(2), Sept. 28, 2018, 132 Stat. 3155.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 16272 of this title, referred to in subsec. (b)(1), was amended generally by Pub. L. 116–260, div. Z, title II, §2003(a), Dec. 27, 2020, 134 Stat. 2459 and, as amended, section 16272(c) of this title no longer refers to the Generation IV Nuclear Energy Systems Initiative.

AMENDMENTS

2018—Pub. L. 115–248 substituted "section 16272(c)" for "section 16272(d)", which had been an editorial translation of a reference in original text to section 942(d) of Pub. L. 109–58.

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

§16022. Project management

(a) Departmental management

(1) In general

The Project shall be managed in the Department by the Office of Nuclear Energy, Science, and Technology.

(2) Generation IV Nuclear Energy Systems program

The Secretary may combine the Project with the Generation IV Nuclear Energy Systems Initiative.

(3) Existing DOE project management expertise

The Secretary may utilize capabilities for review of construction projects for advanced scientific facilities within the Office of Science to track the progress of the Project.

(b) Laboratory management

(1) Lead Laboratory

The Idaho National Laboratory shall be the lead National Laboratory for the Project and shall collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international researchers to carry out the Project.

(2) Industrial partnerships

(A) In general

The Idaho National Laboratory shall organize a consortium of appropriate industrial partners that will carry out cost-shared research, development, design, and construction activities, and operate research facilities, on behalf of the Project.

(B) Cost-sharing

Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 16352 of this title.

(C) Preference

Preference in determining the final structure of the consortium or any partnerships under this part shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(3) Prototype plant siting

The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

(4) Reactor test capabilities

The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

(5) Other Laboratory capabilities

The Project may use, if appropriate, facilities at other National Laboratories.

(Pub. L. 109–58, title VI, §642, Aug. 8, 2005, 119 Stat. 795.)

§16023. Project organization

(a) Major project elements

The Project shall consist of the following major program elements:

(1) High-temperature hydrogen production technology development and validation.
(2) Energy conversion technology development and validation.
(3) Nuclear fuel development, characterization, and qualification.
(4) Materials selection, development, testing, and qualification.
(5) Reactor and balance-of-plant design, engineering, safety analysis, and qualification.

(b) Project phases

The Project shall be conducted in the following phases:

(1) First project phase

A first project phase shall be conducted to—

(A) select and validate the appropriate technology under subsection (a)(1);

(B) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (2) through (4) of subsection (a);

(C) determine whether it is appropriate to combine electricity generation and hydrogen production in a single prototype nuclear reactor and plant; and

(D) carry out initial design activities for a prototype nuclear reactor and plant, including development of design methods and safety analytical methods and studies under subsection (a)(5).

(2) Second project phase

A second project phase shall be conducted to—

(A) continue appropriate activities under paragraphs (1) through (5) of subsection (a);

(B) develop, through a competitive process, a final design for the prototype nuclear reactor and plant;

(C) apply for licenses to construct and operate the prototype nuclear reactor from the Nuclear Regulatory Commission; and

(D) construct and start up operations of the prototype nuclear reactor and its associated hydrogen or electricity production facilities.

(c) Project requirements

(1) In general

The Secretary shall ensure that the Project is structured so as to maximize the technical interchange and transfer of technologies and ideas into the Project from other sources of relevant expertise, including—

(A) the nuclear power industry, including nuclear powerplant construction firms, particularly with respect to issues associated with plant design, construction, and operational and safety issues;

(B) the chemical processing industry, particularly with respect to issues relating to—

(i) the use of process energy for production of hydrogen; and

(ii) the integration of technologies developed by the Project into chemical processing environments; and

(C) international efforts in areas related to the Project, particularly with respect to hydrogen production technologies.

(2) International collaboration

(A) In general

The Secretary shall seek international cooperation, participation, and financial contributions for the Project.

(B) Assistance from international partners

The Secretary, through the Idaho National Laboratory, may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners if the specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(C) Partner nations

The Project may involve demonstration of selected project objectives in a partner country.

(D) Generation IV International Forum

The Secretary shall ensure that international activities of the Project are coordinated with the Generation IV International Forum.

(3) Review by Nuclear Energy Research Advisory Committee

(A) In general

The Nuclear Energy Research Advisory Committee of the Department (referred to in this paragraph as the "NERAC") shall—

(i) review all program plans for the Project and all progress under the Project on an ongoing basis; and

(ii) ensure that important scientific, technical, safety, and program management issues receive attention in the Project and by the Secretary.

(B) Additional expertise

The NERAC shall supplement the expertise of the NERAC or appoint subpanels to incorporate into the review by the NERAC the relevant sources of expertise described under paragraph (1).

(C) Initial review

Not later than 180 days after August 8, 2005, the NERAC shall—

(i) review existing program plans for the Project in light of the recommendations of the document entitled "Design Features and Technology Uncertainties for the Next Generation Nuclear Plant," dated June 30, 2004; and

(ii) address any recommendations of the document not incorporated in program plans for the Project.

(D) First project phase review

On a determination by the Secretary that the appropriate activities under the first project

phase under subsection (b)(1) are nearly complete, the Secretary shall request the NERAC to conduct a comprehensive review of the Project and to report to the Secretary the recommendation of the NERAC concerning whether the Project is ready to proceed to the second project phase under subsection (b)(2).

(E) Transmittal of reports to Congress

Not later than 60 days after receiving any report from the NERAC related to the Project, the Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a copy of the report, along with any additional views of the Secretary that the Secretary may consider appropriate.

(Pub. L. 109–58, title VI, §643, Aug. 8, 2005, 119 Stat. 795.)

§16024. Nuclear Regulatory Commission

(a) In general

In accordance with section 5842 of this title, the Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this part.

(b) Licensing strategy

Not later than 3 years after August 8, 2005, the Secretary and the Chairman of the Nuclear Regulatory Commission shall jointly submit to the appropriate committees of the Senate and the House of Representatives a licensing strategy for the prototype nuclear reactor, including—

(1) a description of ways in which current licensing requirements relating to light-water reactors need to be adapted for the types of prototype nuclear reactor being considered by the Project;

(2) a description of analytical tools that the Nuclear Regulatory Commission will have to develop to independently verify designs and performance characteristics of components, equipment, systems, or structures associated with the prototype nuclear reactor;

(3) other research or development activities that may be required on the part of the Nuclear Regulatory Commission in order to review a license application for the prototype nuclear reactor; and

(4) an estimate of the budgetary requirements associated with the licensing strategy.

(c) Ongoing interaction

The Secretary shall seek the active participation of the Nuclear Regulatory Commission throughout the duration of the Project to—

(1) avoid design decisions that will compromise adequate safety margins in the design of the reactor or impair the accessibility of nuclear safety-related components of the prototype reactor for inspection and maintenance;

(2) develop tools to facilitate inspection and maintenance needed for safety purposes; and

(3) develop risk-based criteria for any future commercial development of a similar reactor architectures.

(Pub. L. 109–58, title VI, §644, Aug. 8, 2005, 119 Stat. 797.)

§16025. Project timelines and authorization of appropriations

(a) Target date to complete the first project phase

Not later than September 30, 2011, the Secretary shall—

(1) select the technology to be used by the Project for high-temperature hydrogen production and the initial design parameters for the prototype nuclear plant; or

(2) submit to Congress a report establishing an alternative date for making the selection.

(b) Design competition for second project phase

(1) In general

The Secretary, acting through the Idaho National Laboratory, shall fund not more than 4 teams for not more than 2 years to develop detailed proposals for competitive evaluation and selection of a single proposal for a final design of the prototype nuclear reactor.

(2) Systems integration

The Secretary may structure Project activities in the second project phase to use the lead industrial partner of the competitively selected design under paragraph (1) in a systems integration role for final design and construction of the Project.

(c) Target date to complete project construction

Not later than September 30, 2021, the Secretary shall—

(1) complete construction and begin operations of the prototype nuclear reactor and associated energy or hydrogen facilities; or

(2) submit to Congress a report establishing an alternative date for completion.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary for research and construction activities under this part (including for transfer to the Nuclear Regulatory Commission for activities under section 16024 of this title as appropriate)—

(1) $1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.

(Pub. L. 109–58, title VI, §645, Aug. 8, 2005, 119 Stat. 798.)

PART C—NUCLEAR SECURITY

§16041. Nuclear facility and materials security

(a) In general

(1), (2) Omitted

(3) Federal security coordinators

(A) Regional offices

Not later than 18 months after August 8, 2005, the Nuclear Regulatory Commission (referred to in this section as the "Commission") shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

(B) Responsibilities

The Federal security coordinator shall be responsible for—

(i) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against such classes of facilities as the Commission determines to be appropriate;

(ii) monitoring such classes of facilities as the Commission determines to be appropriate to ensure that they maintain security consistent with the security plan in accordance with the appropriate threat level; and

(iii) assisting in the coordination of security measures among the private security forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(b) Backup power for certain emergency notification systems

For any licensed nuclear power plants located where there is a permanent population, as determined by the 2000 decennial census, in excess of 15,000,000 within a 50-mile radius of the

power plant, not later than 18 months after August 8, 2005, the Commission shall require that backup power to be available for the emergency notification system of the power plant, including the emergency siren warning system, if the alternating current supply within the 10-mile emergency planning zone of the power plant is lost.

(c), (d) Omitted

(e) Final regulations; waivers

(1) to (3) Omitted

(4) Final regulations

(A) Regulations

(i) In general

Not later than 18 months after August 8, 2005, the Commission, after consultation with States and other stakeholders, shall issue final regulations establishing such requirements as the Commission determines to be necessary to carry out this section and the amendments made by this section.

(ii) Inclusions

The regulations shall include a definition of the term "discrete source" for purposes of paragraphs (3) and (4) of section 2014(e) of this title.

(B) Cooperation

In promulgating regulations under paragraph (1),[1] the Commission shall, to the maximum extent practicable—

(i) cooperate with States; and

(ii) use model State standards in existence on August 8, 2005.

(C) Transition plan

(i) Definition of byproduct material

In this paragraph, the term "byproduct material" has the meaning given the term in paragraphs (3) and (4) of section 2014(e) of this title.

(ii) Preparation and publication

To facilitate an orderly transition of regulatory authority with respect to byproduct material, the Commission, in issuing regulations under subparagraph (A), shall prepare and publish a transition plan for—

(I) States that have not, before the date on which the plan is published, entered into an agreement with the Commission under section 2021(b) of this title; and

(II) States that have entered into an agreement with the Commission under that section before the date on which the plan is published.

(iii) Inclusions

The transition plan under clause (ii) shall include—

(I) a description of the conditions under which a State may exercise authority over byproduct material; and

(II) a statement of the Commission that any agreement covering byproduct material, as defined in paragraph (1) or (2) of section 2014(e) of this title, entered into between the Commission and a State under section 2021(b) of this title before the date of publication of the transition plan shall be considered to include byproduct material, as defined in paragraph (3) or (4) of section 2014(e) of this title, if the Governor of the State certifies to the Commission on the date of publication of the transition plan that—

(aa) the State has a program for licensing byproduct material, as defined in paragraph (3) or (4) of section 2014(e) of this title, that is adequate to protect the public health and safety, as determined by the Commission; and

(bb) the State intends to continue to implement the regulatory responsibility of the State with respect to the byproduct material.

(D) Availability of radiopharmaceuticals

In promulgating regulations under subparagraph (A), the Commission shall consider the impact on the availability of radiopharmaceuticals to—

(i) physicians; and

(ii) patients the medical treatment of which relies on radiopharmaceuticals.

(5) Waivers

(A) In general

Except as provided in subparagraph (B), the Commission may grant a waiver to any entity of any requirement under this section or an amendment made by this section with respect to a matter relating to byproduct material (as defined in paragraphs (3) and (4) of section 2014(e) of this title) if the Commission determines that the waiver is in accordance with the protection of the public health and safety and the promotion of the common defense and security.

(B) Exceptions

(i) In general

The Commission may not grant a waiver under subparagraph (A) with respect to—

(I) any requirement under the amendments made by subsection (c)(1);

(II) a matter relating to an importation into, or exportation from, the United States for a period ending after the date that is 1 year after August 8, 2005; or

(III) any other matter for a period ending after the date that is 4 years after August 8, 2005.

(ii) Waivers to States

The Commission shall terminate any waiver granted to a State under subparagraph (A) if the Commission determines that—

(I) the State has entered into an agreement with the Commission under section 2021(b) of this title;

(II) the agreement described in subclause (I) covers byproduct material (as described in paragraph (3) or (4) of section 2014(e) of this title); and

(III) the program of the State for licensing such byproduct material is adequate to protect the public health and safety.

(C) Publication

The Commission shall publish in the Federal Register a notice of any waiver granted under this subsection.

(Pub. L. 109–58, title VI, §651, Aug. 8, 2005, 119 Stat. 799.)

EDITORIAL NOTES

REFERENCES IN TEXT

For references to "the amendments made by this section", "an amendment made by this section", and "the amendments made by subsection (c)(1)", appearing in subsecs. (e)(4)(A)(i), (e)(5)(A), and (e)(5)(B)(i)(I), respectively, see Codification note below.

CODIFICATION

Section is comprised of section 651 of Pub. L. 109–58. Subsec. (a)(1), (2) of section 651 of Pub. L. 109–58 enacted sections 2210d and 2210e of this title, subsec. (c)(1) of section 651 of Pub. L. 109–58 amended section 2051 of this title, subsecs. (c)(2) to (5) and (d) of section 651 of Pub. L. 109–58 enacted sections 2210f to 2210h and 2015c of this title, and subsec. (e)(1) to (3) of section 651 of Pub. L. 109–58 amended sections 2014, 2021, 2021b, and 2111 of this title.

[1] *So in original. Probably should be "subparagraph (A),".*

§16042. Department of Homeland Security consultation

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

(Pub. L. 109–58, title VI, §657, Aug. 8, 2005, 119 Stat. 814.)

SUBCHAPTER VII—VEHICLES AND FUELS

PART A—EXISTING PROGRAMS

§16051. Joint flexible fuel/hybrid vehicle commercialization initiative

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a for-profit corporation;

(B) a nonprofit corporation; or

(C) an institution of higher education.

(2) Program

The term "program" means a program established under subsection (b).

(b) Establishment

The Secretary shall establish a program to improve technologies for the commercialization of—

(1) a combination hybrid/flexible fuel vehicle; or

(2) a plug-in hybrid/flexible fuel vehicle.

(c) Grants

In carrying out the program, the Secretary shall provide grants that give preference to proposals that—

(1) achieve the greatest reduction in miles per gallon of petroleum fuel consumption;

(2) achieve not less than 250 miles per gallon of petroleum fuel consumption; and

(3) have the greatest potential of commercialization to the general public within 5 years.

(d) Verification

Not later than 90 days after August 8, 2005, the Secretary shall publish in the Federal Register procedures to verify—

(1) the hybrid/flexible fuel vehicle technologies to be demonstrated; and

(2) that grants are administered in accordance with this section.

(e) Report

Not later than 260 days after August 8, 2005, and annually thereafter, the Secretary shall submit to Congress a report that—

(1) identifies the grant recipients;

(2) describes the technologies to be funded under the program;

(3) assesses the feasibility of the technologies described in paragraph (2) in meeting the goals described in subsection (c);

(4) identifies applications submitted for the program that were not funded; and

(5) makes recommendations for Federal legislation to achieve commercialization of the technology demonstrated.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) $3,000,000 for fiscal year 2006;

(2) $7,000,000 for fiscal year 2007;

(3) $10,000,000 for fiscal year 2008; and

(4) $20,000,000 for fiscal year 2009.

(Pub. L. 109–58, title VII, §706, Aug. 8, 2005, 119 Stat. 817.)

PART B—HYBRID VEHICLES, ADVANCED VEHICLES, AND FUEL CELL BUSES

SUBPART 1—HYBRID VEHICLES

§16061. Hybrid vehicles

The Secretary shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

(Pub. L. 109–58, title VII, §711, Aug. 8, 2005, 119 Stat. 818.)

§16062. Domestic manufacturing conversion grant program

(a) Program

(1) In general

The Secretary shall establish a program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles and components of those vehicles.

(2) Inclusions

The program shall include grants and loan guarantees under section 16513 of this title to automobile manufacturers and suppliers and hybrid component manufacturers to encourage domestic production of efficient hybrid, plug-in electric hybrid, plug-in electric drive, and advanced diesel vehicles.

(3) Priority

Priority shall be given to the refurbishment or retooling of manufacturing facilities that have recently ceased operation or will cease operation in the near future.

(b) Coordination with State and local programs

The Secretary may coordinate implementation of this section with State and local programs designed to accomplish similar goals, including the retention and retraining of skilled workers from

the manufacturing facilities, including by establishing matching grant arrangements.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(Pub. L. 109–58, title VII, §712, Aug. 8, 2005, 119 Stat. 818; Pub. L. 110–140, title I, §§132, 134(a), Dec. 19, 2007, 121 Stat. 1511, 1513.)

EDITORIAL NOTES

AMENDMENTS

2007—Pub. L. 110–140, §132, amended section generally. Prior to amendment, section related to program to encourage domestic production and sales of efficient hybrid and advanced diesel vehicles and authorization of appropriations.

Subsec. (a)(2). Pub. L. 110–140, §134(a), inserted "and loan guarantees under section 16513 of this title" after "grants".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

SUBPART 2—ADVANCED VEHICLES

§16071. Pilot program

(a) Establishment

The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program (referred to in this subpart as the "pilot program"), to be administered through the Clean Cities Program of the Department, to provide not more than 30 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) Grant purposes

A grant under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighborhood electric vehicles); and

(B) motorized 2-wheel bicycles or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other

support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) Applications

(1) Requirements

(A) In general

The Secretary shall issue requirements for applying for grants under the pilot program.

(B) Minimum requirements

At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department; and

(ii) include—

(I) a description of the project proposed in the application, including how the project meets the requirements of this subpart;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this subpart; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) Partners

An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(d) Selection criteria

In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant's previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subpart is completed; and

(C) exceed the minimum requirements of subsection (c)(1)(B)(ii).

(e) Pilot project requirements

(1) Maximum amount

The Secretary shall not provide more than $15,000,000 in Federal assistance under the pilot program to any applicant.

(2) Cost sharing

The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) Maximum period of grants

The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) Deployment and distribution

The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(5) Transfer of information and knowledge

The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) Schedule

(1) Publication

Not later than 90 days after August 8, 2005, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) Selection

Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.

(g) Definitions

For purposes of carrying out the pilot program, the Secretary shall issue regulations defining any term, as the Secretary determines to be necessary.

(Pub. L. 109–58, title VII, §721, Aug. 8, 2005, 119 Stat. 818.)

§16072. Reports to Congress

(a) Initial report

Not later than 60 days after the date on which grants are awarded under this subpart, the Secretary shall submit to Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) Evaluation

Not later than 3 years after August 8, 2005, and annually thereafter until the pilot program ends, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including—

(1) an assessment of the benefits to the environment derived from the projects included in the pilot program; and

(2) an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

(Pub. L. 109–58, title VII, §722, Aug. 8, 2005, 119 Stat. 820.)

§16073. Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this subpart $200,000,000, to remain available until expended.

(Pub. L. 109–58, title VII, §723, Aug. 8, 2005, 119 Stat. 821.)

SUBPART 3—FUEL CELL BUSES

§16081. Fuel cell transit bus demonstration

(a) In general

The Secretary, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(b) Preference

In selecting projects under this section, the Secretary shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title VII, §731, Aug. 8, 2005, 119 Stat. 821.)

PART C—CLEAN SCHOOL BUSES

§16091. Clean school bus program

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Alternative fuel

The term "alternative fuel" means liquefied natural gas, compressed natural gas, hydrogen, propane, or biofuels.

(3) Clean school bus

The term "clean school bus" means a school bus that—

(A) the Administrator certifies reduces emissions and is operated entirely or in part using an alternative fuel; or

(B) is a zero-emission school bus.

(4) Eligible contractor

The term "eligible contractor" means a contractor that is a for-profit, not-for-profit, or nonprofit entity that has the capacity—

(A) to sell clean school buses, zero-emission school buses, charging or fueling infrastructure, or other equipment needed to charge, fuel, or maintain clean school buses or zero-emission school buses, to individuals or entities that own a school bus or a fleet of school buses; or

(B) to arrange financing for such a sale.

(5) Eligible recipient

(A) In general

Subject to subparagraph (B), the term "eligible recipient" means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) an eligible contractor;

(iii) a nonprofit school transportation association; or

(iv) an Indian Tribe (as defined in section 5304 of title 25), Tribal organization (as defined in that section), or tribally controlled school (as defined in section 2511 of title 25) that is responsible for—

(I) providing school bus service to 1 or more Bureau-funded schools (as defined in section 2021 of title 25); or

(II) the purchase of school buses.

(B) Special requirements

In the case of eligible recipients identified under clauses (ii) and (iii) of subparagraph (A), the Administrator shall establish timely and appropriate requirements for notice and shall establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased using award funds made available under this section.

(6) High-need local educational agency

The term "high-need local educational agency" means a local educational agency (as defined in section 7801 of title 20) that is among the local educational agencies in the applicable State with high percentages of children counted under section 6333(c) of title 20, on the basis of the most recent satisfactory data available, as determined by the Secretary of Education (or, for a local educational agency for which no such data is available, such other data as the Secretary of Education determines to be satisfactory).

(7) School bus

The term "school bus" has the meaning given the term "schoolbus" in section 30125(a) of title 49.

(8) Zero-emission school bus

The term "zero-emission school bus" means a school bus that is certified by the Administrator to have a drivetrain that produces, under any possible operational mode or condition, zero exhaust emission of—

(A) any air pollutant that is listed pursuant to section 7408(a) of this title (or any precursor to such an air pollutant); and

(B) any greenhouse gas.

(b) Program for replacement of existing school buses with clean school buses and zero-emission school buses

(1) Establishment

The Administrator shall establish a program—

(A) to award grants and rebates on a competitive basis to eligible recipients for the replacement of existing school buses with clean school buses;

(B) to award grants and rebates on a competitive basis to eligible recipients for the replacement of existing school buses with zero-emission school buses;

(C) to award contracts to eligible contractors to provide rebates for the replacement of existing school buses with clean school buses; and

(D) to award contracts to eligible contractors to provide rebates for the replacement of existing school buses with zero-emission school buses.

(2) Allocation of funds

Of the amounts made available for awards under paragraph (1) in a fiscal year, the Administrator shall award—

(A) 50 percent to replace existing school buses with zero-emission school buses; and

(B) 50 percent to replace existing school buses with clean school buses and zero-emission school buses.

(3) Considerations

In making awards under paragraph (2)(B), the Administrator shall take into account the following criteria and shall not give preference to any individual criterion:

(A) Lowest overall cost of bus replacement.

(B) Local conditions, including the length of bus routes and weather conditions.

(C) Technologies that most reduce emissions.

(D) Whether funds will bring new technologies to scale or promote cost parity between old technology and new technology.

(4) Priority of applications

In making awards under paragraph (1), the Administrator may prioritize applicants that—

(A) propose to replace school buses that serve—

(i) a high-need local educational agency;

(ii) a Bureau-funded school (as defined in section 2021 of title 25); or

(iii) a local educational agency that receives a basic support payment under section 7703(b)(1) of title 20 for children who reside on Indian land;

(B) serve rural or low-income areas; or

(C) propose to complement the assistance received through the award by securing additional sources of funding for the activities supported through the award, such as through—

(i) public-private partnerships;

(ii) grants from other entities; or

(iii) issuance of school bonds.

(5) Use of school bus fleet

All clean school buses and zero-emission school buses acquired with funds provided under this section shall—

(A) be operated as part of the school bus fleet for which the award was made for not less than 5 years;

(B) be maintained, operated, and charged or fueled according to manufacturer recommendations or State requirements; and

(C) not be manufactured or retrofitted with, or otherwise have installed, a power unit or other technology that creates air pollution within the school bus, such as an unvented diesel passenger heater.

(6) Awards

(A) In general

In making awards under paragraph (1), the Administrator may make awards for up to 100 percent of the costs for replacement of existing school buses with clean school buses, zero-emission school buses, and charging or fueling infrastructure.

(B) Structuring awards

In making an award under paragraph (1)(A), the Administrator shall decide whether to award a grant or rebate, or a combination thereof, based primarily on how best to facilitate replacing existing school buses with clean school buses or zero-emission school buses, as applicable.

(7) Deployment and distribution

(A) In general

The Administrator shall—

(i) to the maximum extent practicable, achieve nationwide deployment of clean school buses and zero-emission school buses through the program under this section; and

(ii) ensure a broad geographic distribution of awards.

(B) Limitation

The Administrator shall ensure that the amount received by all eligible entities in a State from grants and rebates under this section does not exceed 10 percent of the amounts made available to carry out this section during a fiscal year.

(8) Annual report

Not later than January 31 of each year, the Administrator shall submit to Congress a report that evaluates the implementation of this section and describes—

(A) the total number of applications received;

(B) the quantity and amount of grants and rebates awarded and the location of the recipients of the grants and rebates;

(C) the criteria used to select the recipients; and

(D) any other information the Administrator considers appropriate.

(c) Education and outreach

(1) In general

Not later than 120 days after November 15, 2021, the Administrator shall develop an education and outreach program to promote and explain the award program under this section.

(2) Coordination with stakeholders

The education and outreach program under paragraph (1) shall be designed and conducted in conjunction with interested stakeholders.

(3) Components

The education and outreach program under paragraph (1) shall—

(A) inform potential award recipients on the process of applying for awards and fulfilling the requirements of awards;

(B) describe the available technologies and the benefits of using the technologies;

(C) explain the benefits and costs incurred by participating in the award program;

(D) make available information regarding best practices, lessons learned, and technical and other information regarding—

(i) clean school bus and zero-emission school bus acquisition and deployment;

(ii) the build-out of associated infrastructure and advance planning with the local electricity supplier;

(iii) workforce development, training, and Registered Apprenticeships that meet the requirements under parts 29 and 30 of title 29, Code of Federal Regulations (as in effect on December 1, 2019); and

(iv) any other information that is necessary, as determined by the Administrator; and

(E) include, as appropriate, information from the annual report required under subsection (b)(7).[1]

(d) Administrative costs

The Administrator may use, for the administrative costs of carrying out this section, not more than 3 percent of the amounts made available to carry out this section for any fiscal year.

(e) Regulations

The Administrator shall have the authority to issue such regulations or other guidance, forms, instructions, and publications as may be necessary or appropriate to carry out the programs, projects,

or activities authorized under this section, including to ensure that such programs, projects, or activities are completed in a timely and effective manner, result in emissions reductions, and maximize public health benefits.

(f) Authorization of appropriations

There is authorized to be appropriated to the Administrator to carry out this section, to remain available until expended, $1,000,000,000 for each of fiscal years 2022 through 2026, of which—

(1) $500,000,000 shall be made available for the adoption of clean school buses and zero-emission school buses; and

(2) $500,000,000 shall be made available for the adoption of zero-emission school buses.

(Pub. L. 109–58, title VII, §741, Aug. 8, 2005, 119 Stat. 821; Pub. L. 117–58, div. G, title XI, §71101, Nov. 15, 2021, 135 Stat. 1321.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58 amended section generally. Prior to amendment, section related to program for retrofit or replacement of certain existing school buses with clean school buses.

[1] *So in original. Probably should be "subsection (b)(8).".*

§16091a. Clean school bus program

(a) Definitions

In this section, the following definitions apply:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Alternative fuel

The term "alternative fuel" means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of August 10, 2005.

(3) Clean school bus

The term "clean school bus" means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) Eligible recipient

(A) In general

Subject to subparagraph (B), the term "eligible recipient" means—

(i) one or more local or State governmental entities responsible for providing school bus service to one or more public school systems or the purchase of school buses;

(ii) one or more contracting entities that provide school bus service to one or more public school systems; or

(iii) a nonprofit school transportation association.

(B) Special requirements

In the case of eligible recipients identified under clauses (ii) and (iii) of subparagraph (A), the

Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) Retrofit technology

The term "retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) Secretary

The term "Secretary" means the Secretary of Energy.

(7) Ultra-low sulfur diesel fuel

The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) Program for retrofit or replacement of certain existing school buses with clean school buses

(1) Establishment

(A) In general

The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement of, retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses. The awarding of grants for the purchase of alternative fuels should be consistent with the historic funding levels of the program for such purchase.

(B) Balancing

In awarding grants under this section, the Administrator shall achieve, to the maximum extent practicable, achieve [1] an appropriate balance between awarding grants—

(i) to replace school buses;
(ii) to install retrofit technologies; and
(iii) to purchase and use alternative fuel.

(2) Priority of grant applications

(A) Replacement

In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) Retrofitting

In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) Use of school bus fleet

(A) In general

All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) Maintenance, operation, and fueling

New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) Retrofit grants

The Administrator may award grants under this section for up to 100 percent of the retrofit technologies and installation costs.

(5) Replacement grants

(A) Eligibility for 50 percent grants

The Administrator may award grants under this section for replacement of school buses in the amount of up to one-half of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) Eligibility for 25 percent grants

The Administrator may award grants under this section for replacement of school buses in the amount of up to one-fourth of the acquisition costs (including fueling infrastructure) for—

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) Ultra-low sulfur diesel fuel

(A) [2] In general

In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) Deployment and distribution

The Administrator, to the maximum extent practicable, shall—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) Annual report

(A) [2] In general

Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) Education

(1) In general

Not later than 90 days after August 10, 2005, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) Coordination with stakeholders

The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) Components

The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) Authorization of appropriations

There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

(Pub. L. 109–59, title VI, §6015, Aug. 10, 2005, 119 Stat. 1884.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or the SAFETEA–LU, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

[1] So in original. The word "achieve" probably should not appear.

[2] So in original. No subpar. (B) was enacted.

§16092. Diesel truck retrofit and fleet modernization program

(a) Establishment

The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to public agencies and entities for fleet modernization programs including installation of retrofit technologies for diesel trucks.

(b) Eligible recipients

A grant shall be awarded under this section only to a State or local government or an agency or instrumentality of a State or local government or of two or more State or local governments who will allocate funds, with preference to ports and other major hauling operations.

(c) Awards

(1) In general

The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) Preferences

In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, and/or particulate matter per proposal or per truck; or

(B) involve the use of Environmental Protection Agency or California Air Resources Board verified emissions control retrofit technology on diesel trucks that operate solely on ultra-low sulfur diesel fuel after September 2006.

(d) Conditions of grant

A grant shall be provided under this section on the conditions that—

(1) trucks which are replacing scrapped trucks and on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1998 and before; and

(C) will be used for the transportation of cargo goods especially in port areas or used in goods movement and major hauling operations;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 50 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit, from any source other than this section.

(e) Verification

Not later than 90 days after August 8, 2005, the Administrator shall publish in the Federal Register procedures to—

(1) make grants pursuant to this section;

(2) verify that trucks powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur after September 2006; and

(3) verify that grants are administered in accordance with this section.

(f) Authorization of appropriations

There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended the following sums:

(1) $20,000,000 for fiscal year 2006.

(2) $35,000,000 for fiscal year 2007.

(3) $45,000,000 for fiscal year 2008.

(4) Such sums as are necessary for each of fiscal years 2009 and 2010.

(Pub. L. 109–58, title VII, §742, Aug. 8, 2005, 119 Stat. 824.)

§16093. Fuel cell school buses

(a) Establishment

The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) Cost sharing

The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) Reports to Congress

Not later than 3 years after August 8, 2005, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for the period of fiscal years 2006 through 2009.

(Pub. L. 109–58, title VII, §743, Aug. 8, 2005, 119 Stat. 826.)

PART D—MISCELLANEOUS

§16101. Railroad efficiency

(a) Establishment

The Secretary shall (in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency) establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section—

(1) $15,000,000 for fiscal year 2006;

(2) $20,000,000 for fiscal year 2007; and

(3) $30,000,000 for fiscal year 2008.

(Pub. L. 109–58, title VII, §751, Aug. 8, 2005, 119 Stat. 826.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

ADVANCED TECHNOLOGY LOCOMOTIVE GRANT PILOT PROGRAM

Pub. L. 110–140, title XI, §1111, Dec. 19, 2007, 121 Stat. 1757, provided that:

"(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall establish and carry out a pilot program for making grants to railroad carriers (as defined in section 20102 of title 49, United States Code) and State and local governments—

"(1) for assistance in purchasing hybrid or other energy-efficient locomotives, including hybrid switch and generator-set locomotives; and

"(2) to demonstrate the extent to which such locomotives increase fuel economy, reduce emissions, and lower costs of operation.

"(b) LIMITATION.—Notwithstanding subsection (a), no grant under this section may be used to fund the costs of emissions reductions that are mandated under Federal law.

"(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary of Transportation shall consider—

"(1) the level of energy efficiency that would be achieved by the proposed project;

"(2) the extent to which the proposed project would assist in commercial deployment of hybrid or other energy-efficient locomotive technologies;

"(3) the extent to which the proposed project complements other private or governmental partnership efforts to improve air quality or fuel efficiency in a particular area; and

"(4) the extent to which the applicant demonstrates innovative strategies and a financial commitment to increasing energy efficiency and reducing greenhouse gas emissions of its railroad operations.

"(d) COMPETITIVE GRANT SELECTION PROCESS.—

"(1) APPLICATIONS.—A railroad carrier or State or local government seeking a grant under this section shall submit for approval by the Secretary of Transportation an application for the grant containing such information as the Secretary of Transportation may require.

"(2) COMPETITIVE SELECTION.—The Secretary of Transportation shall conduct a national solicitation for applications for grants under this section and shall select grantees on a competitive basis.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall not exceed 80 percent of the project cost.

"(f) REPORT.—Not later than 3 years after the date of enactment of this Act [Dec. 19, 2007], the Secretary of Transportation shall submit to Congress a report on the results of the pilot program carried out under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation $10,000,000 for each of the fiscal years 2008 through 2011 to carry out this section. Such funds shall remain available until expended."

§16102. Diesel fueled vehicles

(a) Definition of tier 2 emission standards

In this section, the term "tier 2 emission standards" means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 7521 and 7545 of this title.

(b) Diesel combustion and after-treatment technologies

The Secretary shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) Goals

The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of August 8, 2005.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

(Pub. L. 109–58, title VII, §754, Aug. 8, 2005, 119 Stat. 828.)

§16103. Conserve by Bicycling Program

(a) Definitions

In this section:

(1) Program

The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) Secretary

The term "Secretary" means the Secretary of Transportation.

(b) Establishment

There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) Projects

(1) In general

In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) Requirements

A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) Cost sharing

At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from non-Federal sources.

(d) Energy and bicycling research study

(1) In general

Not later than 2 years after August 8, 2005, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) Components

The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

(Pub. L. 109–58, title VII, §755, Aug. 8, 2005, 119 Stat. 828.)

§16104. Reduction of engine idling

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Advanced truck stop electrification system

The term "advanced truck stop electrification system" means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) Auxiliary power unit

The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) Heavy-duty vehicle

The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) Idle reduction technology

The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or other technology that—

(A) is used to reduce long-duration idling; and

(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

(6) Energy conservation technology

the [1] term "energy conservation technology" means any device, system of devices, or equipment that improves the fuel economy.

(7) Long-duration idling

(A) In general

The term "long-duration idling" means the operation of a main drive engine or auxiliary

refrigeration engine, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) Exclusions

The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with traffic movement or congestion.

(b) Idle reduction technology benefits, programs, and studies

(1) In general

Not later than 90 days after August 8, 2005, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) Deadline for completion

Not later than 180 days after August 8, 2005, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available one or more reports on the results of the reviews.

(3) Discretionary inclusions

The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) Idle reduction and energy conservation deployment program

(A) Establishment

(i) In general

Not later than 90 days after August 8, 2005, the Administrator, in consultation with the Secretary of Transportation shall, through the Environmental Protection Agency's SmartWay Transport Partnership, establish a program to support deployment of idle reduction and energy conservation technologies.

(ii) Priority

The Administrator shall give priority to the deployment of idle reduction and energy conservation technologies based on the costs and beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) Funding

(i) Authorization of appropriations

There are authorized to be appropriated to the Administrator to carry out subparagraph (A) for the purpose of reducing extended idling from heavy-duty vehicles $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) Locomotives

There are authorized to be appropriated to the administrator to carry out subparagraph (A) for the purpose of reducing extended idling from locomotives $10,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, and $20,000,000 for fiscal year 2008.

(iii) Cost sharing

Subject to clause (iv), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iv) Necessary and appropriate reductions

The Administrator may reduce the non-Federal requirement under clause (iii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) Idling location study

(A) In general

Not later than 90 days after August 8, 2005, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;
(ii) rest areas;
(iii) border crossings;
(iv) ports;
(v) transfer facilities; and
(vi) private terminals.

(B) Deadline for completion

Not later than 180 days after August 8, 2005, the Administrator shall—

(i) complete the study under subparagraph (A); and
(ii) prepare and make publicly available one or more reports of the results of the study.

(c) Omitted

(d) Report

Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—

(1) an identification of the grant recipients, a description of the projects to be funded and the amount of funding provided; and

(2) an identification of all other applicants that submitted applications under the program.

(Pub. L. 109–58, title VII, §756, Aug. 8, 2005, 119 Stat. 829.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(1)(A)(i), 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.

CODIFICATION

Section is comprised of section 756 of Pub. L. 109–58. Subsec. (c) of section 756 of Pub. L. 109–58 amended section 127 of Title 23, Highways.

[1] *So in original. Probably should be capitalized.*

§16105. Biodiesel engine testing program

(a) In general

Not later that [1] 180 days after August 8, 2005, the Secretary shall initiate a partnership with diesel

engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) Scope

The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and antitampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) Report

Not later than 2 years after August 8, 2005, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

(e) Definition

For purposes of this section, the term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 7545 of this title and that meets the American Society for Testing and Materials D6751–02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

(Pub. L. 109–58, title VII, §757, Aug. 8, 2005, 119 Stat. 832.)

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

§16106. Ultra-efficient engine technology for aircraft

(a) Ultra-efficient engine technology partnership

The Secretary shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

(b) Performance objective

The Secretary shall establish the following performance objectives for the program set forth in subsection (a):

(1) A fuel efficiency increase of at least 10 percent.

(2) A reduction in the impact of landing and takeoff nitrogen oxides emissions on local air quality of 70 percent.

(3) Exploring advanced concepts, alternate propulsion, and power configurations, including hybrid fuel cell powered systems.

(4) Exploring the use of alternate fuel in conventional or nonconventional turbine-based systems.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $50,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

(Pub. L. 109–58, title VII, §758, Aug. 8, 2005, 119 Stat. 833.)

PART E—FEDERAL AND STATE PROCUREMENT

§16121. Definitions

In this part:

(1) Fuel cell

The term "fuel cell" means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(2) Light-duty or heavy-duty vehicle fleet

The term "light-duty or heavy-duty vehicle fleet" does not include any vehicle designed or procured for combat or combat-related missions.

(3) Stationary; portable

The terms "stationary" and "portable", when used in reference to a fuel cell, include—

(A) continuous electric power; and

(B) backup electric power.

(4) Task Force

The term "Task Force" means the Hydrogen and Fuel Cell Technical Task Force established under section 16155 of this title.

(5) Technical Advisory Committee

The term "Technical Advisory Committee" means the independent Technical Advisory Committee selected under section 16156 of this title.

(Pub. L. 109–58, title VII, §781, Aug. 8, 2005, 119 Stat. 835.)

§16122. Federal and State procurement of fuel cell vehicles and hydrogen energy systems

(a) Purposes

The purposes of this section are—

(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

(2) to support development of technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

(3) to require the Federal government, [1] which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, in conjunction with private industry partners.

(b) Federal leases and purchases

(1) Requirement

(A) In general

Not later than January 1, 2010, the head of any Federal agency that uses a light-duty or heavy-duty vehicle fleet shall lease or purchase fuel cell vehicles and hydrogen energy systems to meet any applicable energy savings goal described in subsection (c).

(B) Learning demonstration vehicles

The Secretary may lease or purchase appropriate vehicles developed under subsections

(a)(10) and (b)(1)(A) of section 16157 of this title to meet the requirement in subparagraph (A).

(2) Costs of leases and purchases

(A) In general

The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay to Federal agencies (or share the cost under interagency agreements) the difference in cost between—

(i) the cost to the agencies of leasing or purchasing fuel cell vehicles and hydrogen energy systems under paragraph (1); and

(ii) the cost to the agencies of a feasible alternative to leasing or purchasing fuel cell vehicles and hydrogen energy systems, as determined by the Secretary.

(B) Competitive costs and management structures

In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a fuel cell vehicle or hydrogen energy system; or

(ii) a cost-effective management structure of the lease of a fuel cell vehicle or hydrogen energy system.

(3) Exception

(A) In general

If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable fuel cell vehicle or hydrogen energy system in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) Consideration

In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee.

(c) Energy savings goals

(1) In general

(A) Regulations

Not later than December 31, 2006, the Secretary shall—

(i) in cooperation with the Task Force, promulgate regulations for the period of 2008 through 2010 that extend and augment energy savings goals for each Federal agency, in accordance with any Executive order issued after March 2000; and

(ii) promulgate regulations to expand the minimum Federal fleet requirement and credit allowances for fuel cell vehicle systems under section 13212 of this title.

(B) Review, evaluation, and new regulations

Not later than December 31, 2010, the Secretary shall—

(i) review the regulations promulgated under subparagraph (A);

(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

(2) Offsetting energy savings goals

An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

(d) Cooperative program with State agencies

(1) In general

The Secretary may establish a cooperative program with State agencies managing motor vehicle fleets to encourage purchase of fuel cell vehicles by the agencies.

(2) Incentives

In carrying out the cooperative program, the Secretary may offer incentive payments to a State agency to assist with the cost of planning, differential purchases, and administration.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2008;
(2) $25,000,000 for fiscal year 2009;
(3) $65,000,000 for fiscal year 2010; and
(4) such sums as are necessary for each of fiscal years 2011 through 2015.

(Pub. L. 109–58, title VII, §782, Aug. 8, 2005, 119 Stat. 835.)

[1] *So in original. Probably should be capitalized.*

§16123. Federal procurement of stationary, portable, and micro fuel cells

(a) Purposes

The purposes of this section are—

(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and
(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

(b) Federal leases and purchases

(1) In general

Not later than January 1, 2006, the head of any Federal agency that uses electrical power from stationary, portable, or microportable devices shall lease or purchase a stationary, portable, or micro fuel cell to meet any applicable energy savings goal described in subsection (c).

(2) Costs of leases and purchases

(A) In general

The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay the cost to Federal agencies (or share the cost under interagency agreements) of leasing or purchasing stationary, portable, and micro fuel cells under paragraph (1).

(B) Competitive costs and management structures

In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or
(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

(3) Exception

(A) In general

If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable, or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) Consideration

In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—
(I) the Task Force; or
(II) the Technical Advisory Committee of the Task Force.

(c) Energy savings goals

An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 16157 of this title that is applicable to the agency.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section—
(1) $20,000,000 for fiscal year 2006;
(2) $50,000,000 for fiscal year 2007;
(3) $75,000,000 for fiscal year 2008;
(4) $100,000,000 for fiscal year 2009;
(5) $100,000,000 for fiscal year 2010; and
(6) such sums as are necessary for each of fiscal years 2011 through 2015.

(Pub. L. 109–58, title VII, §783, Aug. 8, 2005, 119 Stat. 837.)

PART F—DIESEL EMISSIONS REDUCTION

§16131. Definitions

In this part:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Certified engine configuration

The term "certified engine configuration" means a new, rebuilt, or remanufactured engine configuration—
(A) that has been certified or verified by—
(i) the Administrator; or
(ii) the California Air Resources Board;

(B) that meets or is rebuilt or remanufactured to a more stringent set of engine emission standards, as determined by the Administrator; and
(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—
(i) removed from the vehicle; and
(ii) returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for scrappage.

(3) Eligible entity

The term "eligible entity" means—
(A) a regional, State, local, or tribal agency or port authority with jurisdiction over transportation or air quality;
(B) a nonprofit organization or institution that—
(i) represents or provides pollution reduction or educational services to persons or organizations that own or operate diesel fleets; or
(ii) has, as its principal purpose, the promotion of transportation or air quality; and

(C) any private individual or entity that—

(i) is the owner of record of a diesel vehicle or fleet operated pursuant to a contract, license, or lease with a Federal department or agency or an entity described in subparagraph (A); and

(ii) meets such timely and appropriate requirements as the Administrator may establish for vehicle use and for notice to and approval by the Federal department or agency or entity described in subparagraph (A) with respect to which the owner has entered into a contract, license, or lease as described in clause (i).

(4) Emerging technology

The term "emerging technology" means a technology that is not currently, or has not been previously, certified or verified by the Administrator or the California Air Resources Board but for which an approvable application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) Fleet

The term "fleet" means one or more diesel vehicles or mobile or stationary diesel engines.

(6) Heavy-duty truck

The term "heavy-duty truck" has the meaning given the term "heavy duty vehicle" in section 7521 of this title.

(7) Medium-duty truck

The term "medium-duty truck" has such meaning as shall be determined by the Administrator, by regulation.

(8) State

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

(9) Verified technology

The term "verified technology" means a pollution control technology, including a retrofit technology or auxiliary power unit, that has been verified by—

(A) the Administrator; or

(B) the California Air Resources Board.

(Pub. L. 109–58, title VII, §791, Aug. 8, 2005, 119 Stat. 838; Pub. L. 110–255, §3(a), June 30, 2008, 122 Stat. 2423; Pub. L. 111–364, §2(a), Jan. 4, 2011, 124 Stat. 4056.)

EDITORIAL NOTES

AMENDMENTS

2011—Par. (3)(C). Pub. L. 111–364, §2(a)(1), added subpar. (C).

Par. (4). Pub. L. 111–364, §2(a)(2), inserted "currently, or has not been previously," after "that is not".

Par. (8). Pub. L. 111–364, §2(a)(6), added par. (8). Former par. (8) redesignated (9).

Par. (9). Pub. L. 111–364, §2(a)(5), struck out ", advanced truckstop electrification system," after "retrofit technology" in introductory provisions.

Pub. L. 111–364, §2(a)(4), redesignated par. (8) as (9). Former par. (9) struck out.

Pub. L. 111–364, §2(a)(3), struck out par. (9) which defined "State" to include the District of Columbia.

2008—Par. (9). Pub. L. 110–255 added par. (9).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–364, §4, Jan. 4, 2011, 124 Stat. 4061, provided that:

"(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by section 2 [amending this section and sections 16132 to 16134 and 16137 of this title] shall take effect on October 1,

2011.

"(b) EXCEPTION.—The amendments made by subsections (a)(4) and (6) and (c)(4) of section 2 [amending this section and section 16133 of this title] shall take effect on the date of enactment of this Act [Jan. 4, 2011]."

§16132. National grant, rebate, and loan programs

(a) In general

The Administrator shall use 70 percent of the funds made available to carry out this part for each fiscal year to provide grants, rebates, or low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities, including through contracts entered into under subsection (e) of this section, to achieve significant reductions in diesel emissions in terms of—

(1) pollution produced; and

(2) diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas.

(b) Distribution

(1) In general

The Administrator shall distribute funds made available for a fiscal year under this part in accordance with this section.

(2) Engine configurations and technologies

(A) Certified engine configurations and verified technologies

The Administrator shall provide not less than 95 percent of funds available for a fiscal year under this section to eligible entities for projects using—

(i) a certified engine configuration; or

(ii) a verified technology.

(B) Emerging technologies

(i) In general

The Administrator shall provide not more than 5 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) Application and test plan

To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources Board a test plan for the emerging technology, together with a verification application.

(c) Applications

(1) Expedited process

(A) In general

The Administrator shall develop a simplified application process for all applicants under this section to expedite the provision of funds.

(B) Requirements

In developing the expedited process under subparagraph (A), the Administrator—

(i) shall take into consideration the special circumstances affecting small fleet owners; and

(ii) to avoid duplicative procedures, may require applicants to include in an application under this section the results of a competitive bidding process for equipment and installation.

(2) Eligibility

(A) Grants

To be eligible to receive a grant under this section, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(B) Rebates and low-cost loans

To be eligible to receive a rebate or a low-cost loan under this section, an eligible entity shall submit an application in accordance with such guidance as the Administrator may establish—

(i) to the Administrator; or

(ii) to an entity that has entered into a contract under subsection (e).

(3) Inclusions

An application under this subsection shall include—

(A) a description of the air quality of the area served by the eligible entity;

(B) the quantity of air pollution produced by the diesel fleets in the area served by the eligible entity;

(C) a description of the project proposed by the eligible entity, including—

(i) any certified engine configuration, verified technology, or emerging technology to be used or funded by the eligible entity; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(E) an estimate of the cost of the proposed project;

(F) a description of the age and expected lifetime control of the equipment used or funded by the eligible entity;

(G) in the case of an application relating to nonroad engines or vehicles, a description of the diesel fuel available in the areas to be served by the eligible entity, including the sulfur content of the fuel; and

(H) provisions for the monitoring and verification of the project.

(4) Priority

In providing a grant, rebate, or loan under this section, the Administrator shall give highest priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from diesel fleets, including truckstops, ports, rail yards, terminals, construction sites, schools, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;

(E) will maximize the useful life of any certified engine configuration, verified technology, or emerging technology used or funded by the eligible entity; and

(F) conserve diesel fuel.

(d) Use of funds

(1) In general

An eligible entity may use a grant, rebate, or loan provided under this section to fund the costs of—

(A) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—

(i) a bus;
(ii) a medium-duty truck or a heavy-duty truck;
(iii) a marine engine;
(iv) a locomotive; or
(v) a nonroad engine or vehicle used in—
(I) construction;
(II) handling of cargo (including at a port or airport);
(III) agriculture;
(IV) mining; or
(V) energy production; or

(B) programs or projects to reduce long-duration idling using verified technology involving a vehicle or equipment described in subparagraph (A).

(2) Regulatory programs

(A) In general

Notwithstanding paragraph (1), no grant, rebate, or loan provided, or contract entered into, under this section shall be used to fund the costs of emissions reductions that are mandated under any Federal law, except that this subparagraph shall not apply to a mandate in a State implementation plan approved by the Administrator under the Clean Air Act [42 U.S.C. 7401 et seq.].

(B) Mandated

For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered "mandated", regardless of whether the reductions are included in the State implementation plan of a State.

(e) Contract programs

(1) Authority

In addition to the use of contracting authority otherwise available to the Administrator, the Administrator may enter into contracts with eligible contractors described in paragraph (2) for the administration of programs for providing rebates or loans, subject to the requirements of this part.

(2) Eligible contractors

The Administrator may enter into a contract under this subsection with a for-profit or nonprofit entity that has the capacity—

(A) to sell diesel vehicles or equipment to, or to arrange financing for, individuals or entities that own a diesel vehicle or fleet; or

(B) to upgrade diesel vehicles or equipment with verified or Environmental Protection Agency-certified engines or technologies, or to arrange financing for such upgrades.

(f) Public notification

Not later than 60 days after the date of the award of a grant, rebate, or loan, the Administrator shall publish on the website of the Environmental Protection Agency—

(1) for rebates and loans provided to the owner of a diesel vehicle or fleet, the total number and

dollar amount of rebates or loans provided, as well as a breakdown of the technologies funded through the rebates or loans; and

(2) for other rebates and loans, and for grants, a description of each application for which the grant, rebate, or loan is provided.

(Pub. L. 109–58, title VII, §792, Aug. 8, 2005, 119 Stat. 839; Pub. L. 111–364, §2(b), Jan. 4, 2011, 124 Stat. 4056.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (d)(2)(A), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

AMENDMENTS

2011—Pub. L. 111–364, §2(b)(1), inserted ", rebate," after "grant" in section catchline.

Subsec. (a). Pub. L. 111–364, §2(b)(2)(A), substituted "to provide grants, rebates, or low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities, including through contracts entered into under subsection (e) of this section," for "to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–364, §2(b)(2)(B), struck out "tons of" before "pollution produced".

Subsec. (b)(2). Pub. L. 111–364, §2(b)(3)(A), (B), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text read as follows: "The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets."

Subsec. (b)(2)(A). Pub. L. 111–364, §2(b)(3)(C)(i), substituted "95" for "90" in introductory provisions.

Subsec. (b)(2)(B)(i). Pub. L. 111–364, §2(b)(3)(C)(ii), substituted "5 percent" for "10 percent".

Subsec. (b)(2)(B)(ii). Pub. L. 111–364, §2(b)(3)(C)(iii), substituted "a verification application" for "the application under subsection (c)".

Subsec. (b)(3). Pub. L. 111–364, §2(b)(3)(B), redesignated par. (3) as (2).

Subsec. (c). Pub. L. 111–364, §2(b)(4)(A), (B), added pars. (1) and (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and struck out former par. (1). Prior to amendment, text of par. (1) read as follows: "To receive a grant or loan under this section, an eligible entity shall submit to the Administrator an application at a time, in a manner, and including such information as the Administrator may require."

Subsec. (c)(3)(G). Pub. L. 111–364, §2(b)(4)(C), inserted "in the case of an application relating to nonroad engines or vehicles," before "a description of the diesel".

Subsec. (c)(4). Pub. L. 111–364, §2(b)(4)(D)(i), inserted ", rebate," after "grant" and "highest" before "priority" in introductory provisions.

Subsec. (c)(4)(C)(iii). Pub. L. 111–364, §2(b)(4)(D)(ii), substituted "diesel fleets" for "a diesel fleets" and inserted "construction sites, schools," after "terminals,".

Subsec. (c)(4)(E) to (G). Pub. L. 111–364, §2(b)(4)(D)(iii)–(v), inserted "and" at end of subpar. (E), substituted a period for "; and" in subpar. (F), and struck out subpar. (G) which read as follows: "use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate."

Subsec. (d)(1). Pub. L. 111–364, §2(b)(5)(A), inserted ", rebate," after "grant" in introductory provisions.

Subsec. (d)(2)(A). Pub. L. 111–364, §2(b)(5)(B), substituted "grant, rebate, or loan provided, or contract entered into," for "grant or loan provided" and "any Federal law, except that this subparagraph shall not apply to a mandate in a State implementation plan approved by the Administrator under the Clean Air Act" for "Federal, State or local law".

Subsecs. (e), (f). Pub. L. 111–364, §2(b)(6), added subsecs. (e) and (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–364 effective Oct. 1, 2011, except as otherwise provided, see section 4 of Pub. L. 111–364, set out as a note under section 16131 of this title.

§16133. State grant, rebate, and loan programs

(a) In general

Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this part to support grant, rebate, and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) Applications

The Administrator shall—

(1) provide to States guidance for use in applying for grant, rebate, or loan funds under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received; and

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(2) establish, for applications described in paragraph (1)—

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) Allocation of funds

(1) In general

For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) Allocation

(A) In general

Except as provided in subparagraphs (B) and (C), using not more than 20 percent of the funds made available to carry out this part for a fiscal year, the Administrator shall provide to each State qualified for an allocation for the fiscal year an allocation equal to 1/53 of the funds made available for that fiscal year for distribution to States under this paragraph.

(B) Certain territories

(i) In general

Except as provided in clause (ii), Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall collectively receive an allocation equal to 1/53 of the funds made available for that fiscal year for distribution to States under this subsection, divided equally among those 4 States.

(ii) Exception

If any State described in clause (i) does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under clause (i) shall be reallocated pursuant to subparagraph (C).

(C) Reallocation

If any State does not qualify for an allocation under this paragraph, the share of funds otherwise allocated for that State under this paragraph shall be reallocated to each remaining qualified State in an amount equal to the product obtained by multiplying—

(i) the proportion that the population of the State bears to the population of all States described in paragraph (1); by

(ii) the amount otherwise allocatable to the nonqualifying State under this paragraph.

(3) State matching incentive

(A) In general

If a State agrees to match the allocation provided to the State under paragraph (2) for a fiscal year, the Administrator shall provide to the State for the fiscal year an additional amount equal to 50 percent of the allocation of the State under paragraph (2).

(B) Requirements

A State—

(i) may not use funds received under this part to pay a matching share required under this subsection; and

(ii) shall not be required to provide a matching share for any additional amount received under subparagraph (A).

(4) Unclaimed funds

Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 16132 of this title.

(d) Administration

(1) In general

Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 16132(c)(3) of this title, a State shall use any funds provided under this section to develop and implement such grant, rebate, and low-cost revolving loan programs in the State as are appropriate to meet State needs and goals relating to the reduction of diesel emissions.

(2) Apportionment of funds

The chief executive of a State that receives funding under this section may determine the portion of funds to be provided as grants, rebates, or loans.

(3) Use of funds

A grant, rebate, or loan provided under this section shall be used for a project relating to—

(A) a certified engine configuration; or

(B) a verified technology.

(4) Priority

In providing grants, rebates, and loans under this section, a State shall use the priorities in section 16132(c)(4) of this title.

(5) Public notification

Not later than 60 days after the date of the award of a grant, rebate, or loan by a State, the State shall publish on the Web site of the State—

(A) for rebates, grants, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of rebates, grants, or loans provided, as well as a breakdown of the technologies funded through the rebates, grants, or loans; and

(B) for other rebates, grants, and loans, a description of each application for which the grant, rebate, or loan is provided.

(Pub. L. 109–58, title VII, §793, Aug. 8, 2005, 119 Stat. 841; Pub. L. 110–255, §3(b), June 30, 2008, 122 Stat. 2424; Pub. L. 111–364, §2(c), Jan. 4, 2011, 124 Stat. 4059.)

EDITORIAL NOTES

AMENDMENTS

2011—Pub. L. 111–364, §2(c)(1), inserted ", rebate," after "grant" in section catchline.
Subsec. (a). Pub. L. 111–364, §2(c)(2), inserted ", rebate," after "grant".

Subsec. (b)(1). Pub. L. 111–364, §2(c)(3), inserted ", rebate," after "grant" in introductory provisions.

Subsec. (c)(2). Pub. L. 111–364, §2(c)(4), amended par. (2) generally. Prior to amendment, par. (2) related to allocation of funds.

Subsec. (d)(1). Pub. L. 111–364, §2(c)(5)(A), inserted ", rebate," after "grant".

Subsec. (d)(2). Pub. L. 111–364, §2(c)(5)(B), inserted ", rebates," after "grants".

Subsec. (d)(3). Pub. L. 111–364, §2(c)(5)(C), substituted "grant, rebate, or loan provided under this section shall be used" for "grant or loan provided under this section may be used" in introductory provisions.

Subsec. (d)(4), (5). Pub. L. 111–364, §2(c)(5)(D), added pars. (4) and (5).

2008—Subsec. (c)(2)(A). Pub. L. 110–255, §3(b)(2), substituted "51" for "50" and "1.96 percent" for "2 percent".

Subsec. (c)(2)(B). Pub. L. 110–255, §3(b)(2), substituted "51" for "50" in introductory provisions.

Subsec. (c)(2)(B)(ii). Pub. L. 110–255, §3(b)(2), which directed substitution of "1.96 percent" for "2 percent", was executed by making the substitution for "2-percent", to reflect the probable intent of Congress.

Subsec. (d)(2). Pub. L. 110–255, §3(b)(1), substituted "chief executive" for "Governor".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–364 effective Oct. 1, 2011, except that amendment by section 2(c)(4) of Pub. L. 111–364 effective Jan. 4, 2011, see section 4 of Pub. L. 111–364, set out as a note under section 16131 of this title.

§16134. Evaluation and report

(a) In general

Not later than 1 year after the date on which funds are made available under this part, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this part.

(b) Inclusions

The report shall include a description of—

(1) the total number of grant applications received;

(2) each grant, rebate, or loan made under this part, including the amount of the grant, rebate, or loan;

(3) each project for which a grant, rebate, or loan is provided under this part, including the criteria used to select the grant, rebate, or loan recipients;

(4) the actual and estimated air quality and diesel fuel conservation benefits, cost-effectiveness, and cost-benefits of the grant, rebate, and loan programs under this part;

(5) the problems encountered by projects for which a grant, rebate, or loan is provided under this part;

(6) any other information the Administrator considers to be appropriate; and

(7) in the last report sent to Congress before January 1, 2016, an analysis of the need to continue the program, including an assessment of the size of the vehicle and engine fleet that could provide benefits from being retrofit under this program and a description of the number and types of applications that were not granted in the preceding year.

(Pub. L. 109–58, title VII, §794, Aug. 8, 2005, 119 Stat. 843; Pub. L. 111–364, §2(d), Jan. 4, 2011, 124 Stat. 4060.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (b)(2) to (5). Pub. L. 111–364, §2(d)(1), inserted ", rebate," after "grant" wherever appearing.

Subsec. (b)(7). Pub. L. 111–364, §2(d)(2)–(4), added par. (7).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–364 effective Oct. 1, 2011, except as otherwise provided, see section 4 of Pub. L. 111–364, set out as a note under section 16131 of this title.

§16135. Outreach and incentives

(a) Definition of eligible technology

In this section, the term "eligible technology" means—

(1) a verified technology; or

(2) an emerging technology.

(b) Technology transfer program

(1) In general

The Administrator shall establish a program under which the Administrator—

(A) informs stakeholders of the benefits of eligible technologies; and

(B) develops nonfinancial incentives to promote the use of eligible technologies.

(2) Eligible stakeholders

Eligible stakeholders under this section include—

(A) equipment owners and operators;

(B) emission and pollution control technology manufacturers;

(C) engine and equipment manufacturers;

(D) State and local officials responsible for air quality management;

(E) community organizations; and

(F) public health, educational, and environmental organizations.

(c) State implementation plans

The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by the use of eligible technologies through a State implementation plan under section 7410 of this title.

(d) International markets

The Administrator, in coordination with the Department of Commerce and industry stakeholders, shall inform foreign countries with air quality problems of the potential of technology developed or used in the United States to provide emission reductions in those countries.

(Pub. L. 109–58, title VII, §795, Aug. 8, 2005, 119 Stat. 843.)

§16136. Effect of part

Nothing in this part affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before August 8, 2005.

(Pub. L. 109–58, title VII, §796, Aug. 8, 2005, 119 Stat. 844.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in text, 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.

§16137. Authorization of appropriations

(a) In general

There is authorized to be appropriated to carry out this part $100,000,000 for each of fiscal years 2012 through 2024, to remain available until expended.

(b) Management and oversight

The Administrator may use not more than 1 percent of the amounts made available under subsection (a) for each fiscal year for management and oversight purposes.

(Pub. L. 109–58, title VII, §797, Aug. 8, 2005, 119 Stat. 844; Pub. L. 111–364, §2(e), Jan. 4, 2011, 124 Stat. 4060; Pub. L. 116–260, div. S, §101, Dec. 27, 2020, 134 Stat. 2243.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260 substituted "2024" for "2016".

2011—Pub. L. 111–364 amended section generally. Prior to amendment, text read as follows: "There is authorized to be appropriated to carry out this part $200,000,000 for each of fiscal years 2007 through 2011, to remain available until expended."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–364 effective Oct. 1, 2011, except as otherwise provided, see section 4 of Pub. L. 111–364, set out as a note under section 16131 of this title.

§16138. EPA authority to accept diesel emissions reduction Supplemental Environmental Projects

The Administrator of the Environmental Protection Agency (hereinafter, the "Agency") may accept (notwithstanding sections 3302 and 1301 of title 31) diesel emissions reduction Supplemental Environmental Projects if the projects, as part of a settlement of any alleged violations of environmental law—

(1) protect human health or the environment;

(2) are related to the underlying alleged violations;

(3) do not constitute activities that the defendant would otherwise be legally required to perform; and

(4) do not provide funds for the staff of the Agency or for contractors to carry out the Agency's internal operations.

(Pub. L. 110–255, §1, June 30, 2008, 122 Stat. 2423.)

EDITORIAL NOTES

CODIFICATION

Section was not enacted as part of the Energy Policy Act of 2005 which comprises this chapter.

§16139. Settlement agreement provisions

In any settlement agreement regarding alleged violations of environmental law in which a defendant agrees to perform a diesel emissions reduction Supplemental Environmental Project, the Administrator of the Environmental Protection Agency shall require the defendant to include in the

settlement documents a certification under penalty of law that the defendant would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction Supplemental Environmental Project if the Administrator were precluded by law from accepting a diesel emission reduction Supplemental Environmental Project. A failure by the Administrator to include this language in such a settlement agreement shall not create a cause of action against the United States under the Clean Air Act [42 U.S.C. 7401 et seq.] or any other law or create a basis for overturning a settlement agreement entered into by the United States.

(Pub. L. 110–255, §2, June 30, 2008, 122 Stat. 2423.)

EDITORIAL NOTES

REFERENCES IN TEXT

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

CODIFICATION

Section was not enacted as part of the Energy Policy Act of 2005 which comprises this chapter.

SUBCHAPTER VIII—HYDROGEN

§16151. Purposes

The purposes of this subchapter are—

(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;

(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;

(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

(5) to create, strengthen, and protect a sustainable national energy economy.

(Pub. L. 109–58, title VIII, §802, Aug. 8, 2005, 119 Stat. 844.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of title VIII of Pub. L. 109–58, which enacted this subchapter, as the "Spark M. Matsunaga Hydrogen Act of 2005", see section 801 of Pub. L. 109–58, set out as a note under section 15801 of this title.

FINDINGS; PURPOSE

Pub. L. 117–58, div. D, title III, §40311, Nov. 15, 2021, 135 Stat. 1005, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) hydrogen plays a critical part in the comprehensive energy portfolio of the United States;

"(2) the use of the hydrogen resources of the United States—

"(A) promotes energy security and resilience; and

"(B) provides economic value and environmental benefits for diverse applications across multiple sectors of the economy; and

"(3) hydrogen can be produced from a variety of domestically available clean energy sources, including—

"(A) renewable energy resources, including biomass;
"(B) fossil fuels with carbon capture, utilization, and storage; and
"(C) nuclear power.

"(b) PURPOSE.—The purpose of this subtitle [Subtitle B (§§40311–40315) of title III of Pub. L. 117–58, see Tables for classification] is to accelerate research, development, demonstration, and deployment of hydrogen from clean energy sources by—

"(1) providing a statutory definition for the term 'clean hydrogen';
"(2) establishing a clean hydrogen strategy and roadmap for the United States;
"(3) establishing a clearing house for clean hydrogen program information at the National Energy Technology Laboratory;
"(4) developing a robust clean hydrogen supply chain and workforce by prioritizing clean hydrogen demonstration projects in major shale gas regions;
"(5) establishing regional clean hydrogen hubs; and
"(6) authorizing appropriations to carry out the Department of Energy Hydrogen Program Plan, dated November 2020, developed pursuant to title VIII of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.)."

§16152. Definitions

In this subchapter:

(1) Clean hydrogen; hydrogen

The terms "clean hydrogen" and "hydrogen" mean hydrogen produced in compliance with the greenhouse gas emissions standard established under section 16166(a) of this title, including production from any fuel source.

(2) Fuel cell

The term "fuel cell" means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(3) Heavy-duty vehicle

The term "heavy-duty vehicle" means a motor vehicle that—

(A) is rated at more than 8,500 pounds gross vehicle weight;
(B) has a curb weight of more than 6,000 pounds; or
(C) has a basic vehicle frontal area in excess of 45 square feet.

(4) Infrastructure

The term "infrastructure" means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

(5) Light-duty vehicle

The term "light-duty vehicle" means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.

(6) Portable; storage

The terms "portable" and "storage", when used in reference to a fuel cell, include—

(A) continuous electric power; and
(B) backup electric power.

(7) Task Force

The term "Task Force" means the Hydrogen and Fuel Cell Technical Task Force established under section 16155 of this title.

(8) Technical Advisory Committee

The term "Technical Advisory Committee" means the independent Technical Advisory Committee established under section 16156 of this title.

(Pub. L. 109–58, title VIII, §803, Aug. 8, 2005, 119 Stat. 844; Pub. L. 117–58, div. D, title III, §40312, Nov. 15, 2021, 135 Stat. 1006.)

EDITORIAL NOTES

AMENDMENTS

2021—Pars. (1) to (4). Pub. L. 117–58, §40312(2), (3), added par. (1) and redesignated former pars. (1) to (4) as (2) to (5), respectively.

Par. (5). Pub. L. 117–58, §40312(2), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Pub. L. 117–58, §40312(1), substituted "Portable; storage" for "Stationary; portable" in heading and "The terms 'portable' and 'storage', when" for "The terms 'stationary' and 'portable', when" in introductory provisions.

Pars. (6) to (8). Pub. L. 117–58, §40312(2), redesignated pars. (5) to (7) as (6) to (8), respectively.

§16153. Plan

Not later than 6 months after August 8, 2005, the Secretary shall transmit to Congress a coordinated plan for the programs described in this subchapter and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next 5 years for the programs authorized under this subchapter, including the agenda for each activity enumerated in section 16154(e) of this title;

(2) the types of entities that will carry out the activities under this subchapter and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next 5 years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 16154 of this title, and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

(Pub. L. 109–58, title VIII, §804, Aug. 8, 2005, 119 Stat. 845.)

§16154. Clean hydrogen research and development program

(a) In general

The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a crosscutting research and development program (referred to in this section as the "program") on technologies relating to the production, processing, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

(b) Goals

The goals of the program shall be—

(1) to advance research and development to demonstrate and commercialize the use of clean hydrogen in the transportation, utility, industrial, commercial, and residential sectors; and

(2) to demonstrate a standard of clean hydrogen production in the transportation, utility, industrial, commercial, and residential sectors by 2040.

(c) Focus

In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

(1) steadily increase production, distribution, and end use efficiency and reduce life-cycle emissions;

(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, manufacturability, and other problems that emerge from the program;

(3) enhance sources of fossil fuels with carbon capture, utilization, and sequestration, renewable fuels, biofuels, and nuclear energy for hydrogen production; and

(4) enable widespread use of distributed electricity generation and storage.

(d) Public education and research

In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

(e) Activities

In carrying out the program, the Secretary, in partnership with the private sector, shall conduct activities to advance and support—

(1) the establishment of a series of technology cost goals oriented toward achieving the standard of clean hydrogen production developed under section 16166(a) of this title;

(2) the production of clean hydrogen from diverse energy sources, including—

(A) fossil fuels with carbon capture, utilization, and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources, including biomass;

(D) nuclear energy; and

(E) any other methods the Secretary determines to be appropriate;

(3) the use of clean hydrogen for commercial, industrial, and residential electric power generation;

(4) the use of clean hydrogen in industrial applications, including steelmaking, cement, chemical feedstocks, and process heat;

(5) the use of clean hydrogen for use as a fuel source for both residential and commercial comfort heating and hot water requirements;

(6) the safe and efficient delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipelines, including retrofitting the existing natural gas transportation infrastructure system to enable a transition to transport and deliver increasing levels of clean hydrogen, clean hydrogen blends, or clean hydrogen carriers;

(B) tanks and other distribution methods; and

(C) convenient and economic refueling of vehicles, locomotives, maritime vessels, or planes—

(i) at central refueling stations; or

(ii) through distributed onsite generation;

(7) advanced vehicle, locomotive, maritime vessel, or plane technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive, locomotive, maritime vessel, or plane materials; and

(D) other advanced vehicle, locomotive, maritime vessel, or plane technologies;

(8) storage of hydrogen or hydrogen-carrier fuels, including the development of materials for safe and economic storage in gaseous, liquid, or solid form;

(9) the development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low-temperature operation, and cold start capability;

(10) the ability of domestic clean hydrogen equipment manufacturers to manufacture commercially available competitive technologies in the United States;

(11) the use of clean hydrogen in the transportation sector, including in light-, medium-, and heavy-duty vehicles, rail transport, aviation, and maritime applications; and

(12) in coordination with relevant agencies, the development of appropriate, uniform codes and standards for the safe and consistent deployment and commercialization of clean hydrogen production, processing, delivery, and end-use technologies.

(f) Program goals

(1) Vehicles

For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other hydrogen-powered vehicles that will have, when compared to light duty vehicles in model year 2005—

(i) fuel economy that is substantially higher;

(ii) substantially lower emissions of air pollutants; and

(iii) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) Hydrogen energy and energy infrastructure

For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, micro, critical needs facilities, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) Fuel cells

The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cells;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(g) Funding

(1) In general

The Secretary shall carry out the programs under this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) Research centers

Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(h) Hydrogen supply

There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and

technology transfer under this section—

(1) $160,000,000 for fiscal year 2006;
(2) $200,000,000 for fiscal year 2007;
(3) $220,000,000 for fiscal year 2008;
(4) $230,000,000 for fiscal year 2009;
(5) $250,000,000 for fiscal year 2010; and
(6) such sums as are necessary for each of fiscal years 2011 through 2020.

(i) Fuel cell technologies

There are authorized to be appropriated to carry out projects and activities relating to fuel cell technologies under this section—

(1) $150,000,000 for fiscal year 2006;
(2) $160,000,000 for fiscal year 2007;
(3) $170,000,000 for fiscal year 2008;
(4) $180,000,000 for fiscal year 2009;
(5) $200,000,000 for fiscal year 2010; and
(6) such sums as are necessary for each of fiscal years 2011 through 2020.

(j) Targets

Not later than 180 days after November 15, 2021, the Secretary shall establish targets for the program to address near-term (up to 2 years), mid-term (up to 7 years), and long-term (up to 15 years) challenges to the advancement of clean hydrogen systems and technologies.

(Pub. L. 109–58, title VIII, §805, Aug. 8, 2005, 119 Stat. 845; Pub. L. 117–58, div. D, title III, §40313(a), Nov. 15, 2021, 135 Stat. 1006.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, §40313(a)(1), substituted "Clean hydrogen research and development program" for "Programs" in section catchline.

Subsec. (a). Pub. L. 117–58, §40313(a)(2), substituted "crosscutting research and development program (referred to in this section as the 'program')" for "research and development program" and inserted "processing," after "production,".

Subsec. (b). Pub. L. 117–58, §40313(a)(3), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial, and residential applications."

Subsec. (c)(3). Pub. L. 117–58, §40313(a)(4), substituted "fossil fuels with carbon capture, utilization, and sequestration, renewable fuels, biofuels, and nuclear energy" for "renewable fuels and biofuels".

Subsec. (e). Pub. L. 117–58, §40313(a)(5), added subsec. (e) and struck out former subsec. (e) which required Secretary, in partnership with private sector, to conduct programs to address certain activities.

Subsec. (j). Pub. L. 117–58, §40313(a)(6), added subsec. (j).

§16155. Hydrogen and Fuel Cell Technical Task Force

(a) Establishment

Not later than 120 days after August 8, 2005, the President shall establish an interagency task force chaired by the Secretary with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.
(2) The Department of Transportation.
(3) The Department of Defense.
(4) The Department of Commerce (including the National Institute of Standards and Technology).
(5) The Department of State.

(6) The Environmental Protection Agency.
(7) The National Aeronautics and Space Administration.
(8) Other Federal agencies as the Secretary determines appropriate.

(b) Duties

(1) Planning

The Task Force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) Activities

The Task Force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The Task Force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this subchapter;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) Agency cooperation

The heads of all agencies, including those whose agencies are not represented on the Task Force, shall cooperate with and furnish information to the Task Force, the Technical Advisory Committee, and the Department.

(Pub. L. 109–58, title VIII, §806, Aug. 8, 2005, 119 Stat. 848.)

§16156. Technical Advisory Committee

(a) Establishment

The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this subchapter.

(b) Membership

(1) Members

The Technical Advisory Committee shall be comprised of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, previous advisory panels, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of Technical Advisory Committee members and the needs of the Technical Advisory Committee.

(2) Terms

The term of a member of the Technical Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Technical Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Technical Advisory Committee. A member of the Technical Advisory Committee whose term is expiring may be reappointed.

(3) Chairperson

The Technical Advisory Committee shall have a chairperson, who shall be elected by the members from among their number.

(c) Review

The Technical Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this subchapter;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 16153 of this title.

(d) Response

(1) Consideration of recommendations

The Secretary shall consider, but need not adopt, any recommendations of the Technical Advisory Committee under subsection (c).

(2) Biennial report

The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Technical Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) Support

The Secretary shall provide resources necessary in the judgment of the Secretary for the Technical Advisory Committee to carry out its responsibilities under this subchapter.

(Pub. L. 109–58, title VIII, §807, Aug. 8, 2005, 119 Stat. 849.)

§16157. Demonstration

(a) In general

In carrying out the programs under this section, the Secretary shall fund a limited number of demonstration projects, consistent with this subchapter and a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen

fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technology among competing alternatives;

(8) address distributed generation using renewable sources;

(9) carry out demonstrations of evolving hydrogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal land, as selected by the Secretary;

(10) carry out a program to demonstrate developmental hydrogen and fuel cell systems for mobile, portable, and stationary uses, using improved versions of the learning demonstrations program concept of the Department including demonstrations involving—

(A) light-duty vehicles;

(B) heavy-duty vehicles;

(C) fleet vehicles;

(D) specialty industrial and farm vehicles; and

(E) commercial and residential portable, continuous, and backup electric power generation;

(11) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen supply corridors along the interstate highway system in varied climates across the United States; and

(12) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen, and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, heavier duty, and advanced internal combustion-powered vehicles.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (12).

(b) System demonstrations

(1) [1] In general

As a component of the demonstration program under this section, the Secretary shall provide grants, on a cost share basis as appropriate, to eligible entities (as determined by the Secretary) for use in—

(A) devising system design concepts that provide for the use of advanced composite vehicles in programs under section 16122 of this title that—

(i) have as a primary goal the reduction of drive energy requirements;

(ii) after 2010, add another research and development phase, as defined in subsection (c), including the vehicle and infrastructure partnerships developed under the learning demonstrations program concept of the Department; and

(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by manufacturers and governments; and

(B) designing a local distributed energy system that—

(i) incorporates renewable hydrogen production, off-grid electricity production, and fleet applications in industrial or commercial service;

(ii) integrates energy or applications described in clause (i), such as stationary, portable, micro, and mobile fuel cells, into a high-density commercial or residential building complex or agricultural community; and

(iii) is managed in cooperation with industry, State, tribal, and local governments, agricultural organizations, and nonprofit generators and distributors of electricity.

(c) Identification of new program requirements

In carrying out the demonstrations under subsection (a), the Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall—

(1) after 2008 for stationary and portable applications, and after 2010 for vehicles, identify new requirements that refine technological concepts, planning, and applications; and

(2) during the second phase of the learning demonstrations under subsection (b)(1)(A)(ii), redesign subsequent program work to incorporate those requirements.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $185,000,000 for fiscal year 2006;
(2) $200,000,000 for fiscal year 2007;
(3) $250,000,000 for fiscal year 2008;
(4) $300,000,000 for fiscal year 2009;
(5) $375,000,000 for fiscal year 2010; and
(6) such sums as are necessary for each of fiscal years 2011 through 2020.

(Pub. L. 109–58, title VIII, §808, Aug. 8, 2005, 119 Stat. 850.)

[1] *So in original. No par. (2) has been enacted.*

§16158. Codes and standards

(a) In general

The Secretary, in cooperation with the Task Force, shall provide grants to, or offer to enter into contracts with, such professional organizations, public service organizations, and government agencies as the Secretary determines appropriate to support timely and extensive development of safety codes and standards relating to fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells.

(b) Educational efforts

The Secretary shall support educational efforts by organizations and agencies described in subsection (a) to share information, including information relating to best practices, among those organizations and agencies.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $4,000,000 for fiscal year 2006;
(2) $7,000,000 for fiscal year 2007;
(3) $8,000,000 for fiscal year 2008;
(4) $10,000,000 for fiscal year 2009;
(5) $9,000,000 for fiscal year 2010; and
(6) such sums as are necessary for each of fiscal years 2011 through 2020.

(Pub. L. 109–58, title VIII, §809, Aug. 8, 2005, 119 Stat. 851.)

§16159. Disclosure

Section 13293 of this title shall apply to any project carried out through a grant, cooperative agreement, or contract under this subchapter.

(Pub. L. 109–58, title VIII, §810, Aug. 8, 2005, 119 Stat. 852.)

§16160. Reports

(a) Secretary

Subject to subsection (c), not later than 2 years after August 8, 2005, and triennially thereafter, the Secretary shall submit to Congress a report describing—

(1) activities carried out by the Department under this subchapter,[1] for hydrogen and fuel cell

technology;

(2) measures the Secretary has taken during the preceding 3 years to support the transition of primary industry (or a related industry) to a fully commercialized hydrogen economy;

(3) any change made to the strategy relating to hydrogen and fuel cell technology to reflect the results of a learning demonstrations;

(4) progress, including progress in infrastructure, made toward achieving the goal of producing and deploying not less than—

(A) 100,000 hydrogen-fueled vehicles in the United States by 2010; and

(B) 2,500,000 hydrogen-fueled vehicles in the United States by 2020;

(5) progress made toward achieving the goal of supplying hydrogen at a sufficient number of fueling stations in the United States by 2010 including by integrating—

(A) hydrogen activities; and

(B) associated targets and timetables for the development of hydrogen technologies;

(6) any problem relating to the design, execution, or funding of a program under this subchapter;

(7) progress made toward and goals achieved in carrying out this subchapter and updates to the developmental roadmap, including the results of the reviews conducted by the National Academy of Sciences under subsection (b) for the fiscal years covered by the report; and

(8) any updates to strategic plans that are necessary to meet the goals described in paragraph (4).

(b) External review

The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under sections 16154 and 16157 of this title every fourth year following August 8, 2005. The Academy's review shall include the program priorities and technical milestones, and evaluate the progress toward achieving them. The first review shall be completed not later than 5 years after August 8, 2005. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2006 through 2020.

(Pub. L. 109–58, title VIII, §811, Aug. 8, 2005, 119 Stat. 852.)

[1] *So in original. The comma probably should not appear.*

§16161. Solar and wind technologies

(a) Solar energy technologies

The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subchapter related to solar energy technologies and for implementing the recommendations related to solar energy technologies that are included in the report transmitted under subsection (e);

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at solar energy facilities, including one demonstration project at a National Laboratory or institution of higher education;

(3) establish a program—

(A) to develop optimized concentrating solar power devices that may be used for the production of both electricity and hydrogen; and

(B) to evaluate the use of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power devices;

(4) coordinate with activities sponsored by the Department's Office of Nuclear Energy, Science, and Technology on high-temperature materials, thermochemical cycles, and economic issues related to solar energy;

(5) provide for the construction and operation of new concentrating solar power devices or solar power cogeneration facilities that produce hydrogen either concurrently with, or independently of, the production of electricity;

(6) support existing facilities and programs of study related to concentrating solar power devices; and

(7) establish a program—

(A) to develop methods that use electricity from photovoltaic devices for the onsite production of hydrogen, such that no intermediate transmission or distribution infrastructure is required or used and future demand growth may be accommodated;

(B) to evaluate the economics of small-scale electrolysis for hydrogen production; and

(C) to study the potential of modular photovoltaic devices for the development of a hydrogen infrastructure, the security implications of a hydrogen infrastructure, and the benefits potentially derived from a hydrogen infrastructure.

(b) Wind energy technologies

The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subchapter related to wind energy technologies and for implementing the recommendations related to wind energy technologies that are included in the report transmitted under subsection (e); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at existing wind energy facilities, including one demonstration project at a National Laboratory or institution of higher education.

(c) Program support

The Secretary shall support programs at institutions of higher education for the development of solar energy technologies and wind energy technologies for the production of hydrogen. The programs supported under this subsection shall—

(1) enhance fellowship and faculty assistance programs;

(2) provide support for fundamental research;

(3) encourage collaborative research among industry, National Laboratories, and institutions of higher education;

(4) support communication and outreach; and

(5) to the greatest extent possible—

(A) be located in geographic areas that are regionally and climatically diverse; and

(B) be located at part B institutions, minority institutions, and institutions of higher education located in States participating in the Experimental Program to Stimulate Competitive Research of the Department.

(d) Institutions of higher education and National Laboratory interactions

In conjunction with the programs supported under this section, the Secretary shall develop sabbatical, fellowship, and visiting scientist programs to encourage National Laboratories and institutions of higher education to share and exchange personnel.

(e) Report

The Secretary shall transmit to the Congress not later than 120 days after August 8, 2005, a report containing detailed summaries of the roadmaps prepared under subsections (a)(1) and (b)(1), descriptions of the Secretary's progress in establishing the projects and other programs required under this section, and recommendations for promoting the availability of advanced solar and wind energy technologies for the production of hydrogen.

(f) Definitions

For purposes of this section—

(1) the term "concentrating solar power devices" means devices that concentrate the power of the sun by reflection or refraction to improve the efficiency of a photovoltaic or thermal generation process;

(2) the term "minority institution" has the meaning given to that term in section 1067k of title 20;

(3) the term "part B institution" has the meaning given to that term in section 1061 of title 20; and

(4) the term "photovoltaic devices" means devices that convert light directly into electricity through a solid-state, semiconductor process.

(g) Authorization of appropriations

There is authorized to be appropriated such sums as are necessary for carrying out the activities under this section for each of fiscal years 2006 through 2020.

(Pub. L. 109–58, title VIII, §812, Aug. 8, 2005, 119 Stat. 853.)

§16161a. Regional clean hydrogen hubs

(a) Definition of regional clean hydrogen hub

In this section, the term "regional clean hydrogen hub" means a network of clean hydrogen producers, potential clean hydrogen consumers, and connective infrastructure located in close proximity.

(b) Establishment of program

The Secretary shall establish a program to support the development of at least 4 regional clean hydrogen hubs that—

(1) demonstrably aid the achievement of the clean hydrogen production standard developed under section 16166(a) of this title;

(2) demonstrate the production, processing, delivery, storage, and end-use of clean hydrogen; and

(3) can be developed into a national clean hydrogen network to facilitate a clean hydrogen economy.

(c) Selection of regional clean hydrogen hubs

(1) Solicitation of proposals

Not later than 180 days after November 15, 2021, the Secretary shall solicit proposals for regional clean hydrogen hubs.

(2) Selection of hubs

Not later than 1 year after the deadline for the submission of proposals under paragraph (1), the Secretary shall select at least 4 regional clean hydrogen hubs to be developed under subsection (b).

(3) Criteria

The Secretary shall select regional clean hydrogen hubs under paragraph (2) using the following criteria:

(A) Feedstock diversity

To the maximum extent practicable—

(i) at least 1 regional clean hydrogen hub shall demonstrate the production of clean hydrogen from fossil fuels;

(ii) at least 1 regional clean hydrogen hub shall demonstrate the production of clean hydrogen from renewable energy; and

(iii) at least 1 regional clean hydrogen hub shall demonstrate the production of clean

hydrogen from nuclear energy.

(B) End-use diversity

To the maximum extent practicable—

(i) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the electric power generation sector;

(ii) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the industrial sector;

(iii) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the residential and commercial heating sector; and

(iv) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the transportation sector.

(C) Geographic diversity

To the maximum extent practicable, each regional clean hydrogen hub—

(i) shall be located in a different region of the United States; and

(ii) shall use energy resources that are abundant in that region.

(D) Hubs in natural gas-producing regions

To the maximum extent practicable, at least 2 regional clean hydrogen hubs shall be located in the regions of the United States with the greatest natural gas resources.

(E) Employment

The Secretary shall give priority to regional clean hydrogen hubs that are likely to create opportunities for skilled training and long-term employment to the greatest number of residents of the region.

(F) Additional criteria

The Secretary may take into consideration other criteria that, in the judgment of the Secretary, are necessary or appropriate to carry out this subchapter [1]

(4) Funding of regional clean hydrogen hubs

The Secretary may make grants to each regional clean hydrogen hub selected under paragraph (2) to accelerate commercialization of, and demonstrate the production, processing, delivery, storage, and end-use of, clean hydrogen.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $8,000,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 109–58, title VIII, §813, as added Pub. L. 117–58, div. D, title III, §40314(2), Nov. 15, 2021, 135 Stat. 1008.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 813 of Pub. L. 109–58 was renumbered section 818 and is classified to section 16162 of this title.

[1] So in original. Probably should be followed by a period.

§16161b. National clean hydrogen strategy and roadmap

(a) Development

(1) In general

In carrying out the programs established under sections 16154 and 16161a of this title, the Secretary, in consultation with the heads of relevant offices of the Department, shall develop a technologically and economically feasible national strategy and roadmap to facilitate widescale production, processing, delivery, storage, and use of clean hydrogen.

(2) Inclusions

The national clean hydrogen strategy and roadmap developed under paragraph (1) shall focus on—

(A) establishing a standard of hydrogen production that achieves the standard developed under section 16166(a) of this title, including interim goals towards meeting that standard;

(B)(i) clean hydrogen production and use from natural gas, coal, renewable energy sources, nuclear energy, and biomass; and

(ii) identifying potential barriers, pathways, and opportunities, including Federal policy needs, to transition to a clean hydrogen economy;

(C) identifying—

(i) economic opportunities for the production, processing, transport, storage, and use of clean hydrogen that exist in the major shale natural gas-producing regions of the United States;

(ii) economic opportunities for the production, processing, transport, storage, and use of clean hydrogen that exist for merchant nuclear power plants operating in deregulated markets; and

(iii) environmental risks associated with potential deployment of clean hydrogen technologies in those regions, and ways to mitigate those risks;

(D) approaches, including substrategies, that reflect geographic diversity across the country, to advance clean hydrogen based on resources, industry sectors, environmental benefits, and economic impacts in regional economies;

(E) identifying opportunities to use, and barriers to using, existing infrastructure, including all components of the natural gas infrastructure system, the carbon dioxide pipeline infrastructure system, end-use local distribution networks, end-use power generators, LNG terminals, industrial users of natural gas, and residential and commercial consumers of natural gas, for clean hydrogen deployment;

(F) identifying the needs for and barriers and pathways to developing clean hydrogen hubs (including, where appropriate, clean hydrogen hubs coupled with carbon capture, utilization, and storage hubs) that—

(i) are regionally dispersed across the United States and can leverage natural gas to the maximum extent practicable;

(ii) can demonstrate the efficient production, processing, delivery, and use of clean hydrogen;

(iii) include transportation corridors and modes of transportation, including transportation of clean hydrogen by pipeline and rail and through ports; and

(iv) where appropriate, could serve as joint clean hydrogen and carbon capture, utilization, and storage hubs;

(G) prioritizing activities that improve the ability of the Department to develop tools to model, analyze, and optimize single-input, multiple-output integrated hybrid energy systems and multiple-input, multiple-output integrated hybrid energy systems that maximize efficiency in providing hydrogen, high-value heat, electricity, and chemical synthesis services;

(H) identifying the appropriate points of interaction between and among Federal agencies involved in the production, processing, delivery, storage, and use of clean hydrogen and clarifying the responsibilities of those Federal agencies, and potential regulatory obstacles and recommendations for modifications, in order to support the deployment of clean hydrogen; and

(I) identifying geographic zones or regions in which clean hydrogen technologies could efficiently and economically be introduced in order to transition existing infrastructure to rely

on clean hydrogen, in support of decarbonizing all relevant sectors of the economy.

(b) Reports to Congress

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall submit to Congress the clean hydrogen strategy and roadmap developed under subsection (a).

(2) Updates

The Secretary shall submit to Congress updates to the clean hydrogen strategy and roadmap under paragraph (1) not less frequently than once every 3 years after the date on which the Secretary initially submits the report and roadmap.

(Pub. L. 109–58, title VIII, §814, as added Pub. L. 117–58, div. D, title III, §40314(2), Nov. 15, 2021, 135 Stat. 1010.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 814 of Pub. L. 109–58 was renumbered section 819 and is classified to section 16163 of this title.

§16161c. Clean hydrogen manufacturing and recycling

(a) Clean hydrogen manufacturing initiative

(1) In general

In carrying out the programs established under sections 16154 and 16161a of this title, the Secretary shall award multiyear grants to, and enter into contracts, cooperative agreements, or any other agreements authorized under this Act or other Federal law with, eligible entities (as determined by the Secretary) for research, development, and demonstration projects to advance new clean hydrogen production, processing, delivery, storage, and use equipment manufacturing technologies and techniques.

(2) Priority

In awarding grants or entering into contracts, cooperative agreements, or other agreements under paragraph (1), the Secretary, to the maximum extent practicable, shall give priority to clean hydrogen equipment manufacturing projects that—

(A) increase efficiency and cost-effectiveness in—

(i) the manufacturing process; and

(ii) the use of resources, including existing energy infrastructure;

(B) support domestic supply chains for materials and components;

(C) identify and incorporate nonhazardous alternative materials for components and devices;

(D) operate in partnership with tribal energy development organizations, Indian Tribes, Tribal organizations, Native Hawaiian community-based organizations, or territories or freely associated States; or

(E) are located in economically distressed areas of the major natural gas-producing regions of the United States.

(3) Evaluation

Not later than 3 years after November 15, 2021, and not less frequently than once every 4 years thereafter, the Secretary shall conduct, and make available to the public and the relevant committees of Congress, an independent review of the progress of the projects carried out through grants awarded, or contracts, cooperative agreements, or other agreements entered into, under paragraph (1).

(b) Clean hydrogen technology recycling research, development, and demonstration program

(1) In general

In carrying out the programs established under sections 16154 and 16161a of this title, the Secretary shall award multiyear grants to, and enter into contracts, cooperative agreements, or any other agreements authorized under this Act or other Federal law with, eligible entities for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of clean hydrogen technologies, including by—

(A) increasing the efficiency and cost-effectiveness of the recovery of raw materials from clean hydrogen technology components and systems, including enabling technologies such as electrolyzers and fuel cells;

(B) minimizing environmental impacts from the recovery and disposal processes;

(C) addressing any barriers to the research, development, demonstration, and commercialization of technologies and processes for the disassembly and recycling of devices used for clean hydrogen production, processing, delivery, storage, and use;

(D) developing alternative materials, designs, manufacturing processes, and other aspects of clean hydrogen technologies;

(E) developing alternative disassembly and resource recovery processes that enable efficient, cost-effective, and environmentally responsible disassembly of, and resource recovery from, clean hydrogen technologies; and

(F) developing strategies to increase consumer acceptance of, and participation in, the recycling of fuel cells.

(2) Dissemination of results

The Secretary shall make available to the public and the relevant committees of Congress the results of the projects carried out through grants awarded, or contracts, cooperative agreements, or other agreements entered into, under paragraph (1), including any educational and outreach materials developed by the projects.

(c) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $500,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 109–58, title VIII, §815, as added Pub. L. 117–58, div. D, title III, §40314(2), Nov. 15, 2021, 135 Stat. 1011.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to subsecs. (a)(1) and (b)(1), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note below and Tables.

PRIOR PROVISIONS

A prior section 815 of Pub. L. 109–58 was renumbered section 820 and is classified to section 16164 of this title.

§16161d. Clean hydrogen electrolysis program

(a) Definitions

In this section:

(1) Electrolysis

The term "electrolysis" means a process that uses electricity to split water into hydrogen and

oxygen.

(2) Electrolyzer

The term "electrolyzer" means a system that produces hydrogen using electrolysis.

(3) Program

The term "program" means the program established under subsection (b).

(b) Establishment

Not later than 90 days after November 15, 2021, the Secretary shall establish a research, development, demonstration, commercialization, and deployment program for purposes of commercialization to improve the efficiency, increase the durability, and reduce the cost of producing clean hydrogen using electrolyzers.

(c) Goals

The goals of the program are—

(1) to reduce the cost of hydrogen produced using electrolyzers to less than $2 per kilogram of hydrogen by 2026; and

(2) any other goals the Secretary determines are appropriate.

(d) Demonstration projects

In carrying out the program, the Secretary shall fund demonstration projects—

(1) to demonstrate technologies that produce clean hydrogen using electrolyzers; and

(2) to validate information on the cost, efficiency, durability, and feasibility of commercial deployment of the technologies described in paragraph (1).

(e) Focus

The program shall focus on research relating to, and the development, demonstration, and deployment of—

(1) low-temperature electrolyzers, including liquid-alkaline electrolyzers, membrane-based electrolyzers, and other advanced electrolyzers, capable of converting intermittent sources of electric power to clean hydrogen with enhanced efficiency and durability;

(2) high-temperature electrolyzers that combine electricity and heat to improve the efficiency of clean hydrogen production;

(3) advanced reversible fuel cells that combine the functionality of an electrolyzer and a fuel cell;

(4) new highly active, selective, and durable electrolyzer catalysts and electro-catalysts that—

(A) greatly reduce or eliminate the need for platinum group metals; and

(B) enable electrolysis of complex mixtures with impurities, including seawater;

(5) modular electrolyzers for distributed energy systems and the bulk-power system (as defined in section 824o(a) of title 16);

(6) low-cost membranes or electrolytes and separation materials that are durable in the presence of impurities or seawater;

(7) improved component design and material integration, including with respect to electrodes, porous transport layers and bipolar plates, and balance-of-system components, to allow for scale-up and domestic manufacturing of electrolyzers at a high volume;

(8) clean hydrogen storage technologies;

(9) technologies that integrate hydrogen production with—

(A) clean hydrogen compression and drying technologies;

(B) clean hydrogen storage; and

(C) transportation or stationary systems; and

(10) integrated systems that combine hydrogen production with renewable power or nuclear power generation technologies, including hybrid systems with hydrogen storage.

(f) Grants, contracts, cooperative agreements

(1) Grants

In carrying out the program, the Secretary shall award grants, on a competitive basis, to eligible entities for projects that the Secretary determines would provide the greatest progress toward achieving the goal of the program described in subsection (c).

(2) Contracts and cooperative agreements

In carrying out the program, the Secretary may enter into contracts and cooperative agreements with eligible entities and Federal agencies for projects that the Secretary determines would further the purpose of the program described in subsection (b).

(3) Eligibility; applications

(A) In general

The eligibility of an entity to receive a grant under paragraph (1), to enter into a contract or cooperative agreement under paragraph (2), or to receive funding for a demonstration project under subsection (d) shall be determined by the Secretary.

(B) Applications

An eligible entity desiring to receive a grant under paragraph (1), to enter into a contract or cooperative agreement under paragraph (2), or to receive funding for a demonstration project under subsection (d) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $1,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(Pub. L. 109–58, title VIII, §816, as added Pub. L. 117–58, div. D, title III, §40314(2), Nov. 15, 2021, 135 Stat. 1013.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 816 of Pub. L. 109–58 was renumbered section 821 and is classified to section 16165 of this title.

§16161e. Laboratory management

(a) In general

The National Energy Technology Laboratory, the Idaho National Laboratory, and the National Renewable Energy Laboratory shall continue to work in a crosscutting manner to carry out the programs established under sections 16161a and 16161c of this title.

(b) Coordination; clearinghouse

In carrying out subsection (a), the National Energy Technology Laboratory shall—

(1) coordinate with—

(A) the Idaho National Laboratory, the National Renewable Energy Laboratory, and other National Laboratories in a cross-cutting manner;

(B) institutions of higher education;

(C) research institutes;

(D) industrial researchers; and

(E) international researchers; and

(2) act as a clearinghouse to collect information from, and distribute information to, the

National Laboratories and other entities described in subparagraphs (B) through (E) of paragraph (1).

(Pub. L. 109–58, title VIII, §817, as added Pub. L. 117–58, div. D, title III, §40314(2), Nov. 15, 2021, 135 Stat. 1014.)

§16162. Technology transfer

In carrying out this subchapter, the Secretary shall carry out programs that—

(1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;

(2) accelerate wider application of those technologies in the global market;

(3) foster the exchange of generic, nonproprietary information; and

(4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

(Pub. L. 109–58, title VIII, §818, formerly §813, Aug. 8, 2005, 119 Stat. 855; renumbered §818, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

§16163. Miscellaneous provisions

(a) Representation

The Secretary may represent the United States interests with respect to activities and programs under this subchapter, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

(1) other Federal, State, regional, and local governments and their representatives;

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) Regulatory authority

Nothing in this subchapter shall be construed to alter the regulatory authority of the Department.

(Pub. L. 109–58, title VIII, §819, formerly §814, Aug. 8, 2005, 119 Stat. 855; renumbered §819, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

§16164. Cost sharing

The costs of carrying out projects and activities under this subchapter shall be shared in accordance with section 16352 of this title.

(Pub. L. 109–58, title VIII, §820, formerly §815, Aug. 8, 2005, 119 Stat. 855; renumbered §820, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

§16165. Savings clause

Nothing in this subchapter shall be construed to affect the authority of the Secretary of Transportation that may exist prior to August 8, 2005, with respect to—

(1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49;

(2) regulation of hazardous materials transportation under chapter 51 of title 49;

(3) regulation of pipeline safety under chapter 601 of title 49;

(4) encouragement and promotion of research, development, and deployment activities relating

to advanced vehicle technologies under section 5506 [1] of title 49;

(5) regulation of motor vehicle safety under chapter 301 of title 49;

(6) automobile fuel economy under chapter 329 of title 49; or

(7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49.

(Pub. L. 109–58, title VIII, §821, formerly §816, Aug. 8, 2005, 119 Stat. 855; renumbered §821, Pub. L. 117–58, div. D, title III, §40314(1), Nov. 15, 2021, 135 Stat. 1008.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 5506 of title 49, referred to in par. (4), was repealed by Pub. L. 112–141, div. E, title II, §52010(a), July 6, 2012, 126 Stat. 887.

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

§16166. Clean hydrogen production qualifications

(a) In general

Not later than 180 days after November 15, 2021, the Secretary, in consultation with the Administrator of the Environmental Protection Agency and after taking into account input from industry and other stakeholders, as determined by the Secretary, shall develop an initial standard for the carbon intensity of clean hydrogen production that shall apply to activities carried out under this subchapter.

(b) Requirements

(1) In general

The standard developed under subsection (a) shall—

(A) support clean hydrogen production from each source described in section 16154(e)(2) of this title;

(B) define the term "clean hydrogen" to mean hydrogen produced with a carbon intensity equal to or less than 2 kilograms of carbon dioxide-equivalent produced at the site of production per kilogram of hydrogen produced; and

(C) take into consideration technological and economic feasibility.

(2) Adjustment

Not later than the date that is 5 years after the date on which the Secretary develops the standard under subsection (a), the Secretary, in consultation with the Administrator of the Environmental Protection Agency and after taking into account input from industry and other stakeholders, as determined by the Secretary, shall—

(A) determine whether the definition of clean hydrogen required under paragraph (1)(B) should be adjusted below the standard described in that paragraph; and

(B) if the Secretary determines the adjustment described in subparagraph (A) is appropriate, carry out the adjustment.

(c) Application

The standard developed under subsection (a) shall apply to clean hydrogen production from renewable, fossil fuel with carbon capture, utilization, and sequestration technologies, nuclear, and other fuel sources using any applicable production technology.

(Pub. L. 109–58, title VIII, §822, as added Pub. L. 117–58, div. D, title III, §40315(a), Nov. 15, 2021, 135 Stat. 1015.)

EDITORIAL NOTES

CODIFICATION

Section 40315(a) of Pub. L. 117–58, which directed the amendment of the Energy Policy Act of 2005 by adding this section at the end, was executed by adding this section at the end of title VIII of the Act, to reflect the probable intent of Congress.

SUBCHAPTER IX—RESEARCH AND DEVELOPMENT

§16181. Goals

(a) In general

In order to achieve the purposes of this subchapter, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application with the general goals of—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies;

(2) promoting diversity of energy supply;

(3) decreasing the dependence of the United States on foreign energy supplies;

(4) improving the energy security of the United States; and

(5) decreasing the environmental impact of energy-related activities.

(b) Goals

The Secretary shall publish measurable cost and performance-based goals, comparable over time, with each annual budget submission in at least the following areas:

(1) Energy efficiency for buildings, energy-consuming industries, and vehicles.

(2) Electric energy generation (including distributed generation), transmission, and storage.

(3) Renewable energy technologies, including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower.

(4) Fossil energy, including power generation, onshore and offshore oil and gas resource recovery, and transportation fuels.

(5) Nuclear energy, including programs for existing and advanced reactors, and education of future specialists.

(c) Public comment

The Secretary shall provide mechanisms for input on the annually published goals from industry, institutions of higher education, and other public sources.

(d) Effect of goals

Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by any Federal agency, to support the establishment of regulatory standards or regulatory requirements.

(Pub. L. 109–58, title IX, §902, Aug. 8, 2005, 119 Stat. 856.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this title", meaning title IX of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 856, which enacted this subchapter, amended sections 8101 and 8102 of Title 7, Agriculture, and section 5523 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 15801 of this title, section 8102 of Title 7, and section 2001 of Title 30, Mineral Lands and Mining,

and amended provisions set out as notes under section 8101 of Title 7 and section 1902 of Title 30. For complete classification of title IX to the Code, see Short Title note set out under section 15801 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of title IX of Pub. L. 109–58, which enacted this subchapter, as the "Energy Research, Development, Demonstration, and Commercial Application Act of 2005", see section 431 of Pub. L. 109–58, set out as a note under section 15801 of this title.

§16182. Definitions

In this subchapter:

(1) Departmental mission

The term "departmental mission" means any of the functions vested in the Secretary by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(2) Hispanic-serving institution

The term "Hispanic-serving institution" has the meaning given the term in section 1101a(a) of title 20.

(3) Nonmilitary energy laboratory

The term "nonmilitary energy laboratory" means a National Laboratory other than a National Laboratory listed in subparagraph (G), (H), or (N) of section 15801(3) of this title.

(4) Part B institution

The term "part B institution" has the meaning given the term in section 1061 of title 20.

(5) Single-purpose research facility

The term "single-purpose research facility" means—

(A) any of the primarily single-purpose entities owned by the Department; or

(B) any other organization of the Department designated by the Secretary.

(6) University

The term "university" has the meaning given the term "institution of higher education" in section 1001 of title 20.

(Pub. L. 109–58, title IX, §903, Aug. 8, 2005, 119 Stat. 856.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 856, which enacted this subchapter, amended sections 8101 and 8102 of Title 7, Agriculture, and section 5523 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 15801 of this title, section 8102 of Title 7, and section 2001 of Title 30, Mineral Lands and Mining, and amended provisions set out as notes under section 8101 of Title 7 and section 1902 of Title 30. For complete classification of title IX to the Code, see Short Title note set out under section 15801 of this title and Tables.

The Department of Energy Organization Act, referred to in par. (1), is Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§7101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

§16183. Energy and water for sustainability

(a) Nexus of energy and water for sustainability

(1) Definitions

In this section:

(A) Department

The term "Department" means the Department of Energy.

(B) Energy-water nexus

The term "energy-water nexus" means the links between—

(i) the water needed to produce fuels, electricity, and other forms of energy; and

(ii) the energy needed to transport, reclaim, and treat water and wastewater.

(C) Interagency RD&D Coordination Committee

The term "Interagency RD&D Coordination Committee" means the Interagency RD&D Coordination Committee on the Nexus of Energy and Water for Sustainability (or the "NEWS RD&D Committee") established under paragraph (3)(A).

(D) Nexus of Energy and Water Sustainability RD&D Office; NEWS RD&D Office

The term "Nexus of Energy and Water Sustainability RD&D Office" or the "NEWS RD&D Office" means an office located at the Department and managed in cooperation with the Department of the Interior pursuant to an agreement between the 2 agencies to carry out leadership and administrative functions for the Interagency RD&D Coordination Committee.

(E) RD&D

The term "RD&D" means research, development, and demonstration.

(F) Secretary

The term "Secretary" means the Secretary of Energy.

(2) Statement of policy

Recognizing States' primacy over allocation and administration of water resources (except in specific instances where preempted under Federal law) and the siting of energy infrastructure within State boundaries on non-Federal lands, it is the national policy that the Federal government, in all energy-water nexus management activities, shall maximize coordination and consultation among Federal agencies and with State and local governments, and disseminate information to the public in the most effective manner.

(3) Interagency RD&D Coordination Committee

(A) Establishment

Not later than 180 days after December 27, 2020, the Secretary and the Secretary of the Interior shall establish the joint NEWS RD&D Office and Interagency RD&D Coordination Committee on the Nexus of Energy and Water for Sustainability (or the "NEWS RD&D Committee") to carry out the duties described in subparagraph (C).

(B) Administration

(i) Chairs

The Secretary and the Secretary of the Interior shall jointly manage the NEWS RD&D Office and serve as co-chairs of the Interagency RD&D Coordination Committee.

(ii) Membership; staffing

Membership and staffing shall be determined by the co-chairs.

(C) Duties

The Interagency RD&D Coordination Committee shall—

(i) serve as a forum for developing common Federal goals and plans on energy-water nexus RD&D activities, in coordination with the National Science and Technology Council;

(ii) not later than 1 year after December 27, 2020, and biennially thereafter, issue a strategic plan on energy-water nexus RD&D activities, priorities, and objectives pursuant to subparagraph (D), which shall be developed in consultation with relevant State and local governments;

(iii) convene and promote coordination of RD&D activities of relevant Federal departments and agencies on energy-water nexus;

(iv)(I) coordinate and develop capabilities and methodologies related to RD&D activities for data collection, data communication protocols (including models and modeling results), data management, and dissemination of validated data and results related to energy-water nexus RD&D activities to requesting Federal departments and agencies; and

(II) promote information exchange between Federal departments and agencies—

(aa) to identify and document Federal and non-Federal RD&D programs and funding opportunities that support basic and applied RD&D proposals to advance energy-water nexus related science and technologies;

(bb) to leverage existing RD&D programs by encouraging joint solicitations, block grants, and matching programs with non-Federal entities; and

(cc) to identify opportunities for domestic and international public-private partnerships, innovative financing mechanisms, and information and data exchange with respect to RD&D activities;

(v) identify ways to leverage existing RD&D programs, including programs at the State and local level;

(vi) make publicly available the results of RD&D activities on the energy water nexus;

(vii) with regard to RD&D programs, recommend improvements and best practices for the collection and dissemination of federal water use data and the use of monitoring networks; and

(viii) promote coordination on RD&D with non-Federal interests by—

(I) consulting with representatives of research and academic institutions, State, local, and Tribal governments, public utility commissions, and industry, who have expertise in technologies, technological innovations, or practices relating to the energy-water nexus; and

(II) considering conducting technical workshops.

(D) Strategic plan

In developing the strategic plan pursuant to (C)(ii), the Interagency RD&D Coordination Committee shall—

(i) to the maximum extent possible, avoid duplication with other Federal RD&D programs, and projects, including with those of the National Laboratories;

(ii) consider inclusion of specific research, development and demonstration needs, including—

(I) innovative practices, technologies and other advancements improving water efficiency, treatment, recovery, or reuse associated with energy generation, including cooling, and fuel production;

(II) innovative practices, technologies and other advancements associated with energy use in water collection, supply, delivery, distribution, treatment, or reuse;

(III) innovative practices, technologies and other advancements associated with generation or production of energy from water or wastewater systems; and

(IV) modeling and systems analysis related to energy-water nexus; and

(iii) submit the plan to the Committee on Energy and Natural Resources of the Senate and the Committees on Science, Space, and Technology, Energy and Commerce, and Natural Resources of the House of Representatives.

(E) Rules of construction

(i) Nothing in this section grants to the Interagency RD&D Coordination Committee the authority to promulgate regulations or set standards.

(ii) Notwithstanding any other provision of law, nothing in this section shall be construed to require State, Tribal, or local governments to take any action that may result in an increased financial burden to such governments.

(F) Additional participation

In developing the strategic plan described in subparagraph (C)(ii), the Secretary shall consult and coordinate with a diverse group of representatives from research and academic institutions, industry, public utility commissions, and State and local governments who have expertise in technologies and practices relating to the energy-water nexus.

(G) Review; report

At the end of the 5-year period beginning on the date on which the Interagency RD&D Coordination Committee and NEWS RD&D Office are established, the NEWS RD&D Office shall—

(i) review the activities, relevance, and effectiveness of the Interagency RD&D Coordination Committee; and

(ii) submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Science, Space, and Technology, Energy and Commerce, and Natural Resources of the House of Representatives a report that—

(I) describes the results of the review conducted under clause (i); and

(II) includes a recommendation on whether the Interagency RD&D Coordination Committee should continue.

(4) Crosscut budget

Not later than 30 days after the President submits the budget of the United States Government under section 1105 of title 31, the co-chairs of the Interagency RD&D Coordination Committee (acting through the NEWS RD&D Office) shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Science, Space, and Technology, Energy and Commerce, and Natural Resources of the House of Representatives, an interagency budget crosscut report that displays at the program-, project-, and activity-level for each of the Federal agencies that carry out or support (including through grants, contracts, interagency and intraagency transfers, and multiyear and no-year funds) basic and applied RD&D activities to advance the energy-water nexus related science and technologies, including—

(A) the budget proposed in the budget request of the President for the upcoming fiscal year;

(B) expenditures and obligations for the prior fiscal year; and

(C) estimated expenditures and obligations for the current fiscal year.

(5) Termination

(A) In general

The authority provided to the NEWS RD&D Office and NEWS RD&D Committee under this subsection shall terminate on the date that is 7 years after December 27, 2020.

(B) Effect

The termination of authority under subparagraph (A) shall not affect ongoing interagency planning, coordination, or other RD&D activities relating to the energy-water nexus.

(b) Integrating energy and water research

The Secretary shall integrate the following considerations into energy RD&D programs and projects of the Department by—

(1) advancing RD&D for energy and energy efficiency technologies and practices that meet the objectives of—

(A) minimizing freshwater withdrawal and consumption;

(B) increasing water use efficiency; and

(C) utilizing nontraditional water sources;

(2) considering the effects climate variability may have on water supplies and quality for energy generation and fuel production; and

(3) improving understanding of the energy-water nexus (as defined in subsection (a)(1)).

(c) Additional activities

The Secretary may provide for such additional RD&D activities as appropriate to integrate the considerations described in subsection (b) into the RD&D activities of the Department.

(Pub. L. 116–260, div. Z, title I, §1010, Dec. 27, 2020, 134 Stat. 2438.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

PART A—ENERGY EFFICIENCY

§16191. Energy efficiency

(a) In general

(1) Objectives

The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this part. Such programs shall take into consideration the following objectives:

(A) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(B) Reducing the demand of the United States for energy, especially energy from foreign sources.

(C) Reducing the cost of energy and making the economy more efficient and competitive.

(D) Improving the energy security of the United States.

(E) Reducing the environmental impact of energy-related activities.

(2) Programs

Programs under this part shall include research, development, demonstration, and commercial application of—

(A) advanced, cost-effective technologies to improve the energy efficiency and environmental performance of vehicles, including—

(i) hybrid and electric propulsion systems;

(ii) plug-in hybrid systems;

(iii) advanced combustion engines;

(iv) weight and drag reduction technologies;

(v) whole-vehicle design optimization; and

(vi) advanced drive trains;

(B) cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of buildings, using a whole-buildings approach, including onsite renewable energy generation;

(C) advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries;

(D) advanced control devices to improve the energy efficiency of electric motors, including those used in industrial processes, heating, ventilation, and cooling; and

(E) technologies to improve the energy efficiency of appliances and mechanical systems for buildings in cold climates, including combined heat and power units and increased use of renewable resources, including fuel.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this part—

(1) $783,000,000 for fiscal year 2007;

(2) $865,000,000 for fiscal year 2008; and

(3) $952,000,000 for fiscal year 2009.

(c) Allocations

From amounts authorized under subsection (b), the following sums are authorized:

(1) For activities under section 16192 of this title, $50,000,000 for each of fiscal years 2007 through 2009.

(2) For activities under section 16195 of this title, $7,000,000 for each of fiscal years 2007 through 2009.

(3) For activities under subsection (a)(2)(A)—

(A) $200,000,000 for fiscal year 2007;

(B) $270,000,000 for fiscal year 2008; and

(C) $310,000,000 for fiscal year 2009.

(4) For activities under subsection (a)(2)(D), $2,000,000 for each of fiscal years 2007 and 2008.

(d) Extended authorization

There are authorized to be appropriated to the Secretary to carry out section 16192 of this title $50,000,000 for each of fiscal years 2010 through 2013.

(e) Limitations

None of the funds authorized to be appropriated under this section may be used for—

(1) the issuance or implementation of energy efficiency regulations;

(2) the weatherization program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) a Federal energy management measure carried out under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

(Pub. L. 109–58, title IX, §911, Aug. 8, 2005, 119 Stat. 857; Pub. L. 110–140, title III, §315(a), Dec. 19, 2007, 121 Stat. 1571.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Conservation and Production Act, referred to in subsec. (e)(2), is Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1125, as amended. Part A of title IV of the Act is classified generally to part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

The Energy Policy and Conservation Act, referred to in subsec. (e)(3), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, as amended. Part D of title III of the Act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The National Energy Conservation Policy Act, referred to in subsec. (e)(4), is Pub. L. 95–619, Nov. 9,

1978, 92 Stat. 3206, as amended. Part 3 of title V of the Act is classified generally to part B (§8251 et seq.) of subchapter III of chapter 91 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of this title and Tables.

AMENDMENTS

2007—Subsec. (a)(2)(E). Pub. L. 110–140 added subpar. (E).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§16192. Next Generation Lighting Initiative

(a) Definitions

In this section:

(1) Advanced solid-state lighting

The term "advanced solid-state lighting" means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) Industry Alliance

The term "Industry Alliance" means an entity selected by the Secretary under subsection (d).

(3) Initiative

The term "Initiative" means the Next Generation Lighting Initiative carried out under this section.

(4) Research

The term "research" includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(5) White light emitting diode

The term "white light emitting diode" means a semiconducting package, using either organic or inorganic materials, that produces white light using externally applied voltage.

(b) Initiative

The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(c) Objectives

The objectives of the Initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting, are more energy-efficient and cost-competitive, and have less environmental impact.

(d) Industry Alliance

Not later than 90 days after August 8, 2005, the Secretary shall competitively select an Industry Alliance to represent participants who are private, for-profit firms, open to large and small businesses, that, as a group, are broadly representative of United States solid-state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(e) Research

(1) Grants

The Secretary shall carry out the research activities of the Initiative through competitively awarded grants to—

(A) researchers, including Industry Alliance participants;

(B) small businesses;

(C) National Laboratories; and

(D) institutions of higher education.

(2) Industry alliance

The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) an assessment of the progress of the research activities of the Initiative; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) Availability to public

The information and roadmaps under paragraph (2) shall be available to the public.

(f) Development, demonstration, and commercial application

(1) In general

The Secretary shall carry out a development, demonstration, and commercial application program for the Initiative through competitively selected awards.

(2) Preference

In making the awards, the Secretary may give preference to participants in the Industry Alliance.

(g) Cost sharing

In carrying out this section, the Secretary shall require cost sharing in accordance with section 16352 of this title.

(h) Intellectual property

The Secretary may require (in accordance with section 202(a)(ii) of title 35, section 2182 of this title, and section 5908 of this title) that for any new invention developed under subsection (e)—

(1) that the Industry Alliance participants who are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are covered by this section shall be granted the first option to negotiate with the invention owner, at least in the field of solid-state lighting, nonexclusive licenses and royalties on terms that are reasonable under the circumstances;

(2)(A) that, for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in paragraph (1); and

(B) that, during the year described in subparagraph (A), the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in paragraph (1); and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(i) National Academy review

The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

(Pub. L. 109–58, title IX, §912, Aug. 8, 2005, 119 Stat. 858.)

§16193. National Building Performance Initiative

(a) Interagency group

(1) In general

Not later than 90 days after August 8, 2005, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (referred to in this section as the "Initiative").

(2) Cochairs

The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) Integration of efforts

The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) Plan

(1) In general

Not later than 1 year after August 8, 2005, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative.

(2) Inclusions

The plan shall include—

(A) research, development, demonstration, and commercial application of energy technology systems and materials for new construction and retrofit relating to the building envelope and building system components;

(B) research, development, demonstration, and commercial application of energy technology and infrastructure enabling the energy efficient, automated operation of buildings and building equipment; and

(C) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) Department of Energy role

Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) Advisory committee

The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) Administration

Nothing in this section provides any Federal agency with new authority to regulate building performance.

(Pub. L. 109–58, title IX, §913, Aug. 8, 2005, 119 Stat. 860.)

§16194. Building standards

(a) Definition of high performance building

In this section, the term "high performance building" means a building that integrates and optimizes all major high-performance building attributes, including energy efficiency, durability, life-cycle performance, and occupant productivity.

(b) Assessment

Not later than 120 days after August 8, 2005, the Secretary shall enter into an agreement with the National Institute of Building Sciences to—

(1) conduct an assessment (in cooperation with industry, standards development organizations, and other entities, as appropriate) of whether the current voluntary consensus standards and rating systems for high performance buildings are consistent with the current technological state of the art, including relevant results from the research, development and demonstration activities of the Department;

(2) determine if additional research is required, based on the findings of the assessment; and

(3) recommend steps for the Secretary to accelerate the development of voluntary consensus-based standards for high performance buildings that are based on the findings of the assessment.

(c) Grant and technical assistance program

Consistent with subsection (b) and section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), the Secretary shall establish a grant and technical assistance program to support the development of voluntary consensus-based standards for high performance buildings.

(Pub. L. 109–58, title IX, §914, Aug. 8, 2005, 119 Stat. 861.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, referred to in subsec. (c), is section 12(d) of Pub. L. 104–113, as amended, which is set out as a note under section 272 of Title 15, Commerce and Trade.

§16195. Secondary electric vehicle battery use program

(a) Definitions

In this section:

(1) Battery

The term "battery" means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) Associated equipment

The term "associated equipment" means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) Program

(1) In general

The Secretary shall establish and conduct a program of research, development, demonstration, and commercial application of energy technology for the secondary use of batteries, if the Secretary finds that there are sufficient numbers of batteries to support the program.

(2) Administration

The program shall be—

(A) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(B) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(C) coordinated with ongoing secondary battery use programs at the National Laboratories

and in industry.

(c) Solicitation

(1) In general

Not later than 180 days after August 8, 2005, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States.

(2) Additional solicitations

The Secretary may make additional solicitations for proposals if the Secretary determines that the solicitations are necessary to carry out this section.

(d) Selection of proposals

(1) In general

Not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), the Secretary shall select up to five proposals that may receive financial assistance under this section once the Department receives appropriated funds to carry out this section.

(2) Factors

In selecting proposals, the Secretary shall consider—

(A) the diversity of battery type;

(B) geographic and climatic diversity; and

(C) life-cycle environmental effects of the approaches.

(3) Limitation

No one project selected under this section shall receive more than 25 percent of the funds made available to carry out the program under this section.

(4) Non-Federal involvement

In selecting proposals, the Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) Other criteria

In selecting proposals, the Secretary may consider such other criteria as the Secretary considers appropriate.

(e) Conditions

In carrying out this section, the Secretary shall require that—

(1) relevant information be provided to—

(A) the Department;

(B) the users of the batteries;

(C) the proposers of a project under this section; and

(D) the battery manufacturers; and

(2) the costs of carrying out projects and activities under this section are shared in accordance with section 16352 of this title.

(Pub. L. 109–58, title IX, §915, Aug. 8, 2005, 119 Stat. 861.)

§16196. Energy Efficiency Science Initiative

(a) Establishment

The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section

7133(a)(9) of this title, in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) Report

The Secretary shall submit to Congress, along with the annual budget request of the President submitted to Congress, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

(Pub. L. 109–58, title IX, §916, Aug. 8, 2005, 119 Stat. 862.)

§16197. Advanced Energy Technology Transfer Centers

(a) Grants

Not later than 18 months after May 8, 2008, the Secretary shall make grants to nonprofit institutions, State and local governments, cooperative extension services, or institutions of higher education (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers. In making awards under this section, the Secretary shall—

(1) give priority to applicants already operating or partnered with an outreach program capable of transferring knowledge and information about advanced energy efficiency methods and technologies;

(2) ensure that, to the extent practicable, the program enables the transfer of knowledge and information—

(A) about a variety of technologies; and

(B) in a variety of geographic areas;

(3) give preference to applicants that would significantly expand on or fill a gap in existing programs in a geographical region; and

(4) consider the special needs and opportunities for increased energy efficiency for manufactured and site-built housing, including construction, renovation, and retrofit.

(b) Activities

Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use. Funds awarded under this section may be used for the following activities:

(1) Developing and distributing informational materials on technologies that could use energy more efficiently.

(2) Carrying out demonstrations of advanced energy methods and technologies.

(3) Developing and conducting seminars, workshops, long-distance learning sessions, and other activities to aid in the dissemination of knowledge and information on technologies that could use energy more efficiently.

(4) Providing or coordinating onsite energy evaluations, including instruction on the commissioning of building heating and cooling systems, for a wide range of energy end-users.

(5) Examining the energy efficiency needs of energy end-users to develop recommended research projects for the Department.

(6) Hiring experts in energy efficient technologies to carry out activities described in paragraphs (1) through (5).

(c) Application

A person seeking a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant

under this section to an entity already in existence if the entity is otherwise eligible under this section. The application shall include, at a minimum—

(1) a description of the applicant's outreach program, and the geographic region it would serve, and of why the program would be capable of transferring knowledge and information about advanced energy technologies that increase efficiency of energy use;

(2) a description of the activities the applicant would carry out, of the technologies that would be transferred, and of any other organizations that will help facilitate a regional approach to carrying out those activities;

(3) a description of how the proposed activities would be appropriate to the specific energy needs of the geographic region to be served;

(4) an estimate of the number and types of energy end-users expected to be reached through such activities; and

(5) a description of how the applicant will assess the success of the program.

(d) Selection criteria

The Secretary shall award grants under this section on the basis of the following criteria, at a minimum:

(1) The ability of the applicant to carry out the proposed activities.

(2) The extent to which the applicant will coordinate the activities of the Center with other entities as appropriate, such as State and local governments, utilities, institutions of higher education, and National Laboratories.

(3) The appropriateness of the applicant's outreach program for carrying out the program described in this section.

(4) The likelihood that proposed activities could be expanded or used as a model for other areas.

(e) Cost-sharing

In carrying out this section, the Secretary shall require cost-sharing in accordance with the requirements of section 16352 of this title for commercial application activities.

(f) Duration

(1) Initial grant period

A grant awarded under this section shall be for a period of 5 years.

(2) Initial evaluation

Each grantee under this section shall be evaluated during its third year of operation under procedures established by the Secretary to determine if the grantee is accomplishing the purposes of this section described in subsection (a). The Secretary shall terminate any grant that does not receive a positive evaluation. If an evaluation is positive, the Secretary may extend the grant for 3 additional years beyond the original term of the grant.

(3) Additional extension

If a grantee receives an extension under paragraph (2), the grantee shall be evaluated again during the second year of the extension. The Secretary shall terminate any grant that does not receive a positive evaluation. If an evaluation is positive, the Secretary may extend the grant for a final additional period of 3 additional years beyond the original extension.

(4) Limitation

No grantee may receive more than 11 years of support under this section without reapplying for support and competing against all other applicants seeking a grant at that time.

(g) Prohibition

None of the funds awarded under this section may be used for the construction of facilities.

(h) Definitions

For purposes of this section:

(1) Advanced energy methods and technologies

The term "advanced energy methods and technologies" means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

(2) Center

The term "Center" means an Advanced Energy Technology Transfer Center established pursuant to this section.

(3) Distributed generation

The term "distributed generation" means an electric power generation technology, including photovoltaic, small wind, and micro-combined heat and power, that serves electric consumers at or near the site of production.

(4) Cooperative Extension

The term "Cooperative Extension" means the extension services established at the land-grant colleges and universities under the Smith-Lever Act of May 8, 1914 [7 U.S.C. 341 et seq.].

(5) Land-grant colleges and universities

The term "land-grant colleges and universities" means—

(A) 1862 Institutions (as defined in section 7601 of title 7);

(B) 1890 Institutions (as defined in section 7601 of title 7); and

(C) 1994 Institutions (as defined in section 7601 of title 7).

(i) Authorization of appropriations

In addition to amounts otherwise authorized to be appropriated in section 16191 of this title, there are authorized to be appropriated for the program under this section such sums as may be appropriated.

(Pub. L. 109–58, title IX, §917, Aug. 8, 2005, 119 Stat. 863; Pub. L. 110–229, title VI, §601, May 8, 2008, 122 Stat. 850.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Smith-Lever Act of May 8, 1914, referred to in subsec. (h)(4), is act May 8, 1914, ch. 79, 38 Stat. 372, which is classified generally to subchapter IV (§341 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 341 of Title 7 and Tables.

CODIFICATION

May 8, 2008, referred to in subsec. (a), was in the original "the date of enactment of the National Forests, Parks, Public Land, and Reclamation Projects Authorization Act of 2008" and was translated as meaning the date of enactment of the Consolidated Natural Resources Act of 2008, Pub. L. 110–229, which amended this section generally, to reflect the probable intent of Congress. The National Forests, Parks, Public Land, and Reclamation Projects Authorization Act of 2008, was S. 2616, 110th Congress, introduced in the Senate on Feb. 8, 2008, with action thereon indefinitely postponed. The provisions of section 601 of that bill generally amended section 917 of Pub. L. 109–58 (this section) and was a predecessor version of section 601 of Pub. L. 109–229.

AMENDMENTS

2008—Pub. L. 110–229 amended section generally. Prior to amendment, section related to grants for the establishment of a network of Advanced Energy Efficiency Technology Transfer Centers.

§16198. Smart energy and water efficiency pilot program

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a utility;

(B) a municipality;

(C) a water district;

(D) an Indian Tribe or Alaska Native village; and

(E) any other authority that provides water, wastewater, or water reuse services.

(2) Smart energy and water efficiency pilot program

The term "smart energy and water efficiency pilot program" or "pilot program" means the pilot program established under subsection (b).

(b) Smart energy and water efficiency pilot program

(1) In general

The Secretary shall establish and carry out a smart energy and water efficiency pilot program in accordance with this section.

(2) Purpose

The purpose of the smart energy and water efficiency pilot program is to award grants to eligible entities to demonstrate unique, advanced, or innovative technology-based solutions that will—

(A) improve the net energy balance of water, wastewater, and water reuse systems;

(B) improve the net energy balance of water, wastewater, and water reuse systems to help communities across the United States make measurable progress in conserving water, saving energy, and reducing costs;

(C) support the implementation of innovative and unique processes and the installation of established advanced automated systems that provide real-time data on energy and water; and

(D) improve energy-water conservation and quality and predictive maintenance through technologies that utilize internet connected technologies, including sensors, intelligent gateways, and security embedded in hardware.

(3) Project selection

(A) In general

The Secretary shall make competitive, merit-reviewed grants under the pilot program to not less than 3, but not more than 5, eligible entities.

(B) Selection criteria

In selecting an eligible entity to receive a grant under the pilot program, the Secretary shall consider—

(i) energy and cost savings;

(ii) the uniqueness, commercial viability, and reliability of the technology to be used;

(iii) the degree to which the project integrates next-generation sensors software, analytics, and management tools;

(iv) the anticipated cost-effectiveness of the pilot project through measurable energy savings, water savings or reuse, and infrastructure costs averted;

(v) whether the technology can be deployed in a variety of geographic regions and the degree to which the technology can be implemented in a wide range of applications ranging in scale from small towns to large cities, including Tribal communities;

(vi) whether the technology has been successfully deployed elsewhere;

(vii) whether the technology was sourced from a manufacturer based in the United States; and

(viii) whether the project will be completed in 5 years or less.

(C) Applications

(i) In general

Subject to clause (ii), an eligible entity seeking a grant under the pilot program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be necessary.

(ii) Contents

An application under clause (i) shall, at a minimum, include—

(I) a description of the project;

(II) a description of the technology to be used in the project;

(III) the anticipated results, including energy and water savings, of the project;

(IV) a comprehensive budget for the project;

(V) the names of the project lead organization and any partners;

(VI) the number of users to be served by the project;

(VII) a description of the ways in which the proposal would meet performance measures established by the Secretary; and

(VIII) any other information that the Secretary determines to be necessary to complete the review and selection of a grant recipient.

(4) Administration

(A) In general

Not later than 1 year after December 27, 2020, the Secretary shall select grant recipients under this section.

(B) Evaluations

(i) Annual evaluations

The Secretary shall annually carry out an evaluation of each project for which a grant is provided under this section that meets performance measures and benchmarks developed by the Secretary, consistent with the purposes of this section.

(ii) Requirements

Consistent with the performance measures and benchmarks developed under clause (i), in carrying out an evaluation under that clause, the Secretary shall—

(I) evaluate the progress and impact of the project; and

(II) assess the degree to which the project is meeting the goals of the pilot program.

(C) Technical and policy assistance

On the request of a grant recipient, the Secretary shall provide technical and policy assistance.

(D) Best practices

The Secretary shall make available to the public through the Internet and other means the Secretary considers to be appropriate—

(i) a copy of each evaluation carried out under subparagraph (B); and

(ii) a description of any best practices identified by the Secretary as a result of those evaluations.

(E) Report to Congress

The Secretary shall submit to Congress a report containing the results of each evaluation carried out under subparagraph (B).

(c) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $15,000,000, to remain available until expended.

(Pub. L. 109–58, title IX, §918, as added Pub. L. 116–260, div. Z, title I, §1014(a), Dec. 27, 2020, 134 Stat. 2451.)

PART B—DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS

§16211. Distributed energy and electric energy systems

(a) In general

The Secretary shall carry out programs of research, development, demonstration, and commercial application on distributed energy resources and systems reliability and efficiency, to improve the reliability and efficiency of distributed energy resources and systems, integrating advanced energy technologies with grid connectivity, including activities described in this part. The programs shall address advanced energy technologies and systems and advanced grid reliability technologies.

(b) Authorization of appropriations

(1) Distributed energy and electric energy systems activities

There are authorized to be appropriated to the Secretary to carry out distributed energy and electric energy systems activities, including activities authorized under this part—

(A) $240,000,000 for fiscal year 2007;
(B) $255,000,000 for fiscal year 2008; and
(C) $273,000,000 for fiscal year 2009.

(2) Power delivery research initiative

There are authorized to be appropriated to the Secretary to carry out the Power Delivery Research Initiative under subsection [1] 16215(e) of this title such sums as may be necessary for each of fiscal years 2007 through 2009.

(c) Micro-cogeneration energy technology

From amounts authorized under subsection (b), $20,000,000 for each of fiscal years 2007 and 2008 shall be available to carry out activities under section 16213 of this title.

(d) High-voltage transmission lines

From amounts authorized under subsection (b), $2,000,000 for fiscal year 2007 shall be available to carry out activities under section 16215(g) of this title.

(Pub. L. 109–58, title IX, §921, Aug. 8, 2005, 119 Stat. 864.)

[1] So in original. Probably should be "section".

§16212. High power density industry program

(a) In general

The Secretary shall establish a comprehensive research, development, demonstration, and commercial application to improve the energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities.

(b) Technologies

The program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

(Pub. L. 109–58, title IX, §922, Aug. 8, 2005, 119 Stat. 864.)

§16213. Micro-cogeneration energy technology

(a) In general

The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology.

(b) Uses

The consortia shall explore—

(1) the use of small-scale combined heat and power in residential heating appliances;

(2) the use of excess power to operate other appliances within the residence; and

(3) the supply of excess generated power to the power grid.

(Pub. L. 109–58, title IX, §923, Aug. 8, 2005, 119 Stat. 865.)

§16214. Distributed energy technology demonstration programs

(a) Coordinating consortia program

The Secretary may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the use of distributed energy technologies (such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems) in high-energy intensive commercial applications.

(b) Small-scale portable power program

(1) In general

The Secretary shall—

(A) establish a research, development, and demonstration program to develop working models of small scale portable power devices; and

(B) to the fullest extent practicable, identify and utilize the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(2) Organization

The universities identified and utilized under paragraph (1)(B) are authorized to establish an organization to promote small scale portable power devices.

(3) Definition

For purposes of this subsection, the term "small scale portable power device" means a field-deployable portable mechanical or electromechanical device that can be used for applications such as communications, computation, mobility enhancement, weapons systems, optical devices, cooling, sensors, medical devices, and active biological agent detection systems.

(Pub. L. 109–58, title IX, §924, Aug. 8, 2005, 119 Stat. 865.)

§16215. Electric transmission and distribution programs

(a) Program

The Secretary shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems, which shall include—

(1) advanced energy delivery technologies, energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) the development of cost-effective technologies that enable two-way information and power flow between distributed energy resources and the electric grid;

(11) the development of technologies and concepts that enable interoperability between distributed energy resources and other behind-the-meter devices and the electric grid;

(12) any other infrastructure technologies, as appropriate; and

(13) technology transfer and education.

(b) Program plan

(1) In general

Not later than 1 year after August 8, 2005, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and submit to Congress a 5-year program plan to guide activities under this section.

(2) Consultation

In preparing the program plan, the Secretary shall consult with—

(A) utilities;

(B) energy service providers;

(C) manufacturers;

(D) institutions of higher education;

(E) other appropriate State and local agencies;

(F) environmental organizations;

(G) professional and technical societies; and

(H) any other persons the Secretary considers appropriate.

(c) Implementation

The Secretary shall consider implementing the program under this section using a consortium of participants from industry, institutions of higher education, and National Laboratories.

(d) Report

Not later than 2 years after the submission of the plan under subsection (b), the Secretary shall submit to Congress a report—

(1) describing the progress made under this section; and

(2) identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) Power delivery research initiative

(1) In general

The Secretary shall establish a research, development, and demonstration initiative specifically focused on power delivery using components incorporating high temperature superconductivity.

(2) Goals

The goals of the Initiative shall be—

(A) to establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) to provide technical leadership for establishing reliability for high temperature superconductivity power applications, including suitable modeling and analysis;

(C) to facilitate the commercial transition toward direct current power transmission, storage, and use for high power systems using high temperature superconductivity; and

(D) to facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control, and reliability.

(3) Inclusions

The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current, and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with National Laboratories, industries, and institutions of higher education to—

(i) demonstrate those technologies;

(ii) prepare the technologies for commercial introduction; and

(iii) address cost or performance roadblocks to successful commercial use.

(f) Transmission and distribution grid planning and operations initiative

(1) In general

The Secretary shall establish a research, development, and demonstration initiative specifically focused on tools needed to plan, operate, and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response, and ancillary services.

(2) Goals

The goals of the Initiative shall be—

(A)(i) to develop and use a geographically distributed center, consisting of institutions of higher education, and National Laboratories, with expertise and facilities to develop the underlying theory and software for power system application; and

(ii) to ensure commercial development in partnership with software vendors and utilities;

(B) to provide technical leadership in engineering and economic analysis for the reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(C) to model, simulate, and experiment with new market mechanisms and operating practices to understand and optimize those new methods before actual use; and

(D) to provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

(g) High-voltage transmission lines

As part of the program described in subsection (a), the Secretary shall award a grant to a university research program to design and test, in consultation with the Tennessee Valley Authority, state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.

(Pub. L. 109–58, title IX, §925, Aug. 8, 2005, 119 Stat. 865; Pub. L. 116–260, div. Z, title VIII, §8004(a), Dec. 27, 2020, 134 Stat. 2583.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a)(10) to (13). Pub. L. 116–260 added pars. (10) and (11) and redesignated former pars. (10) and (11) as (12) and (13), respectively.

COORDINATION OF EFFORTS

Pub. L. 116–260, div. Z, title VIII, §8006, Dec. 27, 2020, 134 Stat. 2586, provided that: "In carrying out the amendments made by this title [enacting sections 16236, 17014, 17384a, 17387, and 17388 of this title and amending this section, section 17384 of this title and sections 3501 and 3502 of Title 25, Indians], the Secretary [probably means Secretary of Energy] shall coordinate with relevant entities to the maximum extent practicable, including—

"(1) electric utilities;
"(2) private sector entities;
"(3) representatives of all sectors of the electric power industry;
"(4) transmission organizations;
"(5) transmission owners and operators;
"(6) distribution organizations;
"(7) distribution asset owners and operators;
"(8) State, Tribal, local, and territorial governments and regulatory authorities;
"(9) academic institutions;
"(10) the National Laboratories;
"(11) other Federal agencies;
"(12) nonprofit organizations;
"(13) the Federal Energy Regulatory Commission;
"(14) the North American Reliability Corporation;
"(15) independent system operators; and
"(16) programs and program offices at the Department."

PART C—RENEWABLE ENERGY

§16231. Renewable energy

(a) In general

(1) Objectives

The Secretary shall conduct programs of renewable energy research, development, demonstration, and commercial application, including activities described in this part. Such programs shall take into consideration the following objectives:

(A) Increasing the conversion efficiency of all forms of renewable energy through improved technologies.

(B) Decreasing the cost of renewable energy generation and delivery.

(C) Promoting the diversity of the energy supply.

(D) Decreasing the dependence of the United States on foreign energy supplies.

(E) Improving United States energy security.

(F) Decreasing the environmental impact of energy-related activities.

(G) Increasing the export of renewable generation equipment from the United States.

(2) Programs

(A) Geothermal

The Secretary shall conduct a program of research, development, demonstration, and commercial application for geothermal energy. The program shall focus on developing improved technologies for reducing the costs of geothermal energy installations, including technologies for—

(i) improving detection of geothermal resources;

(ii) decreasing drilling costs;

(iii) decreasing maintenance costs through improved materials;
(iv) increasing the potential for other revenue sources, such as mineral production; and
(v) increasing the understanding of reservoir life cycle and management.

(B) Hydropower

The Secretary shall conduct a program of research, development, demonstration, and commercial application for cost competitive technologies that enable the development of new and incremental hydropower capacity, adding to the diversity of the energy supply of the United States, including:

(i) Fish-friendly large turbines.
(ii) Advanced technologies to enhance environmental performance and yield greater energy efficiencies.

(C) Miscellaneous projects

The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(i) ocean energy, including wave energy;
(ii) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of wind power and coal gasification technologies;
(iii) renewable energy technologies for cogeneration of hydrogen and electricity; and
(iv) kinetic hydro turbines.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this part—

(1) $632,000,000 for fiscal year 2007;
(2) $743,000,000 for fiscal year 2008;
(3) $852,000,000 for fiscal year 2009; and
(4) $963,000,000 for fiscal year 2010.

(c) Bioenergy

From the amounts authorized under subsection (b), there are authorized to be appropriated to carry out section 16232 of this title—

(1) $213,000,000 for fiscal year 2007, of which $100,000,000 shall be for section 16232(d) of this title;
(2) $377,000,000 for fiscal year 2008, of which $125,000,000 shall be for section 16232(d) of this title;
(3) $398,000,000 for fiscal year 2009, of which $150,000,000 shall be for section 16232(d) of this title; and
(4) $419,000,000 for fiscal year 2010, of which $150,000,000 shall be for section 16232(d) of this title.

(d) Administration

Of the funds authorized under subsection (c), not less than $5,000,000 for each fiscal year shall be made available for grants to—

(1) part B institutions;
(2) Tribal Colleges or Universities (as defined in section 1059c(b) of title 20); and
(3) Hispanic-serving institutions.

(e) Rural demonstration projects

In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of renewable energy technologies to assist in delivering electricity to rural and remote locations including —

(1) advanced wind power technology, including combined use with coal gasification;

(2) biomass; and
(3) geothermal energy systems.

(f) Analysis and evaluation

(1) In general

The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this part. These activities shall be used to guide budget and program decisions, and shall include—

(A) economic and technical analysis of renewable energy potential, including resource assessment;

(B) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy; and

(C) any other analysis or evaluation that the Secretary considers appropriate.

(2) Funding

The Secretary may designate up to 1 percent of the funds appropriated for carrying out this part for analysis and evaluation activities under this subsection.

(Pub. L. 109–58, title IX, §931, Aug. 8, 2005, 119 Stat. 868; Pub. L. 110–140, title II, §231, Dec. 19, 2007, 121 Stat. 1536; Pub. L. 116–260, div. Z, title III, §3006(b)(3), Dec. 27, 2020, 134 Stat. 2512.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a)(2). Pub. L. 116–260, §3006(b)(3)(A)(i), (ii), redesignated subpars. (C) to (E) as (A) to (C), respectively, and struck out former subpars. (A) and (B) which related to solar and wind energy programs.

Subsecs. (d) to (g). Pub. L. 116–260, §3006(b)(3)(B), (C), redesignated subsecs. (e) to (g) as (d) to (f), respectively, and struck out former subsec. (d) which related to solar power.

2007—Subsec. (b)(4). Pub. L. 110–140, §231(1), added par. (4).

Subsec. (c)(2) to (4). Pub. L. 110–140, §231(2), in par. (2), substituted "$377,000,000" for "$251,000,000", in par. (3), substituted "$398,000,000" for "$274,000,000", and added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§16232. Bioenergy program

(a) Definitions

In this section:

(1) Biomass

The term "biomass" means—

(A) any organic material grown for the purpose of being converted to energy;

(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—

(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise nonmerchantable material; or

(ii) wood waste materials, including waste pallets, crates, dunnage, manufacturing and

construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled.

(2) Lignocellulosic feedstock

The term "lignocellulosic feedstock" means any portion of a plant or coproduct from conversion, including crops, trees, forest residues, and agricultural residues not specifically grown for food, including from barley grain, grapeseed, rice bran, rice hulls, rice straw, soybean matter, and sugarcane bagasse.

(b) Program

The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;
(2) biofuels;
(3) bioproducts;
(4) integrated biorefineries that may produce biopower, biofuels, and bioproducts;
(5) cross-cutting research and development in feedstocks; and
(6) economic analysis.

(c) Biofuels and bioproducts

The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry and institutions of higher education—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from lignocellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles;

(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems;

(3) advanced biotechnology processes capable of increasing energy production from lignocellulosic feedstocks, with emphasis on reducing the dependence of industry on fossil fuels in manufacturing facilities; and

(4) other advanced processes that will enable the development of cost-effective bioproducts, including biofuels.

(d) Integrated biorefinery demonstration projects

(1) In general

The Secretary shall carry out a program to demonstrate the commercial application of integrated biorefineries. The Secretary shall ensure geographical distribution of biorefinery demonstrations under this subsection. The Secretary shall not provide more than $100,000,000 under this subsection for any single biorefinery demonstration. In making awards under this subsection, the Secretary shall encourage—

(A) the demonstration of a wide variety of lignocellulosic feedstocks;
(B) the commercial application of biomass technologies for a variety of uses, including—
(i) liquid transportation fuels;
(ii) high-value biobased chemicals;
(iii) substitutes for petroleum-based feedstocks and products; and
(iv) energy in the form of electricity or useful heat; and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) Proposals

Not later than 6 months after August 8, 2005, the Secretary shall solicit proposals for demonstration of advanced biorefineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal

subsidy after initial construction costs are paid; and

(B) enable the biorefinery to be easily replicated.

(e) University biodiesel program

The Secretary shall establish a demonstration program to determine the feasibility of the operation of diesel electric power generators, using biodiesel fuels with ratings as high as B100, at electric generation facilities owned by institutions of higher education. The program shall examine—

(1) heat rates of diesel fuels with large quantities of cellulosic content;

(2) the reliability of operation of various fuel blends;

(3) performance in cold or freezing weather;

(4) stability of fuel after extended storage; and

(5) other criteria, as determined by the Secretary.

(g) [1] Biorefinery energy efficiency

The Secretary shall establish a program of research, development, demonstration, and commercial application for increasing energy efficiency and reducing energy consumption in the operation of biorefinery facilities.

(h) Retrofit technologies for the development of ethanol from cellulosic materials

The Secretary shall establish a program of research, development, demonstration, and commercial application on technologies and processes to enable biorefineries that exclusively use corn grain or corn starch as a feedstock to produce ethanol to be retrofitted to accept a range of biomass, including lignocellulosic feedstocks.

(Pub. L. 109–58, title IX, §932, Aug. 8, 2005, 119 Stat. 870; Pub. L. 110–140, title II, §224, Dec. 19, 2007, 121 Stat. 1533.)

EDITORIAL NOTES

AMENDMENTS

2007—Subsecs. (g), (h). Pub. L. 110–140 added subsecs. (g) and (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

[1] So in original. No subsec. (f) has been enacted.

§16233. Low-cost renewable hydrogen and infrastructure for vehicle propulsion

The Secretary shall—

(1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsion in light-weight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and

(2) identify universities and institutions that—

(A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels;

(B) have expertise in integrating off-the-shelf components to minimize cost; and

(C) within 2 years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications, that—

(i) operates solely on hydrogen;

(ii) qualifies as a light-duty passenger vehicle; and

(iii) uses hydrogen produced from water using only solar energy.

(Pub. L. 109–58, title IX, §933, Aug. 8, 2005, 119 Stat. 872.)

§16234. Concentrating solar power research program

(a) In general

The Secretary shall conduct a program of research and development to evaluate the potential for concentrating solar power for hydrogen production, including cogeneration approaches for both hydrogen and electricity.

(b) Administration

The program shall take advantage of existing facilities to the extent practicable and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);

(4) cogeneration of solar thermal electric power and photo-synthetic-based hydrogen production;

(5) system architectures and economics studies; and

(6) coordination with activities under the Next Generation Nuclear Plant Project established under part B of subchapter VI on high temperature materials, thermochemical cycles, and economic issues.

(c) Assessment

In carrying out the program under this section, the Secretary shall—

(1) assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council in the report entitled "Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs" and dated 2000 and subsequent reviews of that report funded by the Department; and

(2) provide an assessment of the potential impact of technology used to concentrate solar power for electricity before, or concurrent with, submission of the budget for fiscal year 2008.

(d) Report

Not later than 5 years after August 8, 2005, the Secretary shall provide to Congress a report on the economic and technical potential for electricity or hydrogen production, with or without cogeneration, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity or hydrogen from concentrating solar power.

(Pub. L. 109–58, title IX, §934, Aug. 8, 2005, 119 Stat. 872.)

§16235. Renewable energy in public buildings

(a) Demonstration and technology transfer program

The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(b) Limit on Federal funding

Notwithstanding section 16352 of this title, the Secretary shall provide under this section no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(c) Requirements

As part of the application for awards under this section, the Secretary shall require all applicants—

(1) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(2) to state how they expect any award to further their transition to the significant use of renewable energy.

(Pub. L. 109–58, title IX, §935, Aug. 8, 2005, 119 Stat. 873.)

§16236. Research and development into integrating renewable energy onto the electric grid

(a) In general

Not later than 180 days after December 27, 2020, the Secretary shall establish a research, development, and demonstration program on technologies that enable integration of renewable energy generation sources onto the electric grid across multiple program offices of the Department. The program shall include—

(1) forecasting for predicting generation from variable renewable energy sources;

(2) development of cost-effective low-loss, long-distance transmission lines; and

(3) development of cost-effective advanced technologies for variable renewable generation sources to provide grid services.

(b) Coordination

In carrying out this program, the Secretary shall coordinate across all relevant program offices at the Department to achieve the goals established in this section, including the Office of Electricity.

(c) Adoption of technologies

In carrying out this section, the Secretary shall consider barriers to adoption and commercial application of technologies that enable integration of renewable energy sources onto the electric grid, including cost and other economic barriers, and shall coordinate with relevant entities to reduce these barriers.

(Pub. L. 109–58, title IX, §936, as added Pub. L. 116–260, div. Z, title VIII, §8004(b), Dec. 27, 2020, 134 Stat. 2583.)

§16237. Wind energy research and development

(a) Definitions

In this section:

(1) Critical material

The term "critical material" has the meaning given the term in section 1606 of title 30.

(2) Economically distressed area

The term "economically distressed area" means an area described in section 3161(a) of this title.

(3) Eligible entity

The term "eligible entity" means—

(A) an institution of higher education, including a minority-serving institution;

(B) a National Laboratory;

(C) a Federal research agency;

(D) a State research agency;

(E) a research agency associated with a territory or freely associated state;

(F) a Tribal energy development organization;

(G) an Indian Tribe;
(H) a Tribal organization;
(I) a Native Hawaiian community-based organization;
(J) a nonprofit research organization;
(K) an industrial entity;
(L) any other entity, as determined by the Secretary; and
(M) a consortium of 2 or more entities described in subparagraphs (A) through (L).

(4) Indian Tribe

The term "Indian Tribe" has the meaning given the term in section 5304 of title 25.

(5) Institution of higher education

The term "institution of higher education" means—
(A) an institution of higher education (as defined in section 1001(a) of title 20); or
(B) a postsecondary vocational institution (as defined in section 1002(c) of title 20).

(6) Minority serving institution

The term "minority-serving institution" has the meaning given the term "eligible institution" in section 1067q(a) of title 20.

(7) National Laboratory

The term "National Laboratory" has the meaning given such term in section 15801(3) of this title.

(8) Native Hawaiian community-based organization

The term "Native Hawaiian community-based organization" has the meaning given the term in section 7517 of title 20.

(9) Program

The term "program" means the program established under subsection (b)(1).

(10) Secretary

The term "Secretary" means the Secretary of Energy.

(11) Territory or freely associated state

The term "territory or freely associated state" has the meaning given the term "insular area" in section 3103 of title 7.

(12) Tribal energy development organization

The term "Tribal energy development organization" has the meaning given the term "tribal energy development organization" in section 3501 of title 25.

(13) Tribal organization

The term "Tribal organization" has the meaning given the term in section 5304 of title 25.

(b) Wind energy technology program

(1) Establishment

(A) In general

The Secretary shall establish a program to conduct research, development, demonstration, and commercialization of wind energy technologies in accordance with this subsection.

(B) Purposes

The purposes of the program are the following:
(i) To improve the energy efficiency, cost effectiveness, reliability, resilience, security, siting, integration, manufacturability, installation, decommissioning, and recyclability of wind energy technologies.
(ii) To optimize the performance and operation of wind energy components, turbines, and

systems, including through the development of new materials, hardware, and software.

(iii) To optimize the design and adaptability of wind energy technologies to the broadest practical range of geographic, atmospheric, offshore, and other site conditions, including—

(I) at varying hub heights; and

(II) through the use of computer modeling.

(iv) To support the integration of wind energy technologies with the electric grid and other energy technologies and systems.

(v) To reduce the cost, risk, and other potential negative impacts across the lifespan of wind energy technologies, including—

(I) manufacturing, siting, permitting, installation, operations, maintenance, decommissioning, and recycling; and

(II) through the development of solutions to transportation barriers to wind components.

(vi) To reduce and mitigate potential negative impacts of wind energy technologies on human communities, the environment, or commerce.

(vii) To address barriers to the commercialization and export of wind energy technologies.

(viii) To support the domestic wind industry, workforce, and supply chain.

(C) Targets

Not later than 180 days after December 27, 2020, the Secretary shall establish targets for the program relating to near-term (up to 2 years), mid-term (up to 7 years), and long-term (up to 15 years) challenges to the advancement of wind energy technologies, including onshore, offshore, distributed, and off-grid technologies.

(2) Activities

(A) Types of activities

In carrying out the program, the Secretary shall carry out research, development, demonstration, and commercialization activities, including—

(i) awarding grants and awards, on a competitive, merit-reviewed basis;

(ii) performing precompetitive research and development;

(iii) establishing or maintaining demonstration facilities and projects, including through stewardship of existing facilities such as the National Wind Test Center;

(iv) providing technical assistance;

(v) entering into contracts and cooperative agreements;

(vi) providing small business vouchers;

(vii) establishing prize competitions;

(viii) conducting education and outreach activities;

(ix) conducting professional development activities; and

(x) conducting analyses, studies, and reports.

(B) Subject areas

The Secretary shall carry out research, development, demonstration, and commercialization activities in the following subject areas:

(i) Wind power plant siting, performance, operations, and security.

(ii) New materials and designs relating to all hardware, software, and components of wind energy technologies, including technologies and strategies that reduce the use of energy, water, critical materials, and other commodities that are determined to be vulnerable to disruption.

(iii) Advanced wind energy manufacturing and installation technologies and practices, including materials, processes, such as onsite or near site manufacturing, and design.

(iv) Offshore wind-specific projects and plants, including—

(I) fixed and floating substructure systems, materials, and components;

(II) the operation of offshore facilities, such as—

(aa) an offshore research facility to conduct research for oceanic, biological, geological, and atmospheric resource characterization relevant to offshore wind energy development in coordination with the ocean and atmospheric science communities; and

(bb) an offshore support structure testing facility to conduct development, demonstration, and commercialization of large-scale and full-scale offshore wind energy support structure components and systems;

(III) the monitoring and analysis of site and environmental considerations unique to offshore sites, including freshwater environments.

(v) Integration of wind energy technologies with—

(I) the electric grid, including transmission, distribution, microgrids, and distributed energy systems; and

(II) other energy technologies, including—

(aa) other generation sources;

(bb) demand response technologies; and

(cc) energy storage technologies.

(vi) Methods to improve the lifetime, maintenance, decommissioning, recycling, reuse, and sustainability of wind energy components and systems, including technologies and strategies to reduce the use of energy, water, critical materials, and other valuable or harmful inputs.

(vii) Wind power forecasting and atmospheric measurement systems, including for turbines and plant systems of varying height.

(viii) Integrated wind energy systems, grid-connected and off-grid, that incorporate diverse—

(I) generation sources;

(II) loads; and

(III) storage technologies.

(ix) Reducing market barriers, including non-hardware and information-based barriers, to the adoption of wind energy technologies, such as impacts on, or challenges relating to—

(I) distributed wind technologies, including the development of best practices, models, and voluntary streamlined processes for local siting and permitting of distributed wind energy systems to reduce costs;

(II) airspace;

(III) military operations;

(IV) radar;

(V) local communities, with special consideration given to economically distressed areas, previously disturbed lands such as landfills and former mines, and other areas disproportionately impacted by environmental pollution;

(VI) wildlife and wildlife habitats; and

(VII) any other appropriate matter, as determined by the Secretary.

(x) Technologies or strategies to avoid, minimize, and offset the potential impacts of wind energy facilities on bird species, bat species, marine wildlife, and other sensitive species and habitats.

(xi) Advanced physics-based and data analysis computational tools, in coordination with the high-performance computing programs of the Department, to more efficiently design, site, permit, manufacture, install, operate, decommission, and recycle wind energy systems.

(xii) Technologies for distributed wind, including micro, small, and medium turbines and the components of those turbines and their microgrid applications.

(xiii) Transformational technologies for harnessing wind energy.

(xiv) Other research areas that advance the purposes of the program, as determined by the

Secretary.

(C) Prioritization

In carrying out activities under the program, the Secretary shall, to the maximum extent practicable, give special consideration to—

(i) projects that—

(I) are located in a geographically diverse range of eligible entities;

(II) support the development or demonstration of projects—

(aa) in economically distressed areas and areas disproportionately impacted by pollution; and

(bb) that provide the greatest potential to reduce energy costs, as well as promote accessibility and community implementation of demonstrated technologies;

(III) can be replicated in a variety of regions and climates;

(IV) include business commercialization plans that have the potential for—

(aa) domestic manufacturing and production of wind energy technologies; or

(bb) exports of wind energy technologies; and

(V) are carried out in collaboration with Tribal energy development organizations, Indian Tribes, Tribal organizations, Native Hawaiian community-based organizations, minority-serving institutions, or territories or freely associated States; and

(ii) with regards to professional development, activities that expand the number of individuals from underrepresented groups pursuing and attaining skills relevant to wind energy.

(D) Coordination

To the maximum extent practicable, the Secretary shall coordinate activities under the program with other relevant programs and capabilities of the Department and other Federal research programs.

(E) Use of funds

To the extent that funding is not otherwise available through other Federal programs or power purchase agreements, funding awarded for demonstration projects may be used for additional nontechnology costs, as determined to be appropriate by the Secretary, such as engineering or feasibility studies.

(F) Solicitation

Not less than once every two years, the Secretary shall conduct a national solicitation for applications for demonstration projects under this section.

(G) Report

(i) In general

Not later than 180 days after December 27, 2020, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the potential for, and technical viability of, airborne wind energy systems to provide a significant source of energy in the United States.

(ii) Contents

The report under paragraph (1) shall include a summary of research, development, demonstration, and commercialization needs, including an estimate of Federal funding requirements, to further examine and validate the technical and economic viability of airborne wind energy concepts over the 10-year period beginning on December 27, 2020.

(3) Wind technician training grant program

The Secretary may award grants, on a competitive basis, to eligible entities to purchase large pieces of wind component equipment, such as nacelles, towers, and blades, for use in training wind technician students in onshore or offshore wind applications.

(4) Wind energy technology recycling research, development, and demonstration program

(A) In general

In addition to the program activities described in paragraph (2), in carrying out the program, the Secretary shall award financial assistance to eligible entities for research, development, and demonstration, and commercialization projects to create innovative and practical approaches to increase the reuse and recycling of wind energy technologies, including—

(i) by increasing the efficiency and cost effectiveness of the recovery of raw materials from wind energy technology components and systems, including enabling technologies such as inverters;

(ii) by minimizing potential environmental impacts from the recovery and disposal processes;

(iii) by advancing technologies and processes for the disassembly and recycling of wind energy devices;

(iv) by developing alternative materials, designs, manufacturing processes, and other aspects of wind energy technologies and the disassembly and resource recovery process that enable efficient, cost effective, and environmentally responsible disassembly of, and resource recovery from, wind energy technologies; and

(v) strategies to increase consumer acceptance of, and participation in, the recycling of wind energy technologies.

(B) Dissemination of results

The Secretary shall make available to the public and the relevant committees of Congress the results of the projects carried out through financial assistance awarded under subparagraph (A), including—

(i) development of best practices or training materials for use in the wind energy technology manufacturing, design, installation, decommissioning, or recycling industries;

(ii) dissemination at industry conferences;

(iii) coordination with information dissemination programs relating to recycling of electronic devices in general;

(iv) demonstration projects; and

(v) educational materials.

(C) Priority

In carrying out the activities authorized under this subsection, the Secretary shall give special consideration to projects that recover critical materials.

(D) Sensitive information

In carrying out the activities authorized under this subsection, the Secretary shall ensure proper security controls are in place to protect proprietary or sensitive information, as appropriate.

(5) Wind energy technology materials physical property database

(A) In general

Not later than September 1, 2022, the Secretary shall establish a comprehensive physical property database of materials for use in wind energy technologies, which shall identify the type, quantity, country of origin, source, significant uses, projected availability, and physical properties of materials used in wind energy technologies.

(B) Coordination

In establishing the database described in subparagraph (A), the Secretary shall coordinate and, to the extent practicable, avoid duplication with—

(i) other Department activities, including those carried out by the Office of Science;
(ii) the Director of the National Institute of Standards and Technology;
(iii) the Administrator of the Environmental Protection Agency;
(iv) the Secretary of the Interior; and
(v) relevant industry stakeholders, as determined by the Secretary.

(6) Wind energy program strategic vision

(A) In general

Not later than September 1, 2022, and every 6 years thereafter, the Secretary shall submit to Congress a report on the strategic vision, progress, goals, and targets of the program, including assessments of wind energy markets and manufacturing.

(B) Preparation

The Secretary shall coordinate the preparation of the report under subparagraph (A) with—
(i) existing peer review processes;
(ii) studies conducted by the National Laboratories; and
(iii) the multiyear program planning required under section 16358 of this title.

(7) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $125,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 116–260, div. Z, title III, §3003, Dec. 27, 2020, 134 Stat. 2497.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION

Pub. L. 116–260, div. Z, title IX, §9006(b), Dec. 27, 2020, 134 Stat. 2600, provided that: "The provisions of section 602 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3212) shall apply with respect to construction, alteration, or repair work of demonstration projects funded by grants or contracts authorized under sections 3001 [enacting part C of subchapter III of chapter 152 of this title], 3003 [enacting this section], 3004 [enacting section 16238 of this title], 5001 [enacting section 16298d of this title], and 8007 [enacting section 17389 of this title] and the amendments made by such sections."

§16238. Solar energy research and development

(a) Definitions

In this section:

(1) Critical material

The term "critical material" has the meaning given the term in section 1606 of title 30.

(2) Economically distressed area

The term "economically distressed area" means an area described in section 3161(a) of this title.

(3) Eligible entity

The term "eligible entity" means—
(A) an institution of higher education, including a minority-serving institution;
(B) a National Laboratory;

(C) a Federal research agency;
(D) a State research agency;
(E) a research agency associated with a territory or freely associated state;
(F) a Tribal energy development organization;
(G) an Indian Tribe;
(H) a Tribal organization;
(I) a Native Hawaiian community-based organization;
(J) a nonprofit research organization;
(K) an industrial entity;
(L) any other entity, as determined by the Secretary; and
(M) a consortium of 2 or more entities described in subparagraphs (A) through (L).

(4) Indian Tribe

The term "Indian Tribe" has the meaning given the term in section 5304 of title 25.

(5) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001 of title 20.

(6) Mine land

The term "mine land" means—

(A) land subject to titles IV and V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.; 30 U.S.C. 1251 et seq.); and

(B) land that has been claimed or patented subject to sections 2319 through 2344 of the Revised Statutes (commonly known as the "Mining Law of 1872") (30 U.S.C. 22 et seq.).

(7) Minority-serving institution

The term "minority-serving institution" has the meaning given the term "eligible institution" in section 1067q(a) of title 20.

(8) National Laboratory

The term "National Laboratory" has the meaning given such term in section 15801(3) of this title.

(9) Native Hawaiian community-based organization

The term "Native Hawaiian community-based organization" has the meaning given the term in section 7517 of title 20.

(10) Photovoltaic device

The term "photovoltaic device" means—

(A) a device that converts light directly into electricity through a solid-state, semiconductor process;

(B) the photovoltaic cells of a device described in subparagraph (A); and

(C) the electronic and electrical components of a device described in subparagraph (A).

(11) Program

The term "program" means the program established under subsection (b)(1)(A).

(12) Secretary

The term "Secretary" means the Secretary of Energy.

(13) Solar energy

The term "solar energy" means—

(A) thermal or electric energy derived from radiation from the Sun; or

(B) energy resulting from a chemical reaction caused by radiation recently originated in the Sun.

(14) Territory or freely associated state

The term "territory or freely associated state" has the meaning given the term "insular area" in section 3103 of title 7.

(15) Tribal energy development organization

The term "Tribal energy development organization" has the meaning given the term "tribal energy development organization" in section 3501 of title 25.

(16) Tribal organization

The term "Tribal organization" has the meaning given the term in section 5304 of title 25.

(b) Solar energy technology program

(1) Establishment

(A) In general

The Secretary shall establish a program to conduct research, development, demonstration, and commercialization of solar energy technologies in accordance with this subsection.

(B) Purposes

The purposes of the program are the following:

(i) To improve the energy efficiency, cost effectiveness, reliability, resilience, security, siting, integration, manufacturability, installation, decommissioning, and recyclability of solar energy technologies.

(ii) To optimize the performance and operation of solar energy components, cells, and systems, and enabling technologies, including through the development of new materials, hardware, and software.

(iii) To optimize the design and adaptability of solar energy systems to the broadest practical range of geographic and atmospheric conditions.

(iv) To support the integration of solar energy technologies with the electric grid and complementary energy technologies.

(v) To create and improve the conversion of solar energy to other useful forms of energy or other products.

(vi) To reduce the cost, risk, and other potential negative impacts across the lifespan of solar energy technologies, including manufacturing, siting, permitting, installation, operations, maintenance, decommissioning, and recycling.

(vii) To reduce and mitigate potential life cycle negative impacts of solar energy technologies on human communities, wildlife, and wildlife habitats.

(viii) To address barriers to the commercialization and export of solar energy technologies.

(ix) To support the domestic solar industry, workforce, and supply chain.

(C) Targets

Not later than 180 days after December 27, 2020, the Secretary shall establish targets for the program to address near-term (up to 2 years), mid-term (up to 7 years), and long-term (up to 15 years) challenges to the advancement of all types of solar energy systems.

(2) Activities

(A) Types of activities

In carrying out the program, the Secretary shall carry out research, development, demonstration, and commercialization activities, including—

(i) awarding grants and awards, on a competitive, merit-reviewed basis;

(ii) performing precompetitive research and development;

(iii) establishing or maintaining demonstration facilities and projects, including through stewardship of existing facilities;

(iv) providing technical assistance;

(v) entering into contracts and cooperative agreements;

(vi) providing small business vouchers;

(vii) establishing prize competitions;
(viii) conducting education and outreach activities;
(ix) conducting workforce development activities; and
(x) conducting analyses, studies, and reports.

(B) Subject areas

The Secretary shall carry out research, development, demonstration, and commercialization activities in the following subject areas:

(i) Advanced solar energy technologies of varying scale and power production, including—

(I) new materials, components, designs, and systems, including perovskites, cadmium telluride, and organic materials;

(II) advanced photovoltaic and thin-film devices;

(III) concentrated solar power;

(IV) solar heating and cooling; and

(V) enabling technologies for solar energy systems, including hardware and software.

(ii) Solar energy technology siting, performance, installation, operations, resilience, and security.

(iii) Integration of solar energy technologies with—

(I) the electric grid, including transmission, distribution, microgrids, and distributed energy systems;

(II) other energy technologies, including—

(aa) other generation sources;

(bb) demand response technologies; and

(cc) energy storage technologies; and

(III) other applications, such as in the agriculture, transportation, buildings, industrial, and fuels sectors.

(iv) Advanced solar energy manufacturing technologies and practices, including materials, processes, and design.

(v) Methods to improve the lifetime, maintenance, decommissioning, recycling, reuse, and sustainability of solar energy components and systems, including technologies and strategies that reduce the use of energy, water, critical materials, and other commodities that are determined to be vulnerable to disruption.

(vi) Solar energy forecasting, modeling, and atmospheric measurement systems, including for small-scale, large-scale, and aggregated systems.

(vii) Integrated solar energy systems that incorporate diverse—

(I) generation sources;

(II) loads; and

(III) storage technologies.

(viii) Reducing market barriers, including nonhardware and information-based barriers, to the adoption of solar energy technologies, including impacts on, or challenges relating to—

(I) distributed and community solar technologies, including the development of best practices, models, and voluntary streamlined processes for local siting and permitting of distributed solar energy systems to reduce costs;

(II) local communities, with special consideration given to economically distressed areas, previously disturbed lands such as landfills and former mines, and other areas disproportionately impacted by environmental pollution;

(III) wildlife and wildlife habitats; and

(IV) any other appropriate matter, as determined by the Secretary.

(ix) Transformational technologies for harnessing solar energy.

(x) Other research areas that advance the purposes of the program, as determined by the Secretary.

(C) Prioritization

In carrying out activities under the program, the Secretary shall, to the maximum extent practicable, give priority to projects that—

(i) are located in a geographically diverse range of eligible entities;

(ii) support the development or demonstration of projects—

(I) in economically distressed areas and areas disproportionately impacted by pollution; or

(II) that provide the greatest potential to reduce energy costs, as well as promote accessibility and community implementation of demonstrated technologies;

(iii) can be replicated in a variety of regions and climates;

(iv) include business commercialization plans that have the potential for—

(I) domestic manufacturing and production of solar energy technologies; or

(II) exports of solar energy technologies;

(v) are carried out in collaboration with Tribal energy development organizations, Indian Tribes, Tribal organizations, Native Hawaiian community-based organizations, minority-serving institutions, or territories or freely associated States; and

(vi) with regards to workforce development, activities that expand the number of individuals from underrepresented groups pursuing and attaining skills relevant to solar energy.

(D) Coordination

To the maximum extent practicable, the Secretary shall coordinate activities under the program with other relevant programs and capabilities of the Department and other Federal research programs.

(E) Use of funds

To the extent that funding is not otherwise available through other Federal programs or power purchase agreements, funding awarded for demonstration projects may be used for additional nontechnology costs, as determined to be appropriate by the Secretary, such as engineering or feasibility studies.

(F) Solicitation

Not less than once every two years, the Secretary shall conduct a national solicitation for applications for demonstration projects under this section.

(3) Advanced solar energy manufacturing initiative

(A) Grants

In addition to the program activities described in paragraph (2), in carrying out the program, the Secretary shall award financial assistance to eligible entities for research, development, demonstration, and commercialization projects to advance new solar energy manufacturing technologies and techniques.

(B) Priority

In awarding grants under subparagraph (A), to the extent practicable, the Secretary shall give priority to solar energy manufacturing projects that—

(i) increase efficiency and cost effectiveness in—

(I) the manufacturing process; and

(II) the use of resources, such as energy, water, and critical materials;

(ii) support domestic supply chains for materials and components;

(iii) identify and incorporate nonhazardous alternative materials for components and devices;

(iv) operate in partnership with Tribal energy development organizations, Indian Tribes, Tribal organizations, Native Hawaiian community-based organizations, minority-serving institutions, or territories or freely associated states; or

(v) are located in economically distressed areas.

(C) Evaluation

Not later than 3 years after December 27, 2020, and every 4 years thereafter, the Secretary shall conduct, and make available to the public and the relevant committees of Congress, an independent review of the progress of the grants awarded under subparagraph (A).

(4) Solar energy technology recycling research, development, and demonstration program

(A) In general

In addition to the program activities described in paragraph (2), in carrying out the program, the Secretary shall award financial assistance to eligible entities for research, development, demonstration, and commercialization projects to create innovative and practical approaches to increase the reuse and recycling of solar energy technologies, including—

(i) by increasing the efficiency and cost effectiveness of the recovery of raw materials from solar energy technology components and systems, including enabling technologies such as inverters;

(ii) by minimizing potential environmental impacts from the recovery and disposal processes;

(iii) by advancing technologies and processes for the disassembly and recycling of solar energy devices;

(iv) by developing alternative materials, designs, manufacturing processes, and other aspects of solar energy technologies and the disassembly and resource recovery process that enable efficient, cost effective, and environmentally responsible disassembly of, and resource recovery from, solar energy technologies; and

(v) strategies to increase consumer acceptance of, and participation in, the recycling of photovoltaic devices.

(B) Dissemination of results

The Secretary shall make available to the public and the relevant committees of Congress the results of the projects carried out through financial assistance awarded under subparagraph (A), including—

(i) development of best practices or training materials for use in the photovoltaics manufacturing, design, installation, refurbishing, disposal, or recycling industries;

(ii) dissemination at industry conferences;

(iii) coordination with information dissemination programs relating to recycling of electronic devices in general;

(iv) demonstration projects; and

(v) educational materials.

(C) Priority

In carrying out the activities authorized under this subsection, the Secretary shall give special consideration to projects that recover critical materials.

(D) Sensitive information

In carrying out the activities authorized under this subsection, the Secretary shall ensure proper security controls are in place to protect proprietary or sensitive information, as appropriate.

(5) Solar energy technology materials physical property database

(A) In general

Not later than September 1, 2022, the Secretary shall establish a comprehensive physical property database of materials for use in solar energy technologies, which shall identify the type, quantity, country of origin, source, significant uses, projected availability, and physical properties of materials used in solar energy technologies.

(B) Coordination

In establishing the database described in subparagraph (A), the Secretary shall coordinate with—

(i) other Department activities, including those carried out by the Office of Science;
(ii) the Director of the National Institute of Standards and Technology;
(iii) the Administrator of the Environmental Protection Agency;
(iv) the Secretary of the Interior; and
(v) relevant industry stakeholders, as determined by the Secretary.

(6) Solar energy technology program strategic vision

(A) In general

Not later than September 1, 2022, and every 6 years thereafter, the Secretary shall submit to Congress a report on the strategic vision, progress, goals, and targets of the program, including assessments of solar energy markets and manufacturing.

(B) Inclusion

As a part of the report described in subparagraph (A), the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency for purposes of clause (iv), shall include a study that examines the viable market opportunities available for solar energy technology manufacturing in the United States, including—

(i) a description of—

(I) the ability to competitively manufacture solar technology in the United States, including the manufacture of—

(aa) new and advanced materials, such as cells made with new, high efficiency materials;

(bb) solar module equipment and enabling technologies, including smart inverters, sensors, and tracking equipment; and

(cc) innovative solar module designs and applications, including those that can directly integrate with new and existing buildings and other infrastructure; and

(II) opportunities and barriers within the United States and international solar energy technology market;

(ii) policy recommendations for enhancing solar energy technology manufacturing in the United States;

(iii) a 10-year target and plan to enhance the competitiveness of solar energy technology manufacturing in the United States;

(iv) a description of the technical and economic viability of siting solar energy technologies on current and former mine land, including necessary interconnection and transmission siting and the impact on local job creation; and

(v) any other research areas as determined by the Secretary.

(C) Preparation

The Secretary shall coordinate the preparation of the report under subparagraph (A) with—

(i) existing peer review processes;
(ii) studies conducted by the National Laboratories; and
(iii) the multiyear program planning required under section 16358 of this title.

(7) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $300,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 116–260, div. Z, title III, §3004, Dec. 27, 2020, 134 Stat. 2504; Pub. L. 117–58, div. D, title III, §40341, Nov. 15, 2021, 135 Stat. 1030.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Surface Mining Control and Reclamation Act of 1977, referred to in subsec. (a)(6)(A), is Pub. L. 95–87, Aug. 3, 1977, 91 Stat. 445. Titles IV and V of the Act are classified generally to subchapters IV (§1231 et seq.) and V (§1251 et seq.), respectively, of chapter 25 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of Title 30 and Tables.

The Mining Law of 1872, referred to in subsec. (a)(6)(B), is act May 10, 1872, ch. 152, 17 Stat. 91, which was incorporated into the Revised Statutes of 1878 as R.S. §§2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of such Revised Statutes sections to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

AMENDMENTS

2021—Subsec. (a)(6) to (16). Pub. L. 117–58, §40341(1), added par. (6) and redesignated former pars. (6) to (15) as (7) to (16), respectively.

Subsec. (b)(6)(B). Pub. L. 117–58, §40341(2)(A), inserted ", in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency for purposes of clause (iv)," after "the Secretary" in introductory provisions.

Subsec. (b)(6)(B)(iv), (v). Pub. L. 117–58, §40341(2)(B)–(D), added cl. (iv) and redesignated former cl. (iv) as (v).

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION

Provisions of section 3212 of this title applicable to construction, alteration, or repair work of demonstration projects funded by grants or contracts authorized under this section, see section 9006(b) of div. Z of Pub. L. 116–260, set out as a note under section 16237 of this title.

PART D—AGRICULTURAL BIOMASS RESEARCH AND DEVELOPMENT PROGRAMS

§16251. Production incentives for cellulosic biofuels

(a) Purpose

The purpose of this section is to—

(1) accelerate deployment and commercialization of biofuels;

(2) deliver the first 1,000,000,000 gallons in annual cellulosic biofuels production by 2015;

(3) ensure biofuels produced after 2015 are cost competitive with gasoline and diesel; and

(4) ensure that small feedstock producers and rural small businesses are full participants in the development of the cellulosic biofuels industry.

(b) Definitions

In this section:

(1) Cellulosic biofuels

The term "cellulosic biofuels" means any fuel that is produced from cellulosic feedstocks.

(2) Eligible entity

The term "eligible entity" means a producer of fuel from cellulosic biofuels the production facility of which—

(A) is located in the United States;

(B) meets all applicable Federal and State permitting requirements; and

(C) meets any financial criteria established by the Secretary.

(c) Program

(1) Establishment

The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Defense, and the Administrator of the Environmental Protection Agency, shall establish an incentive program for the production of cellulosic biofuels.

(2) Basis of incentives

Under the program, the Secretary shall award production incentives on a per gallon basis of cellulosic biofuels from eligible entities, through—

(A) set payments per gallon of cellulosic biofuels produced in an amount determined by the Secretary, until initiation of the first reverse auction; and

(B) reverse auction thereafter.

(3) First reverse auction

The first reverse auction shall be held on the earlier of—

(A) not later than 1 year after the first year of annual production in the United States of 100,000,000 gallons of cellulosic biofuels, as determined by the Secretary; or

(B) not later than 3 years after August 8, 2005.

(4) Reverse auction procedure

(A) In general

On initiation of the first reverse auction, and each year thereafter until the earlier of the first year of annual production in the United States of 1,000,000,000 gallons of cellulosic biofuels, as determined by the Secretary, or 10 years after August 8, 2005, the Secretary shall conduct a reverse auction at which—

(i) the Secretary shall solicit bids from eligible entities;

(ii) eligible entities shall submit—

(I) a desired level of production incentive on a per gallon basis; and

(II) an estimated annual production amount in gallons; and

(iii) the Secretary shall issue awards for the production amount submitted, beginning with the eligible entity submitting the bid for the lowest level of production incentive on a per gallon basis and meeting such other criteria as are established by the Secretary, until the amount of funds available for the reverse auction is committed.

(B) Amount of incentive received

An eligible entity selected by the Secretary through a reverse auction shall receive the amount of performance incentive requested in the auction for each gallon produced and sold by the entity during the first 6 years of operation.

(C) Commencement of production of cellulosic biofuels

As a condition of the receipt of an award under this section, an eligible entity shall enter into an agreement with the Secretary under which the eligible entity agrees to begin production of cellulosic biofuels not later than 3 years after the date of the reverse auction in which the

eligible entity participates.

(d) Limitations

Awards under this section shall be limited to—

(1) a per gallon amount determined by the Secretary during the first 4 years of the program;

(2) a declining per gallon cap over the remaining lifetime of the program, to be established by the Secretary so that cellulosic biofuels produced after the first year of annual cellulosic biofuels production in the United States in excess of 1,000,000,000 gallons are cost competitive with gasoline and diesel;

(3) not more than 25 percent of the funds committed within each reverse auction to any 1 project;

(4) not more than $100,000,000 in any 1 year; and

(5) not more than $1,000,000,000 over the lifetime of the program.

(e) Priority

In selecting a project under the program, the Secretary shall give priority to projects that—

(1) demonstrate outstanding potential for local and regional economic development;

(2) include agricultural producers or cooperatives of agricultural producers as equity partners in the ventures; and

(3) have a strategic agreement in place to fairly reward feedstock suppliers.

(f) Authorizations of appropriations

There is authorized to be appropriated to carry out this section $250,000,000.

(Pub. L. 109–58, title IX, §942, Aug. 8, 2005, 119 Stat. 878.)

§16252. Education

(1) In general

The Architect of the Capitol shall establish in the Capitol Complex a program of public education regarding use by the Architect of the Capitol of biobased products.

(2) Purposes

The purposes of the program shall be—

(A) to establish the Capitol Complex as a showcase for the existence and benefits of biobased products; and

(B) to provide access to further information on biobased products to occupants and visitors.

(Pub. L. 109–58, title IX, §943(c), Aug. 8, 2005, 119 Stat. 881.)

§16253. Small business bioproduct marketing and certification grants

(a) In general

Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the "Secretary") shall make available on a competitive basis grants to eligible entities described in subsection (b) for the biobased product marketing and certification purposes described in subsection (c).

(b) Eligible entities

(1) In general

An entity eligible for a grant under this section is any manufacturer of biobased products that—

(A) proposes to use the grant for the biobased product marketing and certification purposes described in subsection (c); and

(B) has not previously received a grant under this section.

(2) Preference

In making grants under this section, the Secretary shall provide a preference to an eligible entity that has fewer than 50 employees.

(c) Biobased product marketing and certification grant purposes

A grant made under this section shall be used—

(1) to provide working capital for marketing of biobased products; and

(2) to provide for the certification of biobased products to—

(A) qualify for the label described in section 8102(b) of title 7; or

(B) meet other biobased standards determined appropriate by the Secretary.

(d) Matching funds

(1) In general

Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) Expenditure

Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) Amount

A grant made under this section shall not exceed $100,000.

(f) Administration

The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(g) Authorizations of appropriations

There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

(Pub. L. 109–58, title IX, §944, Aug. 8, 2005, 119 Stat. 881; Pub. L. 113–79, title IX, §9002(b), Feb. 7, 2014, 128 Stat. 928.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (c)(2)(A). Pub. L. 113–79 substituted "section 8102(b)" for "section 8102(h)(1)".

§16254. Regional bioeconomy development grants

(a) In general

Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the "Secretary") shall make available on a competitive basis grants to eligible entities described in subsection (b) for the purposes described in subsection (c).

(b) Eligible entities

An entity eligible for a grant under this section is any regional bioeconomy development association, agricultural or energy trade association, or Land Grant institution that—

(1) proposes to use the grant for the purposes described in subsection (c); and

(2) has not previously received a grant under this section.

(c) Regional bioeconomy development association grant purposes

A grant made under this section shall be used to support and promote the growth and development

of the bioeconomy within the region served by the eligible entity, through coordination, education, outreach, and other endeavors by the eligible entity.

(d) Matching funds

(1) In general

Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) Expenditure

Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) Administration

The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(f) Amount

A grant made under this section shall not exceed $500,000.

(g) Authorizations of appropriations

There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2015.

(Pub. L. 109–58, title IX, §945, Aug. 8, 2005, 119 Stat. 882.)

§16255. Preprocessing and harvesting demonstration grants

(a) In general

The Secretary of Agriculture (referred to in this section as the "Secretary") shall make grants available on a competitive basis to enterprises owned by agricultural producers, for the purposes of demonstrating cost-effective, cellulosic biomass innovations in—

(1) preprocessing of feedstocks, including cleaning, separating and sorting, mixing or blending, and chemical or biochemical treatments, to add value and lower the cost of feedstock processing at a biorefinery; or

(2) 1-pass or other efficient, multiple crop harvesting techniques.

(b) Limitations on grants

(1) Number of grants

Not more than 5 demonstration projects per fiscal year shall be funded under this section.

(2) Non-Federal cost share

The non-Federal cost share of a project under this section shall be not less than 20 percent, as determined by the Secretary.

(c) Condition of grant

To be eligible for a grant for a project under this section, a recipient of a grant or a participating entity shall agree to use the material harvested under the project—

(1) to produce ethanol; or

(2) for another energy purpose, such as the generation of heat or electricity.

(d) Authorization for appropriations

There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title IX, §946, Aug. 8, 2005, 119 Stat. 883.)

§16256. Education and outreach

(a) In general

The Secretary of Agriculture shall establish, within the Department of Agriculture or through an independent contracting entity, a program of education and outreach on biobased fuels and biobased products consisting of—

(1) training and technical assistance programs for feedstock producers to promote producer ownership, investment, and participation in the operation of processing facilities; and

(2) public education and outreach to familiarize consumers with the biobased fuels and biobased products.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title IX, §947, Aug. 8, 2005, 119 Stat. 883.)

PART E—NUCLEAR ENERGY

§16271. Nuclear energy

(a) Mission

(1) In general

The Secretary shall carry out programs of civilian nuclear research, development, demonstration, and commercial application, including activities under this part.

(2) Considerations

The programs carried out under paragraph (1) shall take into consideration the following objectives:

(A) Providing research infrastructure to promote scientific progress and enable users from academia, the National Laboratories, and the private sector to make scientific discoveries relevant for nuclear, chemical, and materials science engineering.

(B) Maintaining nuclear energy research and development programs at the National Laboratories and institutions of higher education, including infrastructure at the National Laboratories and institutions of higher education.

(C) Providing the technical means to reduce the likelihood of nuclear proliferation.

(D) Increasing confidence margins for public safety of nuclear energy systems.

(E) Reducing the environmental impact of activities relating to nuclear energy.

(F) Supporting technology transfer from the National Laboratories to the private sector.

(G) Enabling the private sector to partner with the National Laboratories to demonstrate novel reactor concepts for the purpose of resolving technical uncertainty associated with the objectives described in subparagraphs (A) through (F).

(b) Definitions

In this part:

(1) Advanced nuclear reactor

The term "advanced nuclear reactor" means—

(A) a nuclear fission reactor, including a prototype plant (as defined in sections 50.2 and 52.1 of title 10, Code of Federal Regulations (or successor regulations)), with significant

improvements compared to reactors operating on December 27, 2020, including improvements such as—

(i) additional inherent safety features;

(ii) lower waste yields;

(iii) improved fuel and material performance;

(iv) increased tolerance to loss of fuel cooling;

(v) enhanced reliability or improved resilience;

(vi) increased proliferation resistance;

(vii) increased thermal efficiency;

(viii) reduced consumption of cooling water and other environmental impacts;

(ix) the ability to integrate into electric applications and nonelectric applications;

(x) modular sizes to allow for deployment that corresponds with the demand for electricity or process heat; and

(xi) operational flexibility to respond to changes in demand for electricity or process heat and to complement integration with intermittent renewable energy or energy storage;

(B) a fusion reactor; and

(C) a radioisotope power system that utilizes heat from radioactive decay to generate energy.

(2) Commission

The term "Commission" means the Nuclear Regulatory Commission.

(3) Fast neutron

The term "fast neutron" means a neutron with kinetic energy above 100 kiloelectron volts.

(4) National Laboratory

(A) In general

Except as provided in subparagraph (B), the term "National Laboratory" has the meaning given the term in section 15801 of this title.

(B) Limitation

With respect to the Lawrence Livermore National Laboratory, the Los Alamos National Laboratory, and the Sandia National Laboratories, the term "National Laboratory" means only the civilian activities of the laboratory.

(5) Neutron flux

The term "neutron flux" means the intensity of neutron radiation measured as a rate of flow of neutrons applied over an area.

(6) Neutron source

The term "neutron source" means a research machine that provides neutron irradiation services for—

(A) research on materials sciences and nuclear physics; and

(B) testing of advanced materials, nuclear fuels, and other related components for reactor systems.

(Pub. L. 109–58, title IX, §951, Aug. 8, 2005, 119 Stat. 884; Pub. L. 115–248, §2(a), Sept. 28, 2018, 132 Stat. 3154; Pub. L. 116–260, div. Z, title II, §2002, Dec. 27, 2020, 134 Stat. 2459; Pub. L. 117–58, div. D, title X, §41002(b)(1), Nov. 15, 2021, 135 Stat. 1127.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(1)(C). Pub. L. 117–58 added subpar. (C).

2020—Subsec. (b)(1). Pub. L. 116–260 amended par. (1) generally. Prior to amendment, par. (1) defined the term "advanced nuclear reactor".

2018—Pub. L. 115–248 amended section generally. Prior to amendment, section related to civilian nuclear energy research programs and authorizations of appropriations to carry out such programs.

§16272. Reactor concepts research, development, demonstration, and commercial application

(a) Sustainability program for light water reactors

(1) In general

The Secretary shall carry out a program of research, development, demonstration, and commercial application, including through the use of modeling and simulation, to support existing operating nuclear power plants which shall address technologies to modernize and improve, with respect to such plants—

(A) reliability;
(B) capacity;
(C) component aging;
(D) safety;
(E) physical security and security costs;
(F) plant lifetime;
(G) operations and maintenance costs, including by utilizing risk-informed systems analysis;
(H) the ability for plants to operate flexibly;
(I) nuclear integrated energy system applications described in subsection (c);
(J) efficiency;
(K) environmental impacts; and
(L) resilience.

(2) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program under this subsection $55,000,000 for each of fiscal years 2021 through 2025.

(3) Report

The Secretary shall submit annually a public report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate documenting funds spent under the program that describes program activities, objectives, and outcomes, including those that could benefit the entirety of the existing reactor fleet, such as with respect to aging management and related sustainability concerns, and identifying funds awarded to private entities.

(b) Advanced reactor technologies

(1) In general

The Secretary shall carry out a program of research, development, demonstration, and commercial application to support advanced reactor technologies.

(2) Requirements

In carrying out the program under this subsection, the Secretary shall—

(A) prioritize designs for advanced nuclear reactors that are proliferation resistant and passively safe, including designs that, compared to reactors operating on December 27, 2020—

(i) are economically competitive with other electric power generation plants;

(ii) have higher efficiency, lower cost, less environmental impacts, increased resilience, and improved safety;

(iii) use fuels that are proliferation resistant and have reduced production of high-level waste per unit of output; and

(iv) use advanced instrumentation and monitoring systems;

(B) consult with the Nuclear Regulatory Commission on appropriate metrics to consider for the criteria specified in subparagraph (A);

(C) support research and development to resolve materials challenges relating to extreme environments, including environments that contain high levels of—

(i) radiation fluence;

(ii) temperature;

(iii) pressure; and

(iv) corrosion;

(D) support research and development to aid in the qualification of advanced fuels, including fabrication techniques;

(E) support activities that address near-term challenges in modeling and simulation to enable accelerated design of and licensing of advanced nuclear reactors, including the identification of tools and methodologies for validating such modeling and simulation efforts;

(F) develop technologies, including technologies to manage, reduce, or reuse nuclear waste;

(G) ensure that nuclear research infrastructure is maintained or constructed, including—

(i) currently operational research reactors at the National Laboratories and institutions of higher education;

(ii) hot cell research facilities;

(iii) a versatile fast neutron source; and

(iv) advanced coolant testing facilities, including coolants such as lead, sodium, gas, and molten salt;

(H) improve scientific understanding of nonlight water coolant physics and chemistry;

(I) develop advanced sensors and control systems, including the identification of tools and methodologies for validating such sensors and systems;

(J) investigate advanced manufacturing and advanced construction techniques and materials to reduce the cost of advanced nuclear reactors, including the use of digital twins and of strategies to implement project and construction management best practices, and study the effects of radiation and corrosion on materials created with these techniques;

(K) consult with the Administrator of the National Nuclear Security Administration to integrate reactor safeguards and security into design;

(L) support efforts to reduce any technical barriers that would prevent commercial application of advanced nuclear energy systems; and

(M) develop various safety analyses and emergency preparedness and response methodologies.

(3) Coordination

The Secretary shall coordinate with individuals engaged in the private sector and individuals who are experts in nuclear nonproliferation, environmental and public health and safety, and economics to advance the development of various designs of advanced nuclear reactors. In carrying out this paragraph, the Secretary shall convene an advisory committee of such individuals and such committee shall submit annually a report to the relevant committees of Congress with respect to the progress of the program.

(4) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program under this subsection $55,000,000 for each of fiscal years 2021 through 2025.

(c) Nuclear integrated energy systems research, development, demonstration, and commercial application program

(1) In general

The Secretary shall carry out a program of research, development, demonstration, and commercial application to develop nuclear integrated energy systems, composed of 2 or more

co-located or jointly operated subsystems of energy generation, energy storage, or other technologies and in which not less than 1 such subsystem is a nuclear energy system, to—

(A) reduce greenhouse gas emissions in both the power and nonpower sectors; and

(B) maximize energy production and efficiency.

(2) Coordination

In carrying out the program under paragraph (1), the Secretary shall coordinate with—

(A) relevant program offices within the Department of Energy;

(B) National Laboratories;

(C) institutions of higher education; and

(D) the private sector.

(3) Focus areas

The program under paragraph (1) may include research, development, demonstration, or commercial application of nuclear integrated energy systems with respect to—

(A) desalination technologies and processes;

(B) hydrogen or other liquid and gaseous fuel or chemical production;

(C) heat for industrial processes;

(D) district heating;

(E) heat or electricity generation and storage;

(F) carbon capture, use, utilization, and storage;

(G) microgrid or island applications;

(H) integrated systems modeling, analysis, and optimization, inclusive of different configurations of integrated energy systems; and

(I) integrated design, planning, building, and operation of systems with existing infrastructure, including interconnection requirements with the electric grid, as appropriate.

(4) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program under this subsection—

(A) $20,000,000 for fiscal year 2021;

(B) $30,000,000 for fiscal year 2022;

(C) $30,000,000 for fiscal year 2023;

(D) $40,000,000 for fiscal year 2024; and

(E) $40,000,000 for fiscal year 2025.

(Pub. L. 109–58, title IX, §952, Aug. 8, 2005, 119 Stat. 885; Pub. L. 115–248, §2(b)(1), Sept. 28, 2018, 132 Stat. 3155; Pub. L. 116–260, div. Z, title II, §2003(a), Dec. 27, 2020, 134 Stat. 2459.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to nuclear energy research programs.

2018—Subsecs. (c) to (e). Pub. L. 115–248 redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which related to establishment and administration of a Nuclear Power 2010 Program.

§16273. Fuel cycle research, development, demonstration, and commercial application

(a) Used nuclear fuel research, development, demonstration, and commercial application

(1) In general

The Secretary shall conduct an advanced fuel cycle research, development, demonstration, and

commercial application program to improve fuel cycle performance, minimize environmental and public health and safety impacts, and support a variety of options for used nuclear fuel storage, use, and disposal, including advanced nuclear reactor and non-reactor concepts (such as radioisotope power systems), which may include—

(A) dry cask storage;

(B) consolidated interim storage;

(C) deep geological storage and disposal, including mined repository, and other technologies;

(D) used nuclear fuel transportation;

(E) integrated waste management systems;

(F) vitrification;

(G) fuel recycling and transmutation technologies, including advanced reprocessing technologies such as electrochemical and molten salt technologies, and advanced redox extraction technologies;

(H) advanced materials to be used in subparagraphs (A) through (G); and

(I) other areas as determined by the Secretary.

(2) Requirements

In carrying out the program under this subsection, the Secretary shall—

(A) ensure all activities and designs incorporate state of the art safeguards technologies and techniques to reduce risk of proliferation;

(B) consult with the Administrator of the National Nuclear Security Administration to integrate safeguards and security by design;

(C) consider the potential benefits and other impacts of those activities for civilian nuclear applications, environmental health and safety, and national security, including consideration of public consent; and

(D) consider the economic viability of all activities and designs.

(3) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program under this subsection $60,000,000 for each of fiscal years 2021 through 2025.

(b) Advanced fuels

(1) In general

The Secretary shall conduct an advanced fuels research, development, demonstration, and commercial application program on next-generation light water reactor and advanced reactor fuels that demonstrate the potential for improved—

(A) performance;

(B) accident tolerance;

(C) proliferation resistance;

(D) use of resources;

(E) environmental impact; and

(F) economics.

(2) Requirements

In carrying out the program under this subsection, the Secretary shall focus on the development of advanced technology fuels, including fabrication techniques, that offer improved accident-tolerance and economic performance with the goal of initial commercial application by December 31, 2025.

(3) Report

Not later than 180 days December 27, 2020, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes how the technologies and concepts studied under this program would impact reactor economics, the fuel cycle, operations, safety, proliferation, and the environment.

(4) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program under this subsection $125,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 109–58, title IX, §953, Aug. 8, 2005, 119 Stat. 886; Pub. L. 115–248, §2(c), Sept. 28, 2018, 132 Stat. 3155; Pub. L. 116–260, div. Z, title II, §2003(b), Dec. 27, 2020, 134 Stat. 2462.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to advanced fuel cycle initiative.

2018—Subsec. (a). Pub. L. 115–248 struck out ", acting through the Director of the Office of Nuclear Energy, Science and Technology," after "The Secretary".

§16274. Nuclear science and engineering support

(a) University nuclear science and engineering support

(1) In general

The Secretary shall conduct a program to invest in human resources and infrastructure in the nuclear sciences and related fields, including health physics, nuclear engineering, and radiochemistry, consistent with missions of the Department related to civilian nuclear research, development, demonstration, and commercial application.

(2) Requirements

In carrying out the program under this subsection, the Secretary shall—

(A) conduct a graduate and undergraduate fellowship program to attract new and talented students, which may include fellowships for students to spend time at National Laboratories in the areas of nuclear science, engineering, and health physics with a member of the National Laboratory staff acting as a mentor;

(B) conduct a junior faculty research initiation grant program to assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering by awarding grants to junior faculty for research on issues related to nuclear energy engineering and science;

(C) support fundamental nuclear sciences, engineering, and health physics research through a nuclear engineering education and research program;

(D) encourage collaborative nuclear research among industry, National Laboratories, and universities; and

(E) support communication and outreach related to nuclear science, engineering, and health physics.

(3) University-National Laboratory interactions

The Secretary shall conduct—

(A) a fellowship program for professors at universities to spend sabbaticals at National Laboratories in the areas of nuclear science and technology; and

(B) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments.

(4) Strengthening university research and training reactors and associated infrastructure

In carrying out the program under this subsection, the Secretary may support—

(A) converting research reactors from high-enrichment fuels to low-enrichment fuels and upgrading operational instrumentation;

(B) consortia of universities to broaden access to university research reactors;

(C) student training programs, in collaboration with the United States nuclear industry, in relicensing and upgrading reactors, including through the provision of technical assistance; and

(D) reactor improvements that emphasize research, training, and education, including through the Innovations in Nuclear Infrastructure and Education Program or any similar program.

(5) Radiological facilities management

(A) In general

The Secretary shall carry out a program under which the Secretary shall provide project management, technical support, quality engineering and inspection, and nuclear material handling support to research reactors located at universities.

(B) Authorization of appropriations

Of any amounts appropriated to carry out the program under this subsection, there are authorized to be appropriated to the Secretary to carry out the program under this paragraph $20,000,000 for each of fiscal years 2021 through 2025.

(6) Nuclear energy university program

In carrying out the programs under this section, the Department shall, to the maximum extent practicable, allocate 20 percent of funds appropriated to nuclear energy research and development programs annually, excluding funds appropriated for the Advanced Reactor Demonstration Program of the Department, to fund university-led research and university infrastructure projects through an open, competitive solicitation process.

(7) Operations and maintenance

Funding for a project provided under this subsection may be used for a portion of the operating and maintenance costs of a research reactor at a university used in the project.

(8) Definition

In this subsection, the term "junior faculty" means a faculty member who was awarded a doctorate less than 10 years before receipt of an award from the grant program described in paragraph (2)(B).

(b) Nuclear energy graduate traineeship subprogram

(1) Establishment

In carrying out the program under subsection (a), the Secretary shall establish a nuclear energy graduate traineeship subprogram under which the Secretary shall competitively award graduate traineeships in coordination with universities to provide focused, advanced training to meet critical mission needs of the Department, including in industries that are represented by skilled labor unions.

(2) Requirements

In carrying out the subprogram under this subsection, the Secretary shall—

(A) encourage appropriate partnerships among National Laboratories, affected universities, and industry; and

(B) on an annual basis, evaluate the needs of the nuclear energy community to implement graduate traineeships for focused topical areas addressing mission-specific workforce needs.

(3) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the subprogram under this subsection $5,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 109–58, title IX, §954, Aug. 8, 2005, 119 Stat. 886; Pub. L. 115–248, §2(d), Sept. 28, 2018, 132 Stat. 3155; Pub. L. 116–260, div. Z, title II, §2003(c), Dec. 27, 2020, 134 Stat. 2463; Pub. L. 117–58, div. D, title X, §41002(b)(2), Nov. 15, 2021, 135 Stat. 1128.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(6). Pub. L. 117–58 inserted ", excluding funds appropriated for the Advanced Reactor Demonstration Program of the Department," after "annually".

2020—Pub. L. 116–260, §2003(c)(1), substituted "Nuclear" for "University nuclear" in section catchline.

Subsec. (a). Pub. L. 116–260, §2003(c)(10), designated existing provisions as subsec. (a) and inserted heading.

Pub. L. 116–260, §2003(c)(9), added pars. (5) and (6).

Subsec. (b). Pub. L. 116–260, §2003(c)(11), added subsec. (b).

Pub. L. 116–260, §2003(c)(7), redesignated subsec. (b) as par. (2).

Pub. L. 116–260, §2003(c)(2), substituted "this subsection" for "this section" in introductory provisions, redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, and realigned margins.

Subsec. (c). Pub. L. 116–260, §2003(c)(7), redesignated subsec. (c) as par. (3).

Pub. L. 116–260, §2003(c)(3), redesignated pars. (1) and (2) as subpars. (A) and (B), respectively, and realigned margins.

Subsec. (d). Pub. L. 116–260, §2003(c)(7), redesignated subsec. (d) as par. (4).

Pub. L. 116–260, §2003(c)(4), substituted "this subsection" for "this section" in introductory provisions, redesignated pars. (1) to (4) as subpars. (A) to (D), respectively, and realigned margins.

Subsec. (e). Pub. L. 116–260, §2003(c)(8), redesignated subsec. (e) as par. (7). Margins realigned to reflect the probable intent of Congress.

Pub. L. 116–260, §2003(c)(5), substituted "this subsection" for "this section".

Subsec. (f). Pub. L. 116–260, §2003(c)(8), redesignated subsec. (f) as par. (8). Margins realigned to reflect the probable intent of Congress.

Pub. L. 116–260, §2003(c)(6), substituted "this subsection" for "this section" and "paragraph (2)(B)" for "subsection (b)(2)".

2018—Subsec. (d)(4). Pub. L. 115–248 substituted "that emphasize" for "as part of a taking into consideration effort that emphasizes".

§16274a. University Nuclear Leadership Program

(a) In general

The Secretary of Energy, the Administrator of the National Nuclear Security Administration, and the Chairman of the Nuclear Regulatory Commission shall jointly establish a program, to be known as the "University Nuclear Leadership Program".

(b) Use of funds

(1) In general

Except as provided in paragraph (2), amounts made available to carry out the Program shall be used to provide financial assistance for scholarships, fellowships, and research and development projects at institutions of higher education in areas relevant to the programmatic mission of the applicable Federal agency, with an emphasis on providing the financial assistance with respect to research, development, demonstration, and commercial application activities relevant to civilian advanced nuclear reactors including, but not limited to—

(A) relevant fuel cycle technologies;

(B) project management; and

(C) advanced construction, manufacturing, and fabrication methods.

(2) Exception

Notwithstanding paragraph (1), amounts made available to carry out the Program may be used to provide financial assistance for a scholarship, fellowship, or multiyear research and development project that does not align directly with a programmatic mission of the Department of Energy, if the activity for which assistance is provided would facilitate the maintenance of the discipline of nuclear science or engineering.

(c) Definitions

In this section:

(1) Advanced nuclear reactor; institution of higher education

The terms "advanced nuclear reactor" and "institution of higher education" have the meanings given those terms in section 16271 of this title.

(2) Program

The term "Program" means the University Nuclear Leadership Program established under this section.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out the Program for each of fiscal years 2021 through 2025—

(1) $30,000,000 to the Secretary of Energy, of which $15,000,000 shall be for use by the Administrator of the National Nuclear Security Administration; and

(2) $15,000,000 to the Nuclear Regulatory Commission.

(Pub. L. 111–8, div. C, title III, §313, Mar. 11, 2009, 123 Stat. 627; Pub. L. 116–260, div. Z, title II, §2003(e), Dec. 27, 2020, 134 Stat. 2465.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to Integrated University Program.

§16275. Department of Energy civilian nuclear infrastructure and facilities

(a) In general

The Secretary shall operate and maintain infrastructure and facilities to support the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, isotope production, and facilities management.

(b) Duties

In carrying out this section, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, expertise, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investments which complement rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment, with the goal of ensuring that Department programs under this part will be generally recognized to be among the best in the world.

(c) Versatile neutron source

(1) Authorization

(A) In general

Not later than December 31, 2017, the Secretary shall provide for a versatile reactor-based fast neutron source, which shall operate as a national user facility.

(B) Consultations required

In carrying out subparagraph (A), the Secretary shall consult with the private sector,

institutions of higher education, the National Laboratories, and relevant Federal agencies to ensure that the user facility described in subparagraph (A) will meet the research needs of the largest practicable majority of prospective users.

(2) Establishment

As soon as practicable after determining the mission need under paragraph (1)(A), the Secretary shall submit to the appropriate committees of Congress a detailed plan for the establishment of the user facility.

(3) Facility requirements

(A) Capabilities

The Secretary shall ensure that the user facility will provide, at a minimum, the following capabilities:

(i) Fast neutron spectrum irradiation capability.

(ii) Capacity for upgrades to accommodate new or expanded research needs.

(B) Considerations

In carrying out the plan submitted under paragraph (2), the Secretary shall consider the following:

(i) Capabilities that support experimental high-temperature testing.

(ii) Providing a source of fast neutrons at a neutron flux, higher than that at which current research facilities operate, sufficient to enable research for an optimal base of prospective users.

(iii) Maximizing irradiation flexibility and irradiation volume to accommodate as many concurrent users as possible.

(iv) Capabilities for irradiation with neutrons of a lower energy spectrum.

(v) Multiple loops for fuels and materials testing in different coolants.

(vi) Additional pre-irradiation and post-irradiation examination capabilities.

(vii) Lifetime operating costs and lifecycle costs.

(4) Deadline for establishment

The Secretary shall, to the maximum extent practicable, complete construction of, and approve the start of operations for, the user facility by not later than December 31, 2026.

(5) Reporting

The Secretary shall include in the annual budget request of the Department an explanation for any delay in the progress of the Department in completing the user facility by the deadline described in paragraph (4).

(6) Coordination

The Secretary shall leverage the best practices for management, construction, and operation of national user facilities from the Office of Science.

(7) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out to completion the construction of the facility under this section—

(A) $295,000,000 for fiscal year 2021;

(B) $348,000,000 for fiscal year 2022;

(C) $525,000,000 for fiscal year 2023;

(D) $534,000,000 for fiscal year 2024; and

(E) $584,000,000 for fiscal year 2025.

(d) Gateway for Accelerated Innovation in Nuclear

(1) In general

In carrying out the programs under this part, the Secretary is authorized to establish a new initiative to be known as the Gateway for Accelerated Innovation in Nuclear (GAIN). The

initiative shall, to the maximum extent practicable and consistent with national security, provide the nuclear energy industry with access to cutting edge research and development along with the technical, regulatory, and financial support necessary to move innovative nuclear energy technologies toward commercialization in an accelerated and cost-effective fashion. The Secretary shall make available, as a minimum—

(A) experimental capabilities and testing facilities;

(B) computational capabilities, modeling, and simulation tools;

(C) access to existing datasets and data validation tools; and

(D) technical assistance with guidance or processes as needed.

(2) Selection

(A) In general

The Secretary shall select industry partners for awards on a competitive merit-reviewed basis.

(B) Considerations

In selecting industry partners under subparagraph (A), the Secretary shall consider—

(i) the information disclosed by the Department as described in paragraph (1); and

(ii) any existing facilities the Department will provide for public private partnership activities.

(Pub. L. 109–58, title IX, §955, Aug. 8, 2005, 119 Stat. 887; Pub. L. 115–248, §2(e), Sept. 28, 2018, 132 Stat. 3156; Pub. L. 116–260, div. Z, title II, §2003(f), Dec. 27, 2020, 134 Stat. 2466.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (c)(1). Pub. L. 116–260, §2003(f)(1)(A), substituted "Authorization" for "Mission need" in heading.

Subsec. (c)(1)(A). Pub. L. 116–260, §2003(f)(1)(B), substituted "provide" for "determine the mission need".

Subsec. (c)(4). Pub. L. 116–260, §2003(f)(3), substituted "2026" for "2025".

Subsec. (c)(7). Pub. L. 116–260, §2003(f)(2), added par. (7).

Subsec. (d). Pub. L. 116–260, §2003(f)(4), added subsec.(d).

2018—Subsecs. (c), (d). Pub. L. 115–248 added subsec. (c) and struck out former subsecs. (c) and (d) which required development of a comprehensive plan for the facilities at the Idaho National Laboratory and transmittal of the plan to Congress.

§16276. Security of nuclear facilities

The Secretary shall conduct a research and development program on cost-effective technologies for increasing—

(1) the safety of nuclear facilities from natural phenomena; and

(2) the security of nuclear facilities from deliberate attacks.

(Pub. L. 109–58, title IX, §956, Aug. 8, 2005, 119 Stat. 888; Pub. L. 115–248, §2(f), Sept. 28, 2018, 132 Stat. 3157.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–248 struck out ", acting through the Director of the Office of Nuclear Energy, Science and Technology," after "The Secretary" in introductory provisions.

§16277. High-performance computation and supportive research

(a) Modeling and simulation

The Secretary shall carry out a program to enhance the capabilities of the United States to develop new reactor technologies through high-performance computation modeling and simulation techniques.

(b) Coordination

In carrying out the program under subsection (a), the Secretary shall coordinate with relevant Federal agencies as described by the National Strategic Computing Initiative established by Executive Order 13702 (80 Fed. Reg. 46177 (July 29, 2015)), while taking into account the following objectives:

(1) Using expertise from the private sector, institutions of higher education, and the National Laboratories to develop computational software and capabilities that prospective users may access to accelerate research and development of advanced nuclear reactor systems and reactor systems for space exploration.

(2) Developing computational tools to simulate and predict nuclear phenomena that may be validated through physical experimentation.

(3) Increasing the utility of the research infrastructure of the Department by coordinating with the Advanced Scientific Computing Research program within the Office of Science.

(4) Leveraging experience from the Energy Innovation Hub for Modeling and Simulation.

(5) Ensuring that new experimental and computational tools are accessible to relevant research communities, including private sector entities engaged in nuclear energy technology development.

(c) Supportive research activities

The Secretary shall consider support for additional research activities to maximize the utility of the research facilities of the Department, including physical processes—

(1) to simulate degradation of materials and behavior of fuel forms; and

(2) for validation of computational tools.

(d) Duplication

The Secretary shall ensure the coordination of, and avoid unnecessary duplication of, the activities of the program under subsection (a) with the activities of—

(1) other research entities of the Department, including the National Laboratories, the Advanced Research Projects Agency–Energy, and the Advanced Scientific Computing Research program; and

(2) industry.

(Pub. L. 109–58, title IX, §957, Aug. 8, 2005, 119 Stat. 888; Pub. L. 115–248, §2(g), Sept. 28, 2018, 132 Stat. 3157; Pub. L. 116–260, div. Z, title II, §2004, Dec. 27, 2020, 134 Stat. 2470.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order 13702, referred to in subsec. (b), is set out as a note under section 5501 of Title 15, Commerce and Trade.

AMENDMENTS

2020—Subsec. (d). Pub. L. 116–260 added subsec. (d).

2018—Pub. L. 115–248 amended section generally. Prior to amendment, section related to survey and plan regarding alternatives to industrial radioactive sources.

§16278. Enabling nuclear energy innovation

(a) National Reactor Innovation Center

There is authorized a program to enable the testing and demonstration of reactor concepts to be proposed and funded, in whole or in part, by the private sector.

(b) Technical expertise

In carrying out the program under subsection (a), the Secretary shall leverage the technical expertise of relevant Federal agencies and the National Laboratories in order to minimize the time required to enable construction and operation of privately funded experimental reactors at National Laboratories or other Department-owned sites.

(c) Objectives

The reactors described in subsection (b) shall operate to meet the following objectives:

(1) Enabling physical validation of advanced nuclear reactor concepts.

(2) Resolving technical uncertainty and increasing practical knowledge relevant to safety, resilience, security, and functionality of advanced nuclear reactor concepts.

(3) General research and development to improve nascent technologies.

(d) Sharing technical expertise

In carrying out the program under subsection (a), the Secretary may enter into a memorandum of understanding with the Chairman of the Commission in order to share technical expertise and knowledge through—

(1) enabling the testing and demonstration of advanced nuclear reactor concepts to be proposed and funded, in whole or in part, by the private sector;

(2) operating a database to store and share data and knowledge relevant to nuclear science and engineering between Federal agencies and the private sector;

(3) developing and testing electric and nonelectric integration and energy conversion systems relevant to advanced nuclear reactors;

(4) leveraging expertise from the Commission with respect to safety analysis; and

(5) enabling technical staff of the Commission to actively observe and learn about technologies developed under the program.

(e) Agency coordination

The Chairman of the Commission and the Secretary shall enter into a memorandum of understanding regarding the following:

(1) Ensuring that—

(A) the Department has sufficient technical expertise to support the timely research, development, demonstration, and commercial application by the civilian nuclear industry of safe and innovative advanced nuclear reactor technology; and

(B) the Commission has sufficient technical expertise to support the evaluation of applications for licenses, permits, and design certifications and other requests for regulatory approval for advanced nuclear reactors.

(2) The use of computers and software codes to calculate the behavior and performance of advanced nuclear reactors based on mathematical models of the physical behavior of advanced nuclear reactors.

(3) Ensuring that—

(A) the Department maintains and develops the facilities necessary to enable the timely research, development, demonstration, and commercial application by the civilian nuclear industry of safe and innovative reactor technology; and

(B) the Commission has access to the facilities described in subparagraph (A), as needed.

(f) Reporting requirements

(1) In general

Not later than 180 days after September 28, 2018, the Secretary, in consultation with the National Laboratories, relevant Federal agencies, and other stakeholders, shall submit to the appropriate committees of Congress a report assessing the capabilities of the Department to authorize, host, and oversee privately funded experimental advanced nuclear reactors as described in subsection (b).

(2) Contents

The report submitted under paragraph (1) shall address—

(A) the safety review and oversight capabilities of the Department, including options to leverage expertise from the Commission and the National Laboratories;

(B) options to regulate privately proposed and funded experimental reactors hosted by the Department;

(C) potential sites capable of hosting privately funded experimental advanced nuclear reactors;

(D) the efficacy of the available contractual mechanisms of the Department to partner with the private sector and Federal agencies, including cooperative research and development agreements, strategic partnership projects, and agreements for commercializing technology;

(E) the liability of the Federal Government with respect to the disposal of low-level radioactive waste, spent nuclear fuel, or high-level radioactive waste (as those terms are defined in section 10101 of this title);

(F) the impact on the aggregate inventory in the United States of low-level radioactive waste, spent nuclear fuel, or high-level radioactive waste (as those terms are defined in section 10101 of this title);

(G) potential cost structures relating to physical security, decommissioning, liability, and other long-term project costs; and

(H) other challenges or considerations identified by the Secretary.

(3) Updates

Once every 2 years, the Secretary shall update relevant provisions of the report submitted under paragraph (1) and submit to the appropriate committees of Congress the update.

(g) Savings clauses

(1) Licensing requirement

Nothing in this section authorizes the Secretary or any person to construct or operate a nuclear reactor for the purpose of demonstrating the suitability for commercial application of the nuclear reactor unless licensed by the Commission in accordance with section 5842 of this title.

(2) Financial protection

Any activity carried out under this section that involves the risk of public liability shall be subject to the financial protection or indemnification requirements of section 2210 of this title (commonly known as the "Price-Anderson Act").

(Pub. L. 109–58, title IX, §958, as added Pub. L. 115–248, §2(h), Sept. 28, 2018, 132 Stat. 3157.)

§16279. Budget plan

(a) In general

Not later than 1 year after September 28, 2018, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives 2 alternative 10-year budget plans for civilian nuclear energy research and development by the Secretary, as described in subsections (b) through (d).

(b) Budget plan alternative 1

One of the budget plans submitted under subsection (a) shall assume constant annual funding for 10 years at the appropriated level for the current fiscal year for the civilian nuclear energy research and development of the Department.

(c) Budget plan alternative 2

One of the budget plans submitted under subsection (a) shall be an unconstrained budget.

(d) Inclusions

Each alternative budget plan submitted under subsection (a) shall include—

(1) a prioritized list of the programs, projects, and activities of the Department to best support the development of advanced nuclear reactor technologies;

(2) realistic budget requirements for the Department to implement sections 16275(c), 16277, and 16278 of this title;

(3) the justification of the Department for continuing or terminating existing civilian nuclear energy research and development programs; and

(4) a description of the progress made under the programs described in section 16279a of this title.

(e) Updates

Not less frequently than once every 2 years, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate updated 10-year budget plans which shall identify, and provide a justification for, any major deviation from a previous budget plan submitted under this section.

(Pub. L. 109–58, title IX, §959, as added Pub. L. 115–248, §2(i), Sept. 28, 2018, 132 Stat. 3160; amended Pub. L. 116–260, div. Z, title II, §2005, 134 Stat. 2470.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (b). Pub. L. 116–260, §2005(1), amended subsec. (b) generally. Prior to amendment, text read as follows: "One of the budget plans submitted under subsection (a) shall assume constant annual funding for 10 years at the appropriated level for the civilian nuclear energy research and development of the Department for fiscal year 2016."

Subsec. (d)(4). Pub. L. 116–260, §2005(2)–(4), added par. (4).

Subsec. (e). Pub. L. 116–260, §2005(5), added subsec. (e).

§16279a. Advanced reactor demonstration program

(a) Demonstration project defined

For the purposes of this section, the term "demonstration project" means an advanced nuclear reactor operated in any manner, including as part of the power generation facilities of an electric utility system, for the purpose of demonstrating the suitability for commercial application of the advanced nuclear reactor.

(b) Establishment

The Secretary shall establish a program to advance the research, development, demonstration, and commercial application of domestic advanced, affordable, nuclear energy technologies by—

(1) demonstrating a variety of advanced nuclear reactor technologies, including those that could be used to produce—

(A) safer, emissions-free power at a competitive cost of electricity compared to other new energy generation technologies on December 27, 2020;

(B) heat for community heating, industrial purposes, heat storage, or synthetic fuel production;

(C) remote or off-grid energy supply; or

(D) backup or mission-critical power supplies;

(2) identifying research areas that the private sector is unable or unwilling to undertake due to the cost of, or risks associated with, the research; and

(3) facilitating the access of the private sector—

(A) to Federal research facilities and personnel; and

(B) to the results of research relating to civil nuclear technology funded by the Federal

Government.

(c) Demonstration projects

In carrying out demonstration projects under the program established in subsection (b), the Secretary shall—

(1) include, as an evaluation criterion, diversity in designs for the advanced nuclear reactors demonstrated under this section, including designs using various—

(A) primary coolants;

(B) fuel types and compositions; and

(C) neutron spectra;

(2) consider, as evaluation criterions—

(A) the likelihood that the operating cost for future commercial units for each design implemented through a demonstration project under this subsection is cost-competitive in the applicable market, including those designs configured as integrated energy systems as described in section 16272(c) of this title;

(B) the technology readiness level of a proposed advanced nuclear reactor technology;

(C) the technical abilities and qualifications of teams desiring to demonstrate a proposed advanced nuclear reactor technology; and

(D) the capacity to meet cost-share requirements of the Department;

(3) ensure that each evaluation of candidate technologies for the demonstration projects is completed through an external review of proposed designs, which review shall—

(A) be conducted by a panel that includes not fewer than 1 representative that does not have a conflict of interest of each within the applicable market of the design of—

(i) an electric utility;

(ii) an entity that uses high-temperature process heat for manufacturing or industrial processing, such as a petrochemical or synthetic fuel company, a manufacturer of metals or chemicals, or a manufacturer of concrete;

(iii) an expert from the investment community;

(iv) a project management practitioner; and

(v) an environmental health and safety expert; and

(B) include a review of each demonstration project under this subsection which shall include consideration of cost-competitiveness and other value streams, together with the technology readiness level, the technical abilities and qualifications of teams desiring to demonstrate a proposed advanced nuclear reactor technology, the capacity to meet cost-share requirements of the Department, if Federal funding is provided, and environmental impacts;

(4) for federally funded demonstration projects, enter into cost-sharing agreements with private sector partners in accordance with section 16352 of this title for the conduct of activities relating to the research, development, and demonstration of advanced nuclear reactor designs under the program;

(5) consult with—

(A) National Laboratories;

(B) institutions of higher education;

(C) traditional end users (such as electric utilities);

(D) potential end users of new technologies (such as users of high-temperature process heat for manufacturing processing, including petrochemical or synthetic fuel companies, manufacturers of metals or chemicals, or manufacturers of concrete);

(E) developers of advanced nuclear reactor technology;

(F) environmental and public health and safety experts; and

(G) non-proliferation experts;

(6) seek to ensure that the demonstration projects carried out under this section do not cause any delay in the progress of an advanced reactor project by private industry and the Department of Energy that is underway as of December 27, 2020;

(7) establish a streamlined approval process for expedited contracting between awardees and the Department;

(8) identify technical challenges to candidate technologies;

(9) support near-term research and development to address the highest risk technical challenges to the successful demonstration of a selected advanced reactor technology, in accordance with—

(A) paragraph (8);

(B) the research and development activities under section 16272(b) of this title; and

(C) the research and development activities under section 16278 of this title; and

(10) establish such technology advisory working groups as the Secretary determines to be appropriate to advise the Secretary regarding the technical challenges identified under paragraph (8) and the scope of research and development programs to address the challenges, in accordance with paragraph (9), to be comprised of—

(A) private sector advanced nuclear reactor technology developers;

(B) technical experts with respect to the relevant technologies at institutions of higher education;

(C) technical experts at the National Laboratories;

(D) environmental and public health and safety experts;

(E) non-proliferation experts; and

(F) any other entities the Secretary determines appropriate.

(d) Milestone-based demonstration projects

The Secretary may carry out demonstration projects under subsection (c) as a milestone-based demonstration project under section 7256c of this title.

(e) Nonduplication

Entities may not receive funds under this program if receiving funds from another reactor demonstration program at the Department in the same fiscal year.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the program under this subsection—

(1) $405,000,000 for fiscal year 2021;

(2) $405,000,000 for fiscal year 2022;

(3) $420,000,000 for fiscal year 2023;

(4) $455,000,000 for fiscal year 2024; and

(5) $455,000,000 for fiscal year 2025.

(Pub. L. 109–58, title IX, §959A, as added Pub. L. 116–260, div. Z, title II, §2003(g)(1), Dec. 27, 2020, 134 Stat. 2467.)

§16279b. International nuclear energy cooperation

The Secretary shall carry out a program—

(1) to collaborate in international efforts with respect to research, development, demonstration, and commercial application of nuclear technology that supports diplomatic, financing, nonproliferation, climate, and international economic objectives for the safe, secure, and peaceful use of such technology; and

(2) to develop collaboration initiatives with respect to such efforts with a variety of countries through—

(A) preparations for research and development agreements;

(B) the development of coordinated action plans; and

(C) new or existing multilateral cooperation commitments including—
(i) the International Framework for Nuclear Energy Cooperation;
(ii) the Generation IV International Forum;
(iii) the International Atomic Energy Agency;
(iv) the Organization for Economic Co-operation and Development Nuclear Energy Agency; and
(v) any other international collaborative effort with respect to advanced nuclear reactor operations and safety.

(Pub. L. 109–58, title IX, §959B, as added Pub. L. 116–260, div. Z, title II, §2003(h)(1), Dec. 27, 2020, 134 Stat. 2470.)

§16279c. Organization and administration of programs

(a) Coordination

In carrying out this part, the Secretary shall coordinate activities, and effectively manage crosscutting research priorities across programs of the Department and other relevant Federal agencies, including the National Laboratories.

(b) Collaboration

(1) In general

In carrying out this part, the Secretary shall collaborate with industry, National Laboratories, other relevant Federal agencies, institutions of higher education, including minority-serving institutions and research reactors, Tribal entities, including Alaska Native Corporations, and international bodies with relevant scientific and technical expertise.

(2) Participation

To the extent practicable, the Secretary shall encourage research projects that promote collaboration between entities specified in paragraph (1).

(c) Dissemination of results and public availability

The Secretary shall, except to the extent protected from disclosure under section 552(b) of title 5, publish the results of projects supported under this part through Department websites, reports, databases, training materials, and industry conferences, including information discovered after the completion of such projects.

(d) Education and outreach

In carrying out the activities described in this part, the Secretary shall support education and outreach activities to disseminate information and promote public understanding of nuclear energy.

(e) Technical assistance

In carrying out this part, for the purposes of supporting technical, nonhardware, and information-based advances in nuclear energy development and operations, the Secretary shall also conduct technical assistance and analysis activities, including activities that support commercial application of nuclear energy in rural, Tribal, and low-income communities.

(f) Program review

At least annually, all programs in this part shall be subject to an annual review by the Nuclear Energy Advisory Committee of the Department or other independent entity, as appropriate.

(g) Sensitive information

The Secretary shall not publish any information generated under this part that is detrimental to national security, as determined by the Secretary.

(Pub. L. 109–58, title IX, §959C, as added Pub. L. 116–260, div. Z, title II, §2006(a), Dec. 27, 2020, 134 Stat. 2471.)

§16280. Advanced Nuclear Energy Licensing Cost-Share Grant Program

(a) Definitions

In this section:

(1) Commission

The term "Commission" means the Nuclear Regulatory Commission.

(2) Program

The term "program" means the Advanced Nuclear Energy Cost-Share Grant Program established under subsection (b).

(3) Secretary

The term "Secretary" means the Secretary of Energy.

(b) Establishment

The Secretary shall establish a grant program, to be known as the "Advanced Nuclear Energy Cost-Share Grant Program", under which the Secretary shall make cost-share grants to applicants for the purpose of funding a portion of the Commission fees of the applicant for pre-application review activities and application review activities.

(c) Requirement

The Secretary shall seek out technology diversity in making grants under the program.

(d) Cost-share amount

The Secretary shall determine the cost-share amount for each grant under the program in accordance with section 16352 of this title.

(e) Use of funds

A recipient of a grant under the program may use the grant funds to cover Commission fees, including those fees associated with—

(1) developing a licensing project plan;
(2) obtaining a statement of licensing feasibility;
(3) reviewing topical reports; and
(4) other—
  (A) pre-application review activities;
  (B) application review activities; and
  (C) interactions with the Commission.

(Pub. L. 115–248, §3, Sept. 28, 2018, 132 Stat. 3160.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Nuclear Energy Innovation Capabilities Act of 2017, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

§16281. Advanced nuclear fuel availability

(a) Program

(1) Establishment

The Secretary shall establish and carry out, through the Office of Nuclear Energy, a program to support the availability of HA–LEU for civilian domestic research, development, demonstration, and commercial use.

(2) Program elements

In carrying out the program under paragraph (1), the Secretary—

(A) shall develop, in consultation with the Commission, criticality benchmark data to assist the Commission in—

(i) the licensing and regulation of special nuclear material fuel fabrication and enrichment facilities under part 70 of title 10, Code of Federal Regulations; and

(ii) certification of transportation packages under part 71 of title 10, Code of Federal Regulations;

(B) shall conduct research and development, and provide financial assistance to assist commercial entities, to design and license transportation packages for HA–LEU, including canisters for metal, gas, and other HA–LEU compositions;

(C) shall, to the extent practicable—

(i) by January 1, 2024, support commercial entity submission of such transportation package designs to the Commission for certification by the Commission under part 71 of title 10, Code of Federal Regulations; and

(ii) encourage the Commission to have such transportation package designs so certified by the Commission within 24 months after receipt of an application;

(D) shall consider options for acquiring or providing HA–LEU from a stockpile of uranium owned by the Department, or using enrichment technology, to make available to members of the consortium established pursuant to subparagraph (F) for commercial use or demonstration projects, taking into account cost and amount of time required, and prioritizing methods that would produce usable HA–LEU the quickest, including options for acquiring or providing HA–LEU—

(i) that—

(I) directly meets the needs of an end user; and

(II) has been previously used or fabricated for another purpose;

(ii) that meets the needs of an end user after having radioactive or other contaminants that resulted from a previous use or fabrication of the fuel for research, development, demonstration, or deployment activities of the Department removed;

(iii) that is produced from high-enriched uranium that is blended with lower assay uranium to become HA–LEU to meet the needs of an end user;

(iv) that is produced by Department research, development, and demonstration activities;

(v) that is produced in the United States by—

(I) a United States-owned commercial entity operating United States-origin technology;

(II) a United States-owned commercial entity operating a foreign-origin technology; or

(III) a foreign-owned entity operating a foreign-origin technology;

(vi) that does not require extraction of uranium or development of uranium from lands managed by the Federal Government, cause harm to the natural or cultural resources of Tribal communities or sovereign Native Nations, or result in degraded ground or surface water quality on publicly managed or privately owned lands; or

(vii) that does not negatively impact the availability of HA–LEU by the Department to support the production of medical isotopes, including the medical isotopes defined under the American Medical Isotopes Production Act of 2012 (Public Law 112–239; 126 Stat. 2211);

(E) not later than 1 year after December 27, 2020, and biennially thereafter, shall conduct a survey of stakeholders to estimate the quantity of HA–LEU necessary for domestic commercial use for each of the 5 subsequent years;

(F) shall establish, and from time to time update, a consortium, which may include entities involved in any stage of the nuclear fuel cycle, to partner with the Department to support the

availability of HA–LEU for civilian domestic demonstration and commercial use, including by—

(i) providing information to the Secretary for purposes of surveys conducted under subparagraph (E);

(ii) purchasing HA–LEU made available by the Secretary to members of the consortium for commercial use under the program; and

(iii) carrying out demonstration projects using HA–LEU provided by the Secretary under the program;

(G) if applicable, shall, prior to acquiring or providing HA–LEU under subparagraph (H), in coordination with the consortium established pursuant to subparagraph (F), develop a schedule for cost recovery of HA–LEU made available to members of the consortium using HA–LEU for commercial use pursuant to subparagraph (H);

(H) shall, beginning not later than 3 years after the establishment of a consortium under subparagraph (F), have the capability to acquire or provide HA–LEU, in order to make such HA–LEU available to members of the consortium beginning not later than January 1, 2026, in amounts that are consistent, to the extent practicable, with—

(i) the quantities estimated under the surveys conducted under subparagraph (E); plus

(ii) the quantities necessary for demonstration projects carried out under the program, as determined by the Secretary;

(I) shall, for advanced reactor demonstration projects, prioritize the provision of HA–LEU made available under this section through a merit-based, competitive selection process; and

(J) shall seek to ensure that the activities carried out under this section do not cause any delay in the progress of any HA–LEU project between private industry and the Department that is underway as of December 27, 2020.

(3) Applicability of USEC Privatization Act

(A) Sale or transfer to consortium

The requirements of section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10), except for the requirements of subparagraph (A) of section 3112(d)(2), shall not apply to the provision of enrichment services, or the sale or transfer of HA–LEU for commercial use by the Secretary to a member of the consortium under this subsection.

(B) Demonstration

HA–LEU made available to members of the consortium established pursuant to paragraph (2)(F) for demonstration projects shall remain the property of and title will remain with the Department, which shall be responsible for the storage, use, and disposition of all radioactive waste and spent nuclear fuel created by the irradiation, processing, or purification of such uranium, and shall not be subject to the requirements of a sale or transfer of uranium under sections 3112, except for the requirements of subparagraph (A) of section 3112, and 3113 of the USEC Privatization Act (42 U.S.C. 2297h–10; 42 U.S.C. 2297h–11).

(4) National security needs

The Secretary shall only make available to a member of the consortium under this section for commercial or demonstration project use material that the President has determined is not necessary for national security needs, provided that this available material shall not include any material that the Secretary may determine to be necessary for the National Nuclear Security Administration or other critical Departmental missions.

(5) DOE acquisition of HA–LEU

The Secretary may not make commitments under this section (including cooperative agreements (used in accordance with section 6305 of title 31), purchase agreements, guarantees, leases, service contracts, or any other type of commitment) for the purchase or other acquisition of

HA–LEU unless—

(A) funds are specifically provided for such purposes in advance in subsequent appropriations Acts, and only to the extent that the full extent of anticipated costs stemming from such commitments is recorded as an obligation up front and in full at the time it is made; or

(B) such committing agreement includes a clause conditioning the Federal Government's obligation on the availability of future year appropriations.

(6) Sunset

The authority of the Secretary to carry out the program under this subsection shall expire on the earlier of—

(A) September 30, 2034; or

(B) 90 days after the date on which HA–LEU is available to provide a reliable and adequate supply for civilian domestic advanced nuclear reactors in the commercial market.

(7) Limitation

The Secretary shall not barter or otherwise sell or transfer uranium in any form in exchange for services relating to the final disposition of radioactive waste from uranium that is made available under this subsection.

(b) Reports to Congress

(1) Commission report on necessary regulatory updates

Not later than 12 months after December 27, 2020, the Commission shall submit to Congress a report that includes—

(A) identification of updates to regulations, certifications, and other regulatory policies that the Commission determines are necessary in order for HA–LEU to be commercially available, including—

(i) guidance for material control and accountability of special nuclear material;

(ii) certifications relating to transportation packaging for HA–LEU; and

(iii) licensing of enrichment, conversion, and fuel fabrication facilities for HA–LEU, and associated physical security plans for such facilities;

(B) a description of such updates; and

(C) a timeline to complete such updates.

(2) DOE report on program to support the availability of HA–LEU for civilian domestic demonstration and commercial use

(A) In general

Not later than 180 days after December 27, 2020, the Secretary shall submit to Congress a report that describes actions proposed to be carried out by the Secretary under the program described in subsection (a)(1).

(B) Coordination and stakeholder input

In developing the report under this paragraph, the Secretary shall consult with—

(i) the Commission;

(ii) suppliers of medical isotopes that have converted their operations to use HA–LEU;

(iii) the National Laboratories;

(iv) institutions of higher education;

(v) a diverse group of entities from the nuclear energy industry;

(vi) a diverse group of technology developers;

(vii) experts in nuclear nonproliferation, environmental safety, safeguards and security, and public health and safety; and

(viii) members of the consortium created under subsection (a)(2)(F).

(C) Cost and schedule estimates

The report under this paragraph shall include estimated costs, budgets, and timeframes for all

activities carried out under this section.

(D) Required evaluations

The report under this paragraph shall evaluate—

(i) the actions required to establish and carry out the program under subsection (a)(1) and the cost of such actions, including with respect to—

(I) proposed preliminary terms for contracting between the Department and recipients of HA–LEU under the program (including guidelines defining the roles and responsibilities between the Department and the recipient); and

(II) the potential to coordinate with recipients of HA–LEU under the program regarding—

(aa) fuel fabrication; and

(bb) fuel transport;

(ii) the potential sources and fuel forms available to provide uranium for the program under subsection (a)(1);

(iii) options to coordinate the program under subsection (a)(1) with the operation of the versatile, reactor-based fast neutron source under section 16279a of this title (as added by section 2003);

(iv) the ability of uranium producers to provide materials for advanced nuclear reactor fuel;

(v) any associated legal, regulatory, and policy issues that should be addressed to enable—

(I) implementation of the program under subsection (a)(1); and

(II) the establishment of an industry capable of providing HA–LEU; and

(vi) any research and development plans to develop criticality benchmark data under subsection (a)(2)(A), if needed.

(3) Alternate fuels report

Not later than 180 days after December 27, 2020, the Secretary shall, after consulting with relevant entities, including National Laboratories, institutions of higher education, and technology developers, submit to Congress a report identifying any and all options for providing nuclear material, containing isotopes other than the uranium-235 isotope, such as uranium-233 and thorium-232 to be used as fuel for advanced nuclear reactor research, development, demonstration, or commercial application purposes.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out research, development, demonstration, and transportation activities in this section—

(1) $31,500,000 for fiscal year 2021;

(2) $33,075,000 for fiscal year 2022;

(3) $34,728,750 for fiscal year 2023;

(4) $36,465,188 for fiscal year 2024; and

(5) $38,288,447 for fiscal year 2025.

(d) Definitions

In this section:

(1) Commission

The term "Commission" means the Nuclear Regulatory Commission.

(2) Demonstration project

The term "demonstration project" has the meaning given such term in section 16279a of this title.

(3) HA–LEU

The term "HA–LEU" means high-assay low-enriched uranium.

(4) High-assay low-enriched uranium

The term "high-assay low-enriched uranium" means uranium having an assay greater than 5.0 weight percent and less than 20.0 weight percent of the uranium-235 isotope.

(5) High-enriched uranium

The term "high-enriched uranium" means uranium with an assay of 20.0 weight percent or more of the uranium-235 isotope.

(6) Secretary

The term "Secretary" means the Secretary of Energy.

(Pub. L. 116–260, div. Z, title II, §2001, Dec. 27, 2020, 134 Stat. 2453.)

EDITORIAL NOTES

REFERENCES IN TEXT

The American Medical Isotopes Production Act of 2012, referred to in subsec. (a)(2)(D)(vii), is subtitle F (§3171 et seq.) of title XXXI of div. C of Pub. L. 112–239, Jan. 2, 2013, 126 Stat. 2211. For complete classification of this Act to the Code, see Short Title of 2013 Amendment note set out under section 2011 of this title and Tables.

Section 16279a of this title (as added by section 2003), referred to in subsec. (b)(2)(D)(iii), is section 16279a of this title as added by section 2003 of div. Z of Pub. L. 116–260.

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

PART F—FOSSIL ENERGY

§16291. Fossil energy

(a) Establishment

(1) In general

The Secretary shall carry out research, development, demonstration, and commercial application programs in fossil energy, including activities under this part, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption.

(2) Objectives

The programs described in paragraph (1) shall take into consideration the following objectives:

(A) Increasing the energy conversion efficiency of all forms of fossil energy through improved technologies.

(B) Decreasing the cost of all fossil energy production, generation, and delivery.

(C) Promoting diversity of energy supply.

(D) Decreasing the dependence of the United States on foreign energy supplies.

(E) Improving United States energy security.

(F) Decreasing the environmental impact of energy-related activities, including technology development to reduce emissions of carbon dioxide and associated emissions of heavy metals within coal combustion residues and gas streams resulting from fossil fuel use and production.

(G) Increasing the export of fossil energy-related equipment, technology, including emissions control technologies, and services from the United States.

(H) Decreasing the cost of emissions control technologies for fossil energy production,

generation, and delivery.

(I) Significantly lowering greenhouse gas emissions for all fossil fuel production, generation, delivery, and utilization technologies.

(J) Developing carbon removal and utilization technologies, products, and methods that result in net reductions in greenhouse gas emissions, including direct air capture and storage, and carbon use and reuse for commercial application.

(K) Improving the conversion, use, and storage of carbon oxides produced from fossil fuels.

(L) Reducing water use, improving water reuse, and minimizing surface and subsurface environmental impact in the development of unconventional domestic oil and natural gas resources.

(3) Priority

In carrying out the objectives described in subparagraphs (F) through (K) of paragraph (2), the Secretary shall prioritize activities and strategies that have the potential to significantly reduce emissions for each technology relevant to the applicable objective and the international commitments of the United States.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this part—

(1) $611,000,000 for fiscal year 2007;
(2) $626,000,000 for fiscal year 2008; and
(3) $641,000,000 for fiscal year 2009.

(c) Allocations

From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 16292 [1] of this title—
(A) $367,000,000 for fiscal year 2007;
(B) $376,000,000 for fiscal year 2008; and
(C) $394,000,000 for fiscal year 2009.

(2) For activities under section 16294 of this title—
(A) $20,000,000 for fiscal year 2007;
(B) $25,000,000 for fiscal year 2008; and
(C) $30,000,000 for fiscal year 2009.

(3) For activities under section 16296 of this title—
(A) $1,500,000 for fiscal year 2007; and
(B) $450,000 for each of fiscal years 2008 and 2009.

(4) For the Office of Arctic Energy under section 7144d of this title $25,000,000 for each of fiscal years 2007 through 2009.

(d) Extended authorization

There are authorized to be appropriated to the Secretary for the Office of Arctic Energy established under section 7144d of this title $25,000,000 for each of fiscal years 2010 through 2012.

(e) Limitations

(1) Uses

None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) Institutions of higher education

Of the funds authorized under subsection (c)(2), not less than 20 percent of the funds

appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

(Pub. L. 109–58, title IX, §961, Aug. 8, 2005, 119 Stat. 889; Pub. L. 116–260, div. Z, title IV, §4001, Dec. 27, 2020, 134 Stat. 2527.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsecs. (a)(1) and (b), was in the original "this subtitle", meaning subtitle F (§§961–968) of title IX of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 889, which enacted this part and provisions set out as notes under section 2001 of Title 30, Mineral Lands and Mining, and amended provisions set out as a note under section 1902 of Title 30. For complete classification of subtitle F to the Code, see Tables.

Section 16292 of this title, referred to in subsec. (c)(1), relating to coal and related technologies program, was repealed and a new section 16292 of this title, relating to carbon capture technology program, was enacted by Pub. L. 116–260, div. Z, title IV, §4002(a), Dec. 27, 2020, 134 Stat. 2528.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260, §4001(5), designated second sentence of par. (1), as redesignated, as par. (2), inserted heading, and substituted "The programs described in paragraph (1) shall" for "Such programs".

Pub. L. 116–260, §4001(4), designated existing provisions of subsec. (a) as par. (1), substituted "Establishment" for "In general" in subsec. heading, and inserted par. (1) heading.

Pub. L. 116–260, §4001(3), added subpars. (G) to (L) and struck out former subpar. (G), as redesignated, which read as follows: "Increasing the export of fossil energy-related equipment, technology, and services from the United States."

Pub. L. 116–260, §4001(2), in subpar. (F), as redesignated, inserted ", including technology development to reduce emissions of carbon dioxide and associated emissions of heavy metals within coal combustion residues and gas streams resulting from fossil fuel use and production" before period at end.

Pub. L. 116–260, §4001(1), redesignated pars. (1) to (7) of subsec. (a) as subpars. (A) to (G) and realigned margins.

Subsec. (a)(3). Pub. L. 116–260, §4001(6), added par. (3)

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

§16291a. Property interests

That for all programs funded under Fossil Energy appropriations in this and subsequent Acts, the Secretary may vest fee title or other property interests acquired under projects in any entity, including the United States.

(Pub. L. 113–76, div. D, title III, Jan. 17, 2014, 128 Stat. 165.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2014, and also as part of the Consolidated Appropriations Act, 2014, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

For definition of "this [Act]", referred to in text, see section 3 of Pub. L. 113–76, set out as a note under section 1 of Title 1, General Provisions.

§16292. Carbon capture technology program

(a) Definitions

In this section:

(1) Large-scale pilot project

The term "large-scale pilot project" means a pilot project that—

(A) represents the scale of technology development beyond laboratory development and bench scale testing, but not yet advanced to the point of being tested under real operational conditions at commercial scale;

(B) represents the scale of technology necessary to gain the operational data needed to understand the technical and performance risks of the technology before the application of that technology at commercial scale or in commercial-scale demonstration; and

(C) is large enough—

(i) to validate scaling factors; and

(ii) to demonstrate the interaction between major components so that control philosophies for a new process can be developed and enable the technology to advance from large-scale pilot project application to commercial-scale demonstration or application.

(2) Natural gas

The term "natural gas" means any fuel consisting in whole or in part of—

(A) natural gas;

(B) liquid petroleum gas;

(C) synthetic gas derived from petroleum or natural gas liquids;

(D) any mixture of natural gas and synthetic gas; or

(E) biomethane.

(3) Natural gas electric generation facility

(A) In general

The term "natural gas electric generation facility" means a facility that generates electric energy using natural gas as the fuel.

(B) Inclusions

The term "natural gas electric generation facility" includes without limitation a new or existing—

(i) simple cycle plant;

(ii) combined cycle plant;

(iii) combined heat and power plant; or

(iv) steam methane reformer that produces hydrogen from natural gas for use in the production of electric energy.

(4) Program

The term "program" means the program established under subsection (b)(1).

(5) Transformational technology

(A) In general

The term "transformational technology" means a technology that represents a significant change in the methods used to convert energy that will enable a step change in performance, efficiency, cost of electricity, and reduction of emissions as compared to the technology in existence on December 27, 2020.

(B) Inclusions

The term "transformational technology" includes a broad range of potential technology improvements, including—

(i) thermodynamic improvements in energy conversion and heat transfer, including—

(I) advanced combustion systems, including oxygen combustion systems and chemical looping; and

(II) the replacement of steam cycles with supercritical carbon dioxide cycles;

(ii) improvements in steam or carbon dioxide turbine technology;

(iii) improvements in carbon capture, utilization, and storage systems technology;

(iv) improvements in small-scale and modular coal-fired technologies with reduced carbon output or carbon capture that can support incremental power generation capacity additions;

(v) fuel cell technologies for low-cost, high-efficiency modular power systems;

(vi) advanced gasification systems;

(vii) thermal cycling technologies; and

(viii) any other technology the Secretary recognizes as transformational technology.

(b) Carbon capture technology program

(1) In general

The Secretary shall establish a carbon capture technology program for the development of transformational technologies that will significantly improve the efficiency, effectiveness, costs, emissions reductions, and environmental performance of coal and natural gas use, including in manufacturing and industrial facilities.

(2) Requirements

The program shall include—

(A) a research and development program;

(B) large-scale pilot projects;

(C) demonstration projects, in accordance with paragraph (4);

(D) a front-end engineering and design program for carbon capture technologies; and

(E) a front-end engineering and design program for carbon dioxide transport infrastructure necessary to enable deployment of carbon capture, utilization, and storage technologies.

(3) Program goals and objectives

In consultation with the interested entities described in paragraph (6)(C), the Secretary shall develop goals and objectives for the program to be applied to the transformational technologies developed within the program, taking into consideration the following:

(A) Increasing the performance of coal electric generation facilities and natural gas electric generation facilities, including by—

(i) ensuring reliable, low-cost power from new and existing coal electric generation facilities and natural gas electric generation facilities;

(ii) achieving high conversion efficiencies;

(iii) addressing emissions of carbon dioxide and other air pollutants;

(iv) developing small-scale and modular technologies to support incremental capacity additions and load following generation, in addition to large-scale generation technologies;

(v) supporting dispatchable operations for new and existing applications of coal and natural gas generation; and

(vi) accelerating the development of technologies that have transformational energy conversion characteristics.

(B) Using carbon capture, utilization, and sequestration technologies to decrease the carbon dioxide emissions, and the environmental impact from carbon dioxide emissions, from new and existing coal electric generation facilities and natural gas electric generation facilities, including by—

(i) accelerating the development, deployment, and commercialization of technologies to capture and sequester carbon dioxide emissions from new and existing coal electric generation facilities and natural gas electric generation facilities;

(ii) supporting sites for safe geological storage of large volumes of anthropogenic sources

of carbon dioxide and the development of the infrastructure needed to support a carbon dioxide utilization and storage industry;

(iii) improving the conversion, utilization, and storage of carbon dioxide produced from fossil fuels and other anthropogenic sources of carbon dioxide;

(iv) lowering greenhouse gas emissions for all fossil fuel production, generation, delivery, and use, to the maximum extent practicable;

(v) developing carbon utilization technologies, products, and methods, including carbon use and reuse for commercial application;

(vi) developing net-negative carbon dioxide emissions technologies; and

(vii) developing technologies for the capture of carbon dioxide produced during the production of hydrogen from natural gas.

(C) Decreasing the non-carbon dioxide relevant environmental impacts of coal and natural gas production, including by—

(i) further reducing non-carbon dioxide air emissions; and

(ii) reducing the use, and managing the discharge, of water in power plant operations.

(D) Accelerating the development of technologies to significantly decrease emissions from manufacturing and industrial facilities, including—

(i) nontraditional fuel manufacturing facilities, including ethanol or other biofuel production plants or hydrogen production plants; and

(ii) energy-intensive manufacturing facilities that produce carbon dioxide as a byproduct of operations.

(E) Entering into cooperative agreements to carry out and expedite demonstration projects (including pilot projects) to demonstrate the technical and commercial viability of technologies to reduce carbon dioxide emissions released from coal electric generation facilities and natural gas electric generation facilities for commercial deployment.

(F) Identifying any barriers to the commercial deployment of any technologies under development for the capture of carbon dioxide produced by coal electric generation facilities and natural gas electric generation facilities.

(4) Demonstration projects

(A) In general

In carrying out the program, the Secretary shall establish a demonstration program under which the Secretary, through a competitive, merit-reviewed process, shall enter into cooperative agreements by not later than September 30, 2025, for demonstration projects to demonstrate the construction and operation of 6 facilities to capture carbon dioxide from coal electric generation facilities, natural gas electric generation facilities, and industrial facilities.

(B) Technical assistance

The Secretary, to the maximum extent practicable, shall provide technical assistance to any eligible entity seeking to enter into a cooperative agreement described in subparagraph (A) for the purpose of obtaining any necessary permits and licenses to demonstrate qualifying technologies.

(C) Eligible entities

The Secretary may enter into cooperative agreements under subparagraph (A) with industry stakeholders, including any industry stakeholder operating in partnership with the National Laboratories, institutions of higher education, multiinstitutional collaborations, and other appropriate entities.

(D) Commercial-scale demonstration projects

(i) In general

In carrying out the program, the Secretary shall establish a carbon capture technology commercialization program to demonstrate substantial improvements in the efficiency, effectiveness, cost, and environmental performance of carbon capture technologies for power, industrial, and other commercial applications.

(ii) Requirement

The program established under clause (i) shall include funding for commercial-scale carbon capture technology demonstrations of projects supported by the Department, including projects in addition to the projects described in subparagraph (A), including funding for not more than 2 projects to demonstrate substantial improvements in a particular technology type beyond the first of a kind demonstration and to account for considerations described in subparagraph (G).

(E) Requirement

Of the demonstration projects carried out under subparagraph (A)—

(i) 2 shall be designed to capture carbon dioxide from a natural gas electric generation facility;

(ii) 2 shall be designed to capture carbon dioxide from a coal electric generation facility; and

(iii) 2 shall be designed to capture carbon dioxide from an industrial facility not purposed for electric generation.

(F) Goals

Each demonstration project under the demonstration program under subparagraph (A)—

(i) shall be designed to further the development, deployment, and commercialization of technologies to capture and sequester carbon dioxide emissions from new and existing coal electric generation facilities, natural gas electric generation facilities, and industrial facilities;

(ii) shall be financed in part by the private sector; and

(iii) if necessary, shall secure agreements for the offtake of carbon dioxide emissions captured by qualifying technologies during the project.

(G) Applications

(i) In general

To be eligible to enter into an agreement with the Secretary for a demonstration project under subparagraphs (A) and (D), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) Review of applications

In reviewing applications submitted under clause (i), the Secretary, to the maximum extent practicable, shall—

(I) ensure a broad geographic distribution of project sites;

(II) ensure that a broad selection of electric generation facilities are represented;

(III) ensure that a broad selection of technologies are represented; and

(IV) leverage existing public-private partnerships and Federal resources.

(H) GAO study and report

(i) Study and report

(I) In general

Not later than 1 year after December 27, 2020, the Comptroller General of the United States shall conduct, and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the results of, a study of the successes, failures, practices, and improvements of the Department in carrying out demonstration projects under this paragraph.

(II) Considerations

In conducting the study under subclause (I), the Comptroller General of the United States shall consider—

(aa) applicant and contractor qualifications;

(bb) project management practices at the Department;

(cc) economic or market changes and other factors impacting project viability;

(dd) completion of third-party agreements, including power purchase agreements and carbon dioxide offtake agreements;

(ee) regulatory challenges; and

(ff) construction challenges.

(ii) Recommendations

The Secretary shall—

(I) consider any relevant recommendations, as determined by the Secretary, provided in the report required under clause (i)(I); and

(II) adopt such recommendations as the Secretary considers appropriate.

(I) Report

(i) In general

Not later than 180 days after the date on which the Secretary solicits applications under subparagraph (G), and annually thereafter, the Secretary shall submit to the appropriate committees of jurisdiction of the Senate and the House of Representatives a report that includes a detailed description of how the applications under the demonstration program established under subparagraph (A) were or will be solicited and how the applications were or will be evaluated, including—

(I) a list of any activities carried out by the Secretary to solicit or evaluate the applications; and

(II) a process for ensuring that any projects carried out under a cooperative agreement entered into under subparagraph (A) are designed to result in the development or demonstration of qualifying technologies.

(ii) Inclusions

The Secretary shall include—

(I) in the first report required under clause (i), a detailed list of technical milestones for the development and demonstration of each qualifying technology pursued under the demonstration program established under subparagraph (A);

(II) in each subsequent report required under clause (i), a description of the progress made towards achieving the technical milestones described in subclause (I) during the applicable period covered by the report; and

(III) in each report required under clause (i)—

(aa) an estimate of the cost of licensing, permitting, constructing, and operating each carbon capture facility expected to be constructed under the demonstration program established under subparagraph (A);

(bb) a schedule for the planned construction and operation of each demonstration or pilot project under the demonstration program; and

(cc) an estimate of any financial assistance, compensation, or incentives proposed to be paid by the host State, Indian Tribe, or local government with respect to each facility described in item (aa).

(5) Intraagency coordination for carbon capture, utilization, and sequestration activities

The carbon capture, utilization, and sequestration activities described in paragraph (3)(B) shall be carried out by the Assistant Secretary for Fossil Energy, in coordination with the heads of other relevant offices of the Department and the National Laboratories.

(6) Consultations required

In carrying out the program, the Secretary shall—

(A) undertake international collaborations, taking into consideration the recommendations of the National Coal Council and the National Petroleum Council;

(B) use existing authorities to encourage international cooperation; and

(C) consult with interested entities, including—

(i) coal and natural gas producers;

(ii) industries that use coal and natural gas;

(iii) organizations that promote coal, advanced coal, and natural gas technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers.

(c) Report

(1) In general

Not later than 18 months after December 27, 2020, the Secretary shall submit to Congress a report describing the program goals and objectives adopted under subsection (b)(3).

(2) Update

Not less frequently than once every 2 years after the initial report is submitted under paragraph (1), the Secretary shall submit to Congress a report describing the progress made towards achieving the program goals and objectives adopted under subsection (b)(3).

(d) Funding

(1) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section, to remain available until expended—

(A) for activities under the research and development program component described in subsection (b)(2)(A)—

(i) $230,000,000 for each of fiscal years 2021 and 2022; and

(ii) $150,000,000 for each of fiscal years 2023 through 2025;

(B) subject to paragraph (2), for activities under the large-scale pilot projects program component described in subsection (b)(2)(B)—

(i) $225,000,000 for each of fiscal years 2021 and 2022;

(ii) $200,000,000 for each of fiscal years 2023 and 2024; and

(iii) $150,000,000 for fiscal year 2025;

(C) for activities under the demonstration projects program component described in subsection (b)(2)(C)—

(i) $500,000,000 for each of fiscal years 2021 though 2024; and

(ii) $600,000,000 for fiscal year 2025;

(D) for activities under the front-end engineering and design program described in subsection (b)(2)(D), $50,000,000 for each of fiscal years 2021 through 2024; and

(E) for activities under the front-end engineering and design program described in subsection (b)(2)(E), $100,000,000 for the period of fiscal years 2022 through 2026.

(2) Cost sharing for large-scale pilot projects

Activities under subsection (b)(2)(B) shall be subject to the cost-sharing requirements of section 16352(b) of this title.

(e) Carbon capture test centers

(1) In general

Not later than 2 years after December 27, 2020, the Secretary shall award grants to 1 or more

entities for the operation of 1 or more test centers (referred to in this subsection as a "Center") to provide distinct testing capabilities for innovative carbon capture technologies.

(2) Purpose

Each Center shall—

(A) advance research, development, demonstration, and commercial application of carbon capture technologies;

(B) support large-scale pilot projects and demonstration projects and test carbon capture technologies; and

(C) develop front-end engineering design and economic analysis.

(3) Selection

(A) In general

The Secretary shall select entities to receive grants under this subsection according to such criteria as the Secretary may develop.

(B) Competitive basis

The Secretary shall select entities to receive grants under this subsection on a competitive basis.

(C) Priority criteria

In selecting entities to receive grants under this subsection, the Secretary shall prioritize consideration of applicants that—

(i) have access to existing or planned research facilities for carbon capture technologies;

(ii) are institutions of higher education with established expertise in engineering for carbon capture technologies, or partnerships with such institutions of higher education; or

(iii) have access to existing research and test facilities for bulk materials design and testing, component design and testing, or professional engineering design.

(D) Existing centers

In selecting entities to receive grants under this subsection, the Secretary shall prioritize carbon capture test centers in existence on December 27, 2020.

(4) Formula for awarding grants

The Secretary may develop a formula for awarding grants under this subsection.

(5) Schedule

(A) In general

Each grant awarded under this subsection shall be for a term of not more than 5 years, subject to the availability of appropriations.

(B) Renewal

The Secretary may renew a grant for 1 or more additional 5-year terms, subject to a competitive merit review and the availability of appropriations.

(6) Termination

To the extent otherwise authorized by law, the Secretary may eliminate, and terminate grant funding under this subsection for, a Center during any 5-year term described in paragraph (5) if the Secretary determines that the Center is underperforming.

(7) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 109–58, title IX, §962, as added Pub. L. 116–260, div. Z, title IV, §4002(a), Dec. 27, 2020, 134 Stat. 2528; Pub. L. 117–58, div. D, title III, §40303, Nov. 15, 2021, 135 Stat. 988.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16292, Pub. L. 109–58, title IX, §962, Aug. 8, 2005, 119 Stat. 890, related to coal and related technologies program, prior to repeal by Pub. L. 116–260, div. Z, title IV, §4002(a), Dec. 27, 2020, 134 Stat. 2528.

AMENDMENTS

2021—Subsec. (b)(2)(D). Pub. L. 117–58, §40303(1)(B), substituted "program for carbon capture technologies; and" for "program."

Subsec. (b)(2)(E). Pub. L. 117–58, §40303(1)(A), (C), added subpar. (E).

Subsec. (d)(1)(E). Pub. L. 117–58, §40303(2), added subpar. (E).

STATUTORY NOTES AND RELATED SUBSIDIARIES

FINDINGS

Pub. L. 117–58, div. D, title III, §40301, Nov. 15, 2021, 135 Stat. 986, provided that: "Congress finds that—

"(1) the industrial sector is integral to the economy of the United States—

"(A) providing millions of jobs and essential products; and

"(B) demonstrating global leadership in manufacturing and innovation;

"(2) carbon capture and storage technologies are necessary for reducing hard-to-abate emissions from the industrial sector, which emits nearly 25 percent of carbon dioxide emissions in the United States;

"(3) carbon removal and storage technologies, including direct air capture, must be deployed at large-scale in the coming decades to remove carbon dioxide directly from the atmosphere;

"(4) large-scale deployment of carbon capture, removal, utilization, transport, and storage—

"(A) is critical for achieving mid-century climate goals; and

"(B) will drive regional economic development, technological innovation, and high-wage employment;

"(5) carbon capture, removal, and utilization technologies require a backbone system of shared carbon dioxide transport and storage infrastructure to enable large-scale deployment, realize economies of scale, and create an interconnected carbon management market;

"(6) carbon dioxide transport infrastructure and permanent geological storage are proven and safe technologies with existing Federal and State regulatory frameworks;

"(7) carbon dioxide transport and storage infrastructure share similar barriers to deployment previously faced by other types of critical national infrastructure, such as high capital costs and chicken-and-egg challenges, that require Federal and State support, in combination with private investment, to be overcome; and

"(8) each State should take into consideration, with respect to new carbon dioxide transportation infrastructure—

"(A) qualifying the infrastructure as pollution control devices under applicable laws (including regulations) of the State; and

"(B) establishing a waiver of ad valorem and property taxes for the infrastructure for a period of not less than 10 years."

§16293. Carbon storage validation and testing

(a) Definitions

In this section:

(1) Large-scale carbon sequestration

The term "large-scale carbon sequestration" means a scale that—

(A) demonstrates the ability to inject into geologic formations and sequester carbon dioxide; and

(B) has a goal of sequestering not less than 50 million metric tons of carbon dioxide.

(2) Program

The term "program" means the program established under subsection (b)(1).

(b) Carbon storage program

(1) In general

The Secretary shall establish a program of research, development, demonstration, and commercialization for carbon storage.

(2) Program activities

Activities under the program shall include—

(A) in coordination with relevant Federal agencies, developing and maintaining mapping tools and resources that assess the capacity of geologic storage formation in the United States;

(B) developing monitoring tools, modeling of geologic formations, and analyses—

(i) to predict carbon dioxide containment; and

(ii) to account for sequestered carbon dioxide in geologic storage sites;

(C) researching—

(i) potential environmental, safety, and health impacts in the event of a leak into the atmosphere or to an aquifer; and

(ii) any corresponding mitigation actions or responses to limit harmful consequences of such a leak;

(D) evaluating the interactions of carbon dioxide with formation solids and fluids, including the propensity of injections to induce seismic activity;

(E) assessing and ensuring the safety of operations relating to geologic sequestration of carbon dioxide;

(F) determining the fate of carbon dioxide concurrent with and following injection into geologic formations;

(G) supporting cost and business model assessments to examine the economic viability of technologies and systems developed under the program;

(H) providing information to the Environmental Protection Agency, States, local governments, Tribal governments, and other appropriate entities, to ensure the protection of human health and the environment; and

(I) evaluating the quantity, location, and timing of geologic carbon storage deployment that may be needed, and developing strategies and resources to enable the deployment.

(3) Geologic settings

In carrying out research activities under this subsection, the Secretary shall consider a variety of candidate onshore and offshore geologic settings, including—

(A) operating oil and gas fields;

(B) depleted oil and gas fields;

(C) residual oil zones;

(D) unconventional reservoirs and rock types;

(E) unmineable coal seams;

(F) saline formations in both sedimentary and basaltic geologies;

(G) geologic systems that may be used as engineered reservoirs to extract economical quantities of brine from geothermal resources of low permeability or porosity; and

(H) geologic systems containing in situ carbon dioxide mineralization formations.

(c) Large-scale carbon sequestration demonstration program

(1) In general

The Secretary shall establish a demonstration program under which the Secretary shall provide funding for demonstration projects to collect and validate information on the cost and feasibility of commercial deployment of large-scale carbon sequestration technologies.

(2) Existing regional carbon sequestration partnerships

In carrying out paragraph (1), the Secretary may provide additional funding to regional carbon sequestration partnerships that are carrying out or have completed a large-scale carbon sequestration demonstration project under this section (as in effect on the day before December 27, 2020) for additional work on that project.

(3) Demonstration components

Each demonstration project carried out under this subsection shall include longitudinal tests involving carbon dioxide injection and monitoring, mitigation, and verification operations.

(4) Clearinghouse

The National Energy Technology Laboratory shall act as a clearinghouse of shared information and resources for—

(A) existing or completed demonstration projects receiving additional funding under paragraph (2); and

(B) any new demonstration projects funded under this subsection.

(5) Report

Not later than 1 year after December 27, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report that—

(A) assesses the progress of all regional carbon sequestration partnerships carrying out a demonstration project under this subsection;

(B) identifies the remaining challenges in achieving large-scale carbon sequestration that is reliable and safe for the environment and public health; and

(C) creates a roadmap for carbon storage research and development activities of the Department through 2025, with the goal of reducing economic and policy barriers to commercial carbon sequestration.

(d) Integrated storage

(1) In general

The Secretary may transition large-scale carbon sequestration demonstration projects under subsection (c) into integrated commercial storage complexes.

(2) Goals and objectives

The goals and objectives of the Secretary in seeking to transition large-scale carbon sequestration demonstration projects into integrated commercial storage complexes under paragraph (1) shall be—

(A) to identify geologic storage sites that are able to accept large volumes of carbon dioxide acceptable for commercial contracts;

(B) to understand the technical and commercial viability of carbon dioxide geologic storage sites; and

(C) to carry out any other activities necessary to transition the large-scale carbon sequestration demonstration projects under subsection (c) into integrated commercial storage complexes.

(e) Large-scale carbon storage commercialization program

(1) In general

The Secretary shall establish a commercialization program under which the Secretary shall provide funding for the development of new or expanded commercial large-scale carbon sequestration projects and associated carbon dioxide transport infrastructure, including funding for the feasibility, site characterization, permitting, and construction stages of project development.

(2) Applications; selection

(A) In general

To be eligible to enter into an agreement with the Secretary for funding under paragraph (1),

an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

(B) Application process

The Secretary shall establish an application process that, to the maximum extent practicable—

(i) is open to projects at any stage of development described in paragraph (1); and

(ii) facilitates expeditious development of projects described in that paragraph.

(C) Project selection

In selecting projects for funding under paragraph (1), the Secretary shall give priority to—

(i) projects with substantial carbon dioxide storage capacity; or

(ii) projects that will store carbon dioxide from multiple carbon capture facilities.

(f) Preference in project selection from meritorious proposals

In making competitive awards under this section, subject to the requirements of section 16353 of this title, the Secretary shall—

(1) with respect to the research, development, demonstration program components described in subsections (b) through (d) give preference to proposals from partnerships among industrial, academic, and government entities; and

(2) require recipients to provide assurances that all laborers and mechanics employed by contractors and subcontractors in the construction, repair, or alteration of new or existing facilities performed in order to carry out a demonstration or commercial application activity authorized under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, and the Secretary of Labor shall, with respect to the labor standards in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176; 5 U.S.C. Appendix) and section 3145 of title 40.

(g) Cost sharing

Activities carried out under this section shall be subject to the cost-sharing requirements of section 16352 of this title.

(h) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $2,500,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 109–58, title IX, §963, Aug. 8, 2005, 119 Stat. 891; Pub. L. 110–140, title VII, §702(a), Dec. 19, 2007, 121 Stat. 1704; Pub. L. 116–260, div. Z, title IV, §4003(a), Dec. 27, 2020, 134 Stat. 2536; Pub. L. 117–58, div. D, title III, §40305, Nov. 15, 2021, 135 Stat. 1001.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(1)(B). Pub. L. 117–58, §40305(1), struck out "over a 10-year period" after "carbon dioxide".

Subsec. (b)(1). Pub. L. 117–58, §40305(2)(A), substituted "demonstration, and commercialization" for "and demonstration".

Subsec. (b)(2)(I). Pub. L. 117–58, §40305(2)(B), added subpar. (I).

Subsec. (e). Pub. L. 117–58, §40305(3), (4), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 117–58, §40305(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 117–58, §40305(5), inserted "with respect to the research, development, demonstration program components described in subsections (b) through (d)" before "give preference".

Subsec. (g). Pub. L. 117–58, §40305(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 117–58, §40305(6), added subsec. (h) and struck out former subsec. (h) which authorized appropriations for fiscal years 2021 to 2025.

Pub. L. 117–58, §40305(3), redesignated subsec. (g) as (h).

2020—Pub. L. 116–260, §4003(a)(4), substituted "Carbon storage validation and testing" for "Carbon capture and sequestration research, development, and demonstration program" in section catchline.

Subsecs. (a), (b). Pub. L. 116–260, §4003(a)(4), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to the establishment of a carbon capture and sequestration research, development, and demonstration program and program objectives.

Subsec. (c). Pub. L. 116–260, §4003(a)(4), added subsec. (c) and struck out pars. (1) to (3) of former subsec. (c) which related to fundamental science and engineering research and development and demonstration supporting carbon capture and sequestration technologies and carbon use activities, field validation testing activities, and large-scale carbon dioxide sequestration testing, respectively.

Subsec. (c)(4). Pub. L. 116–260, §4003(a)(2)(B), redesignated par. (4) as subsec. (e).

Subsec. (c)(5), (6). Pub. L. 116–260, §4003(a)(2)(A), struck out pars. (5) and (6) which related to cost sharing and program review and report.

Subsec. (d). Pub. L. 116–260, §4003(a)(4), added subsec. (d).

Pub. L. 116–260, §4003(a)(1), struck out subsec. (d) which authorized appropriations for fiscal years 2008 to 2012.

Subsec. (e). Pub. L. 116–260, §4003(a)(3), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, substituted "section" for "subsection" in introductory provisions and in par. (2), and realigned margins.

Pub. L. 116–260, §4003(a)(2)(B), redesignated par. (4) of subsec. (c) as (e).

Subsec. (f). Pub. L. 116–260, §4003(a)(2)(A), added subsec. (f).

Subsec. (g). Pub. L. 116–260, §4003(a)(1), added subsec. (g).

2007—Pub. L. 110–140, §702(a)(1), substituted "and sequestration research, development, and demonstration" for "research and development" in section catchline.

Subsec. (a). Pub. L. 110–140, §702(a)(2), in introductory provisions, substituted "and sequestration research, development, and demonstration" for "research and development" and "capture and sequestration technologies related to industrial sources of carbon dioxide" for "capture technologies on combustion-based systems".

Subsec. (b)(5). Pub. L. 110–140, §702(a)(3), added par. (5).

Subsecs. (c), (d). Pub. L. 110–140, §702(a)(4), added subsecs. (c) and (d) and struck out former subsec. (c). Text of former subsec. (c) read as follows: "From amounts authorized under section 16291(b) of this title, the following sums are authorized for activities described in subsection (a)(2):

"(1) $25,000,000 for fiscal year 2006;

"(2) $30,000,000 for fiscal year 2007; and

"(3) $35,000,000 for fiscal year 2008."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§16294. Research and development for coal mining technologies

(a) Establishment

The Secretary shall carry out a program for research and development on coal mining technologies.

(b) Cooperation

In carrying out the program, the Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(c) Program

The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National

Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging, spectroscopic reservoir analysis technology, and techniques for horizontal drilling in order to—

(A) identify areas of high coal gas content;

(B) increase methane recovery efficiency;

(C) prevent spoilage of domestic coal reserves; and

(D) minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

(Pub. L. 109–58, title IX, §964, Aug. 8, 2005, 119 Stat. 892.)

§16295. Oil and gas research programs

(a) In general

The Secretary shall conduct a program of research, development, demonstration, and commercial application of oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil, oil shale, and tar sands; and

(7) related environmental research.

(b) Objectives

The objectives of this program shall include advancing the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas resources.

(c) Natural gas and oil deposits report

Not later than 2 years after August 8, 2005, and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall submit to Congress a report on the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana, Texas, Alabama, and Mississippi.

(d) Integrated clean power and energy research

(1) Establishment of center

The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, using the resources of the Clean Power and Energy Research Consortium in existence on August 8, 2005, to address the critical dependence of the United States on energy and the need to reduce emissions.

(2) Focus areas

The center or consortium shall conduct a program of research, development, demonstration, and commercial application on integrating the following 6 focus areas:

(A) Efficiency and reliability of gas turbines for power generation.

(B) Reduction in emissions from power generation.

(C) Promotion of energy conservation issues.

(D) Effectively using alternative fuels and renewable energy.

(E) Development of advanced materials technology for oil and gas exploration and use in

harsh environments.

(F) Education on energy and power generation issues.

(Pub. L. 109–58, title IX, §965, Aug. 8, 2005, 119 Stat. 892.)

§16296. Low-volume oil and gas reservoir research program

(a) Definition of GIS

In this section, the term "GIS" means geographic information systems technology that facilitates the organization and management of data with a geographic component.

(b) Program

The Secretary shall establish a program of research, development, demonstration, and commercial application to maximize the productive capacity of marginal wells and reservoirs.

(c) Data collection

Under the program, the Secretary shall collect data on—

(1) the status and location of marginal wells and oil and gas reservoirs;

(2) the production capacity of marginal wells and oil and gas reservoirs;

(3) the location of low-pressure gathering facilities and pipelines; and

(4) the quantity of natural gas vented or flared in association with crude oil production.

(d) Analysis

Under the program, the Secretary shall—

(1) estimate the remaining producible reserves based on variable pipeline pressures; and

(2) recommend measures that will enable the continued production of those resources.

(e) Study

(1) In general

The Secretary may award a grant to an organization of States that contain significant numbers of marginal oil and natural gas wells to conduct an annual study of low-volume natural gas reservoirs.

(2) Organization with no GIS capabilities

If an organization receiving a grant under paragraph (1) does not have GIS capabilities, the organization shall contract with an institution of higher education with GIS capabilities.

(3) State geologists

The organization receiving a grant under paragraph (1) shall collaborate with the State geologist of each State being studied.

(f) Public information

The Secretary may use the data collected and analyzed under this section to produce maps and literature to disseminate to States to promote conservation of natural gas reserves.

(Pub. L. 109–58, title IX, §966, Aug. 8, 2005, 119 Stat. 893.)

§16297. Complex Well Technology Testing Facility

The Secretary, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

(Pub. L. 109–58, title IX, §967, Aug. 8, 2005, 119 Stat. 894.)

§16298. Carbon utilization program

(a) In general

The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a program of research, development, demonstration, and commercialization relating to carbon utilization.

(b) Activities

Under the program described in subsection (a), the Secretary shall—

(1) assess and monitor—

(A) potential changes in lifecycle carbon dioxide and other greenhouse gas emissions; and

(B) other environmental safety indicators of new technologies, practices, processes, or methods used in enhanced hydrocarbon recovery as part of the activities authorized under section 16293 of this title;

(2) identify and evaluate novel uses for carbon (including conversion of carbon oxides) that, on a full lifecycle basis, achieve a permanent reduction, or avoidance of a net increase, in carbon dioxide in the atmosphere, for use in commercial and industrial products such as—

(A) chemicals;

(B) plastics;

(C) building materials;

(D) fuels;

(E) cement;

(F) products of coal utilization in power systems or in other applications; and

(G) other products with demonstrated market value;

(3) identify and assess carbon capture technologies for industrial systems; and

(4) identify and assess alternative uses for coal that result in zero net emissions of carbon dioxide or other pollutants, including products derived from carbon engineering, carbon fiber, and coal conversion methods.

(c) Prioritization

In supporting demonstration and commercialization research under the program described in subsection (a), the Secretary shall prioritize consideration of projects that—

(1) have access to a carbon dioxide emissions stream generated by a stationary source in the United States that is capable of supplying not less than 250 metric tons per day of carbon dioxide for research;

(2) have access to equipment for testing small-scale carbon dioxide utilization technologies, with onsite access to larger test bays for scale-up; and

(3) have 1 or more existing partnerships with a National Laboratory, an institution of higher education, a private company, or a State or other government entity.

(d) Coordination

The Secretary shall coordinate the activities authorized under this section with the activities authorized in section 16298a of this title as part of a single consolidated program of the Department.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $50,000,000, to remain available until expended.

(Pub. L. 109–58, title IX, §969, as added Pub. L. 116–260, div. S, §102(c)(1), Dec. 27, 2020, 134 Stat. 2248.)

§16298a. Carbon utilization program

(a) In general

The Secretary shall establish a program of research, development, and demonstration for carbon utilization—

(1) to assess and monitor—

(A) potential changes in lifecycle carbon dioxide and other greenhouse gas emissions; and

(B) other environmental safety indicators of new technologies, practices, processes, or methods used in enhanced hydrocarbon recovery as part of the activities authorized under section 16293 of this title;

(2) to identify and assess novel uses for carbon, including the conversion of carbon and carbon oxides for commercial and industrial products and other products with potential market value;

(3) to develop or obtain, in coordination with other applicable Federal agencies and standard-setting organizations, standards and certifications, as appropriate, to facilitate the commercialization of the products and technologies described in paragraph (2);

(4) to identify and assess carbon capture technologies for industrial systems; and

(5) to identify and assess alternative uses for raw coal and processed coal products in all phases that result in no significant emissions of carbon dioxide or other pollutants, including products derived from carbon engineering, carbon fiber, and coal conversion methods.

(b) Demonstration programs for the purpose of commercialization

(1) In general

Not later than 180 days after December 27, 2020, as part of the program established under subsection (a), the Secretary shall establish a 2-year demonstration program in each of the 2 major coal-producing regions of the United States for the purpose of partnering with private institutions in coal mining regions to accelerate the commercial deployment of coal-carbon products.

(2) Grant program

(A) In general

Not later than 1 year after November 15, 2021, the Secretary shall establish a program to provide grants to eligible entities to use in accordance with subparagraph (D).

(B) Eligible entities

To be eligible to receive a grant under this paragraph, an entity shall be—

(i) a State;

(ii) a unit of local government; or

(iii) a public utility or agency.

(C) Applications

Eligible entities desiring a grant under this paragraph shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

(D) Use of funds

An eligible entity shall use a grant received under this paragraph to procure and use commercial or industrial products that—

(i) use or are derived from anthropogenic carbon oxides; and

(ii) demonstrate significant net reductions in lifecycle greenhouse gas emissions compared to incumbent technologies, processes, and products.

(3) Cost sharing

Activities under this subsection shall be subject to the cost-sharing requirements of section 16352 of this title.

(c) Carbon Utilization Research Center

(1) In general

In carrying out the program under subsection (a), the Secretary shall establish and operate a national Carbon Utilization Research Center (referred to in this subsection as the "Center"), which shall focus on early stage research and development activities including—

(A) post-combustion and pre-combustion capture of carbon dioxide;

(B) advanced compression technologies for new and existing fossil fuel-fired power plants;

(C) technologies to convert carbon dioxide to valuable products and commodities; and

(D) advanced carbon dioxide storage technologies that consider a range of storage regimes.

(2) Selection

The Secretary shall—

(A) select the Center under this subsection on a competitive, merit-reviewed basis; and

(B) consider applications from the National Laboratories, institutions of higher education, multiinstitutional collaborations, and other appropriate entities.

(3) Existing centers

In selecting the Center under this subsection, the Secretary shall prioritize carbon utilization research centers in existence on December 27, 2020.

(4) Duration

The Center established under this subsection shall receive support for a period of not more than 5 years, subject to the availability of appropriations.

(5) Renewal

On the expiration of any period of support of the Center, the Secretary may renew support for the Center, on a merit-reviewed basis, for a period of not more than 5 years.

(6) Termination

Consistent with the existing authorities of the Department, the Secretary may terminate the Center for cause during the performance period.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section—

(1) $41,000,000 for fiscal year 2022;

(2) $65,250,000 for fiscal year 2023;

(3) $66,562,500 for fiscal year 2024;

(4) $67,940,625 for fiscal year 2025; and

(5) $69,387,656 for fiscal year 2026.

(e) Coordination

The Secretary shall coordinate the activities authorized in this section with the activities authorized in section 16298 of this title as part of one consolidated program at the Department. Nothing in section 16298 of this title shall be construed as limiting the authorities provided in this section.

(Pub. L. 109–58, title IX, §969A, as added Pub. L. 116–260, div. Z, title IV, §4004(a)(1), Dec. 27, 2020, 134 Stat. 2539; Pub. L. 117–58, div. D, title III, §40302, Nov. 15, 2021, 135 Stat. 987.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (a)(3) to (5). Pub. L. 117–58, §40302(1), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (b)(2), (3). Pub. L. 117–58, §40302(2), added par. (2), redesignated former par. (2) as (3), and, in par. (3), substituted "this subsection" for "paragraph (1)".

Subsec. (d). Pub. L. 117–58, §40302(3), added subsec. (d) and struck out former subsec. (d) which provided appropriations for fiscal years 2021 to 2025.

§16298b. High efficiency turbines

(a) In general

The Secretary, acting through the Assistant Secretary for Fossil Energy (referred to in this section as the "Secretary"), shall establish a multiyear, multiphase program (referred to in this section as the "program") of research, development, and technology demonstration to improve the efficiency of gas turbines used in power generation systems and aviation.

(b) Program elements

The program shall—

(1) support first-of-a-kind engineering and detailed gas turbine design for small-scale and utility-scale electric power generation, including—

(A) high temperature materials, including superalloys, coatings, and ceramics;

(B) improved heat transfer capability;

(C) manufacturing technology required to construct complex 3-dimensional geometry parts with improved aerodynamic capability;

(D) combustion technology to produce higher firing temperature while lowering nitrogen oxide and carbon monoxide emissions per unit of output;

(E) advanced controls and systems integration;

(F) advanced high performance compressor technology; and

(G) validation facilities for the testing of components and subsystems;

(2) include technology demonstration through component testing, subscale testing, and full-scale testing in existing fleets;

(3) include field demonstrations of the developed technology elements to demonstrate technical and economic feasibility;

(4) assess overall combined cycle and simple cycle system performance;

(5) increase fuel flexibility by enabling gas turbines to operate with high proportions of, or pure, hydrogen or other renewable gas fuels;

(6) enhance foundational knowledge needed for low-emission combustion systems that can work in high-pressure, high-temperature environments required for high-efficiency cycles;

(7) increase operational flexibility by reducing turbine start-up times and improving the ability to accommodate flexible power demand; and

(8) include any other elements necessary to achieve the goals described in subsection (c), as determined by the Secretary, in consultation with private industry.

(c) Program goals

(1) In general

The goals of the program shall be—

(A) in phase I, to develop a conceptual design of, and to develop and demonstrate the technology required for—

(i) advanced high efficiency gas turbines to achieve, on a lower heating value basis—

(I) a combined cycle efficiency of not less than 65 percent; or

(II) a simple cycle efficiency of not less than 47 percent; and

(ii) aviation gas turbines to achieve a 25 percent reduction in fuel burn by improving fuel efficiency to existing best-in-class turbo-fan engines; and

(B) in phase II, to develop a conceptual design of advanced high efficiency gas turbines that can achieve, on a lower heating value basis—

(i) a combined cycle efficiency of not less than 67 percent; or

(ii) a simple cycle efficiency of not less than 50 percent.

(2) Additional goals

If a goal described in paragraph (1) has been achieved, the Secretary, in consultation with private industry and the National Academy of Sciences, may develop additional goals or phases for advanced gas turbine research and development.

(d) Financial assistance

(1) In general

The Secretary may provide financial assistance, including grants, to carry out the program.

(2) Proposals

Not later than 180 days after December 27, 2020, the Secretary shall solicit proposals from industry, small businesses, universities, and other appropriate parties for conducting activities under this section.

(3) Considerations

In selecting proposed projects to receive financial assistance under this subsection, the Secretary shall give special consideration to the extent to which the proposed project will—

(A) stimulate the creation or increased retention of jobs in the United States; and

(B) promote and enhance technology leadership in the United States.

(4) Competitive awards

The Secretary shall provide financial assistance under this subsection on a competitive basis, with an emphasis on technical merit.

(5) Cost sharing

Financial assistance provided under this subsection shall be subject to the cost sharing requirements of section 16352 of this title.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 109–58, title IX, §969B, as added Pub. L. 116–260, div. Z, title IV, §4005(a), Dec. 27, 2020, 134 Stat. 2542.)

§16298c. National Energy Technology Laboratory reforms

(a) Special hiring authority for scientific, engineering, and project management personnel

(1) In general

The Director of the National Energy Technology Laboratory (referred to in this section as the "Director") may—

(A) make appointments to positions in the National Energy Technology Laboratory to assist in meeting a specific project or research need, without regard to civil service laws, of individuals who—

(i) have an advanced scientific or engineering background; or

(ii) have a business background and can assist in specific technology-to-market needs;

(B) fix the basic pay of any employee appointed under subparagraph (A) at a rate not to exceed level II of the Executive Schedule under section 5313 of title 5; and

(C) pay any employee appointed under subparagraph (A) payments in addition to the basic pay fixed under subparagraph (B), subject to the condition that the total amount of additional payments paid to an employee under this subparagraph for any 12-month period shall not exceed the least of—

(i) $25,000;

(ii) the amount equal to 25 percent of the annual rate of basic pay of that employee; and

(iii) the amount of the limitation that is applicable for a calendar year under section

5307(a)(1) of title 5.

(2) Limitations

(A) In general

The term of any employee appointed under paragraph (1)(A) shall not exceed 3 years.

(B) Full-time employees

Not more than 10 full-time employees appointed under paragraph (1)(A) may be employed at the National Energy Technology Laboratory at any given time.

(b) Laboratory-directed research and development

(1) In general

Beginning in fiscal year 2021, the National Energy Technology Laboratory shall be eligible for laboratory-directed research and development funding.

(2) Authorization of funding

(A) In general

Each fiscal year, of funds made available to the National Energy Technology Laboratory, the Secretary may deposit an amount, not to exceed the rate made available to the National Laboratories for laboratory-directed research and development, in a special fund account.

(B) Use

Amounts in the account under subparagraph (A) shall only be available for laboratory-directed research and development.

(C) Requirements

The account under subparagraph (A)—

(i) shall be administered by the Secretary;

(ii) shall be available without fiscal year limitation; and

(iii) shall not be subject to appropriation.

(3) Requirement

The Director shall carry out laboratory-directed research and development activities at the National Energy Technology Laboratory consistent with Department of Energy Order 413.2C, dated August 2, 2018 (or a successor order).

(4) Annual report on use of authority

Annually, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the use of the authority provided under this subsection during the preceding fiscal year.

(c) Laboratory operations

The Secretary shall delegate human resources operations of the National Energy Technology Laboratory to the Director to assist in carrying out this section.

(d) Review

Not later than 2 years after December 27, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report assessing the management and research activities of the National Energy Technology Laboratory, which shall include—

(1) an assessment of the quality of science and research at the National Energy Technology Laboratory, relative to similar work at other National Laboratories;

(2) a review of the effectiveness of authorities provided in subsections (a) and (b); and

(3) recommendations for policy changes within the Department and legislative changes to provide the National Energy Technology Laboratory with the necessary tools and resources to advance the research mission of the National Energy Technology Laboratory.

(Pub. L. 109–58, title IX, §969C, as added Pub. L. 116–260, div. Z, title IV, §4006(a), Dec. 27, 2020, 134 Stat. 2544.)

§16298d. Carbon removal

(a) Establishment

The Secretary, in coordination with the heads of appropriate Federal agencies, including the Secretary of Agriculture, shall establish a research, development, and demonstration program (referred to in this section as the "program") to test, validate, or improve technologies and strategies to remove carbon dioxide from the atmosphere on a large scale.

(b) Intraagency coordination

The Secretary shall ensure that the program includes the coordinated participation of the Office of Fossil Energy, the Office of Science, and the Office of Energy Efficiency and Renewable Energy.

(c) Program activities

The program may include research, development, and demonstration activities relating to—

(1) direct air capture and storage technologies;
(2) bioenergy with carbon capture and sequestration;
(3) enhanced geological weathering;
(4) agricultural practices;
(5) forest management and afforestation; and
(6) planned or managed carbon sinks, including natural and artificial.

(d) Requirements

In developing and identifying carbon removal technologies and strategies under the program, the Secretary shall consider—

(1) land use changes, including impacts on natural and managed ecosystems;
(2) ocean acidification;
(3) net greenhouse gas emissions;
(4) commercial viability;
(5) potential for near-term impact;
(6) potential for carbon reductions on a gigaton scale; and
(7) economic cobenefits.

(e) Air capture prize competitions

(1) Definitions

In this subsection:

(A) Dilute media

The term "dilute media" means media in which the concentration of carbon dioxide is less than 1 percent by volume.

(B) Prize competition

The term "prize competition" means the competitive technology prize competition established under paragraph (2).

(C) Qualified carbon dioxide

(i) In general

The term "qualified carbon dioxide" means any carbon dioxide that—

(I) is captured directly from the ambient air; and

(II) is measured at the source of capture and verified at the point of disposal, injection, or utilization.

(ii) Inclusion

The term "qualified carbon dioxide" includes the initial deposit of captured carbon dioxide used as a tertiary injectant.

(iii) Exclusion

The term "qualified carbon dioxide" does not include carbon dioxide that is recaptured, recycled, and reinjected as part of the enhanced oil and natural gas recovery process.

(D) Qualified direct air capture facility

(i) In general

The term "qualified direct air capture facility" means any facility that—

(I) uses carbon capture equipment to capture carbon dioxide directly from the ambient air; and

(II) captures more than 50,000 metric tons of qualified carbon dioxide annually.

(ii) Exclusion

The term "qualified direct air capture facility" does not include any facility that captures carbon dioxide—

(I) that is deliberately released from naturally occurring subsurface springs; or

(II) using natural photosynthesis.

(2) Establishment

Not later than 2 years after December 27, 2020, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish as part of the program a competitive technology prize competition to award prizes for—

(A) precommercial carbon dioxide capture from dilute media; and

(B) commercial applications of direct air capture technologies.

(3) Requirements

In carrying out this subsection, the Secretary, in accordance with section 3719 of title 15, shall develop requirements for—

(A) the prize competition process; and

(B) monitoring and verification procedures for projects selected to receive a prize under the prize competition.

(4) Eligible projects

(A) Precommercial air capture projects

With respect to projects described in paragraph (2)(A), to be eligible to be awarded a prize under the prize competition, a project shall—

(i) meet minimum performance standards set by the Secretary;

(ii) meet minimum levels set by the Secretary for the capture of carbon dioxide from dilute media; and

(iii) demonstrate in the application of the project for a prize—

(I) a design for a promising carbon capture technology that will—

(aa) be operated on a demonstration scale; and

(bb) have the potential to achieve significant reduction in the level of carbon dioxide in the atmosphere;

(II) a successful bench-scale demonstration of a carbon capture technology; or

(III) an operational carbon capture technology on a commercial scale.

(B) Commercial direct air capture projects

(i) In general

With respect to projects described in paragraph (2)(B), the Secretary shall award prizes under the prize competition to qualified direct air capture facilities for metric tons of qualified carbon dioxide captured and verified at the point of disposal, injection, or utilization.

(ii) Amount of award

The amount of the award per metric ton under clause (i)—

(I) shall be equal for each qualified direct air capture facility selected for a prize under the prize competition; and

(II) shall be determined by the Secretary and in any case shall not exceed—

(aa) $180 for qualified carbon dioxide captured and stored in saline storage formations;

(bb) a lesser amount, as determined by the Secretary, for qualified carbon dioxide captured and stored in conjunction with enhanced oil recovery operations; or

(cc) a lesser amount, as determined by the Secretary, for qualified carbon dioxide captured and utilized in any activity consistent with section 45Q(f)(5) of title 26.

(iii) Requirement

The Secretary shall make awards under this subparagraph until appropriated funds are expended.

(f) Direct air capture test center

(1) In general

Not later than 2 years after December 27, 2020, the Secretary shall award grants to 1 or more entities for the operation of 1 or more test centers (referred to in this subsection as a "Center") to provide distinct testing capabilities for innovative direct air capture and storage technologies.

(2) Purpose

Each Center shall—

(A) advance research, development, demonstration, and commercial application of direct air capture and storage technologies;

(B) support large-scale pilot and demonstration projects and test direct air capture and storage technologies; and

(C) develop front-end engineering design and economic analysis.

(3) Selection

(A) In general

The Secretary shall select entities to receive grants under this subsection according to such criteria as the Secretary may develop.

(B) Competitive basis

The Secretary shall select entities to receive grants under this subsection on a competitive basis.

(C) Priority criteria

In selecting entities to receive grants under this subsection, the Secretary shall prioritize consideration of applicants that—

(i) have access to existing or planned research facilities for direct air capture and storage technologies;

(ii) are institutions of higher education with established expertise in engineering for direct air capture and storage technologies, or partnerships with such institutions of higher education; or

(iii) have access to existing research and test facilities for bulk materials design and testing, component design and testing, or professional engineering design.

(4) Formula for awarding grants

The Secretary may develop a formula for awarding grants under this subsection.

(5) Schedule

(A) In general

Each grant awarded under this subsection shall be for a term of not more than 5 years, subject to the availability of appropriations.

(B) Renewal

The Secretary may renew a grant for 1 or more additional 5-year terms, subject to a competitive merit review and the availability of appropriations.

(6) Termination

To the extent otherwise authorized by law, the Secretary may eliminate, and terminate grant funding under this subsection for, a Center during any 5-year term described in paragraph (5) if the Secretary determines that the Center is underperforming.

(g) Pilot and demonstration projects

In supporting the technology development activities under this section, the Secretary is encouraged to support carbon removal pilot and demonstration projects, including—

(1) pilot projects that test direct air capture systems capable of capturing 10 to 100 tonnes of carbon oxides per year to provide data for demonstration-scale projects; and

(2) direct air capture demonstration projects capable of capturing greater than 1,000 tonnes of carbon oxides per year.

(h) Intraagency collaboration

In carrying out the program, the Secretary shall encourage and promote collaborations among relevant offices and agencies within the Department.

(i) Accounting

The Secretary shall collaborate with the Administrator of the Environmental Protection Agency and the heads of other relevant Federal agencies to develop and improve accounting frameworks and tools to accurately measure carbon removal and sequestration methods and technologies.

(j) Regional direct air capture hubs

(1) Definitions

In this subsection:

(A) Eligible project

The term "eligible project" means a direct air capture project or a component project of a regional direct air capture hub.

(B) Regional direct air capture hub

The term "regional direct air capture hub" means a network of direct air capture projects, potential carbon dioxide utilization off-takers, connective carbon dioxide transport infrastructure, subsurface resources, and sequestration infrastructure located within a region.

(2) Establishment of program

(A) In general

The Secretary shall establish a program under which the Secretary shall provide funding for eligible projects that contribute to the development of 4 regional direct air capture hubs described in subparagraph (B).

(B) Regional direct air capture hubs

Each of the 4 regional direct air capture hubs developed under the program under subparagraph (A) shall be a regional direct air capture hub that—

(i) facilitates the deployment of direct air capture projects;

(ii) has the capacity to capture and sequester, utilize, or sequester and utilize at least 1,000,000 metric tons of carbon dioxide from the atmosphere annually from a single unit or multiple interconnected units;

(iii) demonstrates the capture, processing, delivery, and sequestration or end-use of

captured carbon; and

(iv) could be developed into a regional or interregional carbon network to facilitate sequestration or carbon utilization.

(3) Selection of projects

(A) Solicitation of proposals

(i) In general

Not later than 180 days after November 15, 2021, the Secretary shall solicit applications for funding for eligible projects.

(ii) Additional solicitations

The Secretary shall solicit applications for funding for eligible projects on a recurring basis after the first round of applications is received under clause (i) until all amounts appropriated to carry out this subsection are expended.

(B) Selection of projects for the development of regional direct air capture hubs

Not later than 3 years after the date of the deadline for the submission of proposals under subparagraph (A)(i), the Secretary shall select eligible projects described in paragraph (2)(A).

(C) Criteria

The Secretary shall select eligible projects under subparagraph (B) using the following criteria:

(i) Carbon intensity of local industry

To the maximum extent practicable, each eligible project shall be located in a region with—

(I) existing carbon-intensive fuel production or industrial capacity; or

(II) carbon-intensive fuel production or industrial capacity that has retired or closed in the preceding 10 years.

(ii) Geographic diversity

To the maximum extent practicable, eligible projects shall contribute to the development of regional direct air capture hubs located in different regions of the United States.

(iii) Carbon potential

To the maximum extent practicable, eligible projects shall contribute to the development of regional direct air capture hubs located in regions with high potential for carbon sequestration or utilization.

(iv) Hubs in fossil-producing regions

To the maximum extent practicable, eligible projects shall contribute to the development of at least 2 regional direct air capture hubs located in economically distressed communities in the regions of the United States with high levels of coal, oil, or natural gas resources.

(v) Scalability

The Secretary shall give priority to eligible projects that, as compared to other eligible projects, will contribute to the development of regional direct air capture hubs with larger initial capacity, greater potential for expansion, and lower levelized cost per ton of carbon dioxide removed from the atmosphere.

(vi) Employment

The Secretary shall give priority to eligible projects that are likely to create opportunities for skilled training and long-term employment to the greatest number of residents of the region.

(vii) Additional criteria

The Secretary may take into consideration other criteria that, in the judgment of the

Secretary, are necessary or appropriate to carry out this subsection.

(D) Coordination

To the maximum extent practicable, in carrying out the program under this subsection, the Secretary shall take into account and coordinate with activities of the carbon capture technology program established under section 16292(b)(1) of this title, the carbon storage validation and testing program established under section 16293(b)(1) of this title, and the CIFIA program established under section 16372(a) of this title such that funding from each of the programs is leveraged to contribute toward the development of integrated regional and interregional carbon capture, removal, transport, sequestration, and utilization networks.

(E) Funding of eligible projects

The Secretary may make grants to, or enter into cooperative agreements or contracts with, each eligible project selected under subparagraph (B) to accelerate commercialization of, and demonstrate the removal, processing, transport, sequestration, and utilization of, carbon dioxide captured from the atmosphere.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $3,500,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(k) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section—

(1) $175,000,000 for fiscal year 2021, of which—

(A) $15,000,000 shall be used to carry out subsection (e)(2)(A), to remain available until expended; and

(B) $100,000,000 shall be used to carry out subsection (e)(2)(B), to remain available until expended;

(2) $63,500,000 for fiscal year 2022;

(3) $66,150,000 for fiscal year 2023;

(4) $69,458,000 for fiscal year 2024; and

(5) $72,930,000 for fiscal year 2025.

(Pub. L. 109–58, title IX, §969D, as added Pub. L. 116–260, div. Z, title V, §5001(a), Dec. 27, 2020, 134 Stat. 2547; amended Pub. L. 117–58, div. D, title III, §40308(a), Nov. 15, 2021, 135 Stat. 1003.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsecs. (j), (k). Pub. L. 117–58 added subsec. (j) and redesignated former subsec. (j) as (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATION

Provisions of section 3212 of this title applicable to construction, alteration, or repair work of demonstration projects funded by grants or contracts authorized under this section, see section 9006(b) of div. Z of Pub. L. 116–260, set out as a note under section 16237 of this title.

§16298e. Carbon dioxide removal task force and report

(a) Definition of carbon dioxide removal

In this section, the term "carbon dioxide removal" means the capture of carbon dioxide directly from ambient air or, in dissolved form, from seawater, combined with the sequestration of that

carbon dioxide, including through—

(1) direct air capture and sequestration;

(2) enhanced carbon mineralization;

(3) bioenergy with carbon capture and sequestration;

(4) forest restoration;

(5) soil carbon management; and

(6) direct ocean capture.

(b) Report

Not later than 180 days after December 27, 2020, the Secretary of Energy (in this section referred to as the "Secretary"), in consultation with the heads of any other relevant Federal agencies, shall prepare a report that—

(1) estimates the magnitude of excess carbon dioxide in the atmosphere that will need to be removed by 2050 to achieve net-zero emissions and stabilize the climate;

(2) inventories current and emerging approaches of carbon dioxide removal and evaluates the advantages and disadvantages of each of the approaches; and

(3) identifies recommendations for legislation, funding, rules, revisions to rules, financing mechanisms, or other policy tools that the Federal Government can use to sufficiently advance the deployment of carbon dioxide removal projects in order to meet, in the aggregate, the magnitude of needed removals estimated under paragraph (1), including policy tools, such as—

(A) grants;

(B) loans or loan guarantees;

(C) public-private partnerships;

(D) direct procurement;

(E) incentives, including subsidized Federal financing mechanisms available to project developers;

(F) advance market commitments;

(G) regulations; and

(H) any other policy mechanism determined by the Secretary to be beneficial for advancing carbon dioxide removal methods and the deployment of carbon dioxide removal projects.

(c) Submission; publication

The Secretary shall—

(1) submit the report prepared under subsection (b) to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and Science, Space, and Technology of the House of Representatives; and

(2) as soon as practicable after completion of the report, make the report publicly available.

(d) Evaluation; revision

(1) In general

Not later than 2 years after the date on which the Secretary publishes the report under subsection (c)(2), and every 2 years thereafter, the Secretary shall evaluate the findings and recommendations of the report, or the most recent updated report submitted under paragraph (2)(B), as applicable, taking into consideration any issues and recommendations identified by the task force established under subsection (e)(1).

(2) Revision

After completing each evaluation under paragraph (1), the Secretary shall—

(A) revise the report as necessary; and

(B) if the Secretary revises the report under subparagraph (A), submit and publish the updated report in accordance with subsection (c).

(e) Task force

(1) Establishment and duties

Not later than 60 days after December 27, 2020, the Secretary shall establish a task force—

(A) to identify barriers to advancement of carbon dioxide removal methods and the deployment of carbon dioxide removal projects;

(B) to inventory existing or potential Federal legislation, rules, revisions to rules, financing mechanisms, or other policy tools that are capable of advancing carbon dioxide removal methods and the deployment of carbon dioxide removal projects;

(C) to assist in preparing the report described in subsection (b) and any updates to the report under subsection (d); and

(D) to advise the Secretary on matters pertaining to carbon dioxide removal.

(2) Members and selection

The Secretary shall—

(A) develop criteria for the selection of members to the task force established under paragraph (1); and

(B) select members for the task force in accordance with the criteria developed under subparagraph (A).

(3) Meetings

The task force shall meet not less frequently than once each year.

(4) Evaluation

Not later than 7 years after December 27, 2020, the Secretary shall—

(A) reevaluate the need for the task force established under paragraph (1); and

(B) submit to Congress a recommendation as to whether the task force should continue.

(Pub. L. 116–260, div. Z, title V, §5002, Dec. 27, 2020, 134 Stat. 2550.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

PART G—SCIENCE

§16311. Science

(a) In general

The Secretary shall conduct, through the Office of Science, programs of research, development, demonstration, and commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific computing research, and fusion energy sciences, including activities described in this part. The programs shall include support for facilities and infrastructure, education, outreach, information, analysis, and coordination activities.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this part (including the amounts authorized under the amendment made by section 976(b) [1] and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support)—

(1) $4,153,000,000 for fiscal year 2007;

(2) $4,586,000,000 for fiscal year 2008;
(3) $5,200,000,000 for fiscal year 2009;
(4) $5,814,000,000 for fiscal year 2010;
(5) $5,247,000,000 for fiscal year 2011;
(6) $5,614,000,000 for fiscal year 2012; and
(7) $6,007,000,000 for fiscal year 2013.

(c) Allocations

From amounts authorized under subsection (b), the following sums are authorized:

(1) For activities under the Fusion Energy Sciences program (including activities under section 16312 of this title)—

(A) $355,500,000 for fiscal year 2007;
(B) $369,500,000 for fiscal year 2008;
(C) $384,800,000 for fiscal year 2009; and
(D) in addition to the amounts authorized under subparagraphs (A), (B), and (C), such sums as may be necessary for ITER construction, consistent with the limitations of section 16312(c)(5) of this title.

(2) For activities under the catalysis research program under section 16313 of this title—

(A) $36,500,000 for fiscal year 2007;
(B) $38,200,000 for fiscal year 2008; and
(C) such sums as may be necessary for fiscal year 2009.

(3) For activities under the Systems Biology Program under section 16317 of this title such sums as may be necessary for each of fiscal years 2007 through 2009.

(4) For activities under the Energy and Water Supplies program under section 16319 of this title, $30,000,000 for each of fiscal years 2007 through 2009.

(5) For the energy research fellowships programs under section 16324 of this title, $40,000,000 for each of fiscal years 2007 through 2009.

(6) For the advanced scientific computing activities under section 976— [1]

(A) $270,000,000 for fiscal year 2007;
(B) $350,000,000 for fiscal year 2008; and
(C) $375,000,000 for fiscal year 2009.

(7) For the science and engineering education pilot program under section 16323 of this title—

(A) $4,000,000 for each of fiscal years 2007 and 2008; and
(B) $8,000,000 for fiscal year 2009.

(d) Integrated bioenergy research and development

In addition to amounts otherwise authorized by this section, there are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, $49,000,000 for each of the fiscal years 2005 through 2009. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for training and education targeted to minority and socially disadvantaged farmers and ranchers.

(Pub. L. 109–58, title IX, §971, Aug. 8, 2005, 119 Stat. 898; Pub. L. 110–69, title V, §5007, Aug. 9, 2007, 121 Stat. 617; Pub. L. 111–358, title IX, §903, Jan. 4, 2011, 124 Stat. 4045.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (b), was in the original "this subtitle", meaning subtitle G (§§971–984A) of title IX of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 898, which enacted this part and

amended section 5523 of Title 15, Commerce and Trade. For complete classification of subtitle G to the Code, see Tables.

Section 976, referred to in subsecs. (b) and (c)(6), is section 976 of Pub. L. 109–58. Subsection (a) of section 976 is classified to section 16316 of this title and subsection (b) of section 976 amended section 5523 of Title 15, Commerce and Trade.

AMENDMENTS

2011—Subsec. (b)(5) to (7). Pub. L. 111–358 added pars. (5) to (7).
2007—Subsec. (b)(4). Pub. L. 110–69 added par. (4).

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

§16312. Fusion energy sciences program

(a) Declaration of policy

It shall be the policy of the United States to conduct research, development, demonstration, and commercial applications to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other countries in providing fusion energy for its own needs and the needs of other countries, including by demonstrating electric power or hydrogen production for the United States energy grid using fusion energy at the earliest date.

(b) Planning

(1) In general

Not later than 180 days after August 8, 2005, the Secretary shall submit to Congress a plan (with proposed cost estimates, budgets, and lists of potential international partners) for the implementation of the policy described in subsection (a) in a manner that ensures that—

(A) existing fusion research facilities are more fully used;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable;

(D) facilities that are selected are funded at a cost-effective rate;

(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(F) inertial confinement fusion facilities are used to the extent practicable for the purpose of inertial fusion energy research and development;

(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored; and

(H) to the extent practicable, the recommendations of the Fusion Energy Sciences Advisory Committee in the report on workforce planning, dated March 2004, are carried out, including periodic reassessment of program needs.

(2) Costs and schedules

The plan shall also address the status of and, to the extent practicable, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) United States participation in ITER

(1) In general

There is authorized United States participation in the construction and operations of the ITER

project, as agreed to under the April 25, 2007 "Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project". The Director shall coordinate and carry out the responsibilities of the United States with respect to this Agreement.

(2) Report

Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress a report providing an assessment of the most recent schedule for ITER that has been approved by the ITER Council.

(3) Authorization of appropriations

Out of funds authorized to be appropriated under section 18645(o) of this title, there shall be made available to the Secretary to carry out the construction of ITER—

(A) $374,000,000 for fiscal year 2021; and

(B) $281,000,000 for each of fiscal years 2022 through 2025.

(Pub. L. 109–58, title IX, §972, Aug. 8, 2005, 119 Stat. 899; Pub. L. 116–260, div. Z, title II, §2008(b), Dec. 27, 2020, 134 Stat. 2478.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c)(2), probably means the date of enactment of Pub. L. 116–260, which enacted subsec. (c) of this section and was approved Dec. 27, 2020.

AMENDMENTS

2020—Subsec. (c). Pub. L. 116–260 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to United States participation in ITER.

§16313. Solar Fuels Research Initiative

(a) Initiative

(1) In general

The Secretary shall carry out a research initiative, to be known as the "Solar Fuels Research Initiative" (referred to in this section as the "Initiative") to expand theoretical and fundamental knowledge of photochemistry, electrochemistry, biochemistry, and materials science useful for the practical development of experimental systems to convert solar energy to chemical energy.

(2) Leveraging

In carrying out programs and activities under the Initiative, the Secretary shall leverage expertise and resources from—

(A) the Basic Energy Sciences Program and the Biological and Environmental Research Program of the Office of Science; and

(B) the Office of Energy Efficiency and Renewable Energy.

(3) Teams

(A) In general

In carrying out the Initiative, the Secretary shall organize activities among multidisciplinary teams to leverage, to the maximum extent practicable, expertise from the National Laboratories, institutions of higher education, and the private sector.

(B) Goals

The multidisciplinary teams described in subparagraph (A) shall pursue aggressive, milestone-driven, basic research goals.

(C) Resources

The Secretary shall provide sufficient resources to the multidisciplinary teams described in subparagraph (A) to achieve the goals described in subparagraph (B) over a period of time to be determined by the Secretary.

(4) Additional activities

The Secretary may organize additional activities under this subsection through Energy Frontier Research Centers, Energy Innovation Hubs, or other organizational structures.

(b) Artificial photosynthesis

(1) In general

The Secretary shall carry out under the Initiative a program to support research needed to bridge scientific barriers to, and discover knowledge relevant to, artificial photosynthetic systems.

(2) Activities

As part of the program described in paragraph (1)—

(A) the Director of the Office of Basic Energy Sciences shall support basic research to pursue distinct lines of scientific inquiry, including—

(i) photoinduced production of hydrogen and oxygen from water; and

(ii) the sustainable photoinduced reduction of carbon dioxide to fuel products including hydrocarbons, alcohols, carbon monoxide, and natural gas; and

(B) the Assistant Secretary for Energy Efficiency and Renewable Energy shall support translational research, development, and validation of physical concepts developed under the program.

(3) Standard of review

The Secretary shall review activities carried out under the program described in paragraph (1) to determine the achievement of technical milestones.

(4) Prohibition

No funds allocated to the program described in paragraph (1) may be obligated or expended for commercial application of energy technology.

(c) Biochemistry, replication of natural photosynthesis, and related processes

(1) In general

The Secretary shall carry out under the Initiative a program to support research needed to replicate natural photosynthetic processes by use of artificial photosynthetic components and materials.

(2) Activities

As part of the program described in paragraph (1)—

(A) the Director of the Office of Basic Energy Sciences shall support basic research to expand fundamental knowledge to replicate natural synthesis processes, including—

(i) the photoinduced reduction of dinitrogen to ammonia;

(ii) the absorption of carbon dioxide from ambient air;

(iii) molecular-based charge separation and storage;

(iv) photoinitiated electron transfer; and

(v) catalysis in biological or biomimetic systems;

(B) the Associate Director of Biological and Environmental Research shall support systems biology and genomics approaches to understand genetic and physiological pathways connected to photosynthetic mechanisms; and

(C) the Assistant Secretary for Energy Efficiency and Renewable Energy shall support translational research, development, and validation of physical concepts developed under the

program.

(3) Standard of review

The Secretary shall review activities carried out under the program described in paragraph (1) to determine the achievement of technical milestones.

(4) Prohibition

No funds allocated to the program described in paragraph (1) may be obligated or expended for commercial application of energy technology.

(Pub. L. 109–58, title IX, §973, Aug. 8, 2005, 119 Stat. 902; Pub. L. 115–246, title III, §303(d)(1), Sept. 28, 2018, 132 Stat. 3141.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–246 amended section generally. Prior to amendment, section related to catalysis research program.

§16314. Hydrogen

(a) In general

The Secretary shall conduct a program of fundamental research and development in support of programs authorized under subchapter VIII.

(b) Methods

The program shall include support for methods of generating hydrogen without the use of natural gas.

(Pub. L. 109–58, title IX, §974, Aug. 8, 2005, 119 Stat. 903.)

§16315. Electricity Storage Research Initiative

(a) Initiative

(1) In general

The Secretary shall carry out a research initiative, to be known as the "Electricity Storage Research Initiative" (referred to in this section as the "Initiative")—

(A) to expand theoretical and fundamental knowledge to control, store, and convert—

(i) electrical energy to chemical energy; and

(ii) chemical energy to electrical energy; and

(B) to support scientific inquiry into the practical understanding of chemical and physical processes that occur within systems involving crystalline and amorphous solids, polymers, and organic and aqueous liquids.

(2) Leveraging

In carrying out programs and activities under the Initiative, the Secretary shall leverage expertise and resources from—

(A) the Basic Energy Sciences Program, the Advanced Scientific Computing Research Program, and the Biological and Environmental Research Program of the Office of Science; and

(B) the Office of Energy Efficiency and Renewable Energy.

(3) Teams

(A) In general

In carrying out the Initiative, the Secretary shall organize activities among multidisciplinary teams to leverage, to the maximum extent practicable, expertise from the National Laboratories, institutions of higher education, and the private sector.

(B) Goals

The multidisciplinary teams described in subparagraph (A) shall pursue aggressive, milestone-driven, basic research goals.

(C) Resources

The Secretary shall provide sufficient resources to the multidisciplinary teams described in subparagraph (A) to achieve the goals described in subparagraph (B) over a period of time to be determined by the Secretary.

(4) Additional activities

The Secretary may organize additional activities under this subsection through Energy Frontier Research Centers, Energy Innovation Hubs, or other organizational structures.

(b) Multivalent systems

(1) In general

The Secretary shall carry out under the Initiative a program to support research needed to bridge scientific barriers to, and discover knowledge relevant to, multivalent ion materials in electric energy storage systems.

(2) Activities

As part of the program described in paragraph (1)—

(A) the Director of the Office of Basic Energy Sciences shall investigate electrochemical properties and the dynamics of materials, including charge transfer phenomena and mass transport in materials; and

(B) the Assistant Secretary for Energy Efficiency and Renewable Energy shall support translational research, development, and validation of physical concepts developed under the program.

(3) Standard of review

The Secretary shall review activities carried out under the program described in paragraph (1) to determine the achievement of technical milestones.

(4) Prohibition

No funds allocated to the program described in paragraph (1) may be obligated or expended for commercial application of energy technology.

(c) Electrochemistry modeling and simulation

(1) In general

The Secretary shall carry out under the Initiative a program to support research to model and simulate organic electrolytes, including the static and dynamic electrochemical behavior and phenomena of organic electrolytes at the molecular and atomic level in monovalent and multivalent systems.

(2) Activities

As part of the program described in paragraph (1)—

(A) the Director of the Office of Basic Energy Sciences, in coordination with the Associate Director of Advanced Scientific Computing Research, shall support the development of high performance computational tools through a joint development process to maximize the effectiveness of current and projected high performance computing systems; and

(B) the Assistant Secretary for Energy Efficiency and Renewable Energy shall support translational research, development, and validation of physical concepts developed under the program.

(3) Standard of review

The Secretary shall review activities carried out under the program described in paragraph (1) to determine the achievement of technical milestones.

(4) Prohibition

No funds allocated to the program described in paragraph (1) may be obligated or expended for commercial application of energy technology.

(d) Mesoscale electrochemistry

(1) In general

The Secretary shall carry out under the Initiative a program to support research needed to reveal electrochemistry in confined mesoscale spaces, including scientific discoveries relevant to—

(A) bio-electrochemistry and electrochemical energy conversion and storage in confined spaces; and

(B) the dynamics of the phenomena described in subparagraph (A).

(2) Activities

As part of the program described in paragraph (1)—

(A) the Director of the Office of Basic Energy Sciences and the Associate Director of Biological and Environmental Research shall investigate phenomena of mesoscale electrochemical confinement for the purpose of replicating and controlling new electrochemical behavior; and

(B) the Assistant Secretary for Energy Efficiency and Renewable Energy shall support translational research, development, and validation of physical concepts developed under the program.

(3) Standard of review

The Secretary shall review activities carried out under the program described in paragraph (1) to determine the achievement of technical milestones.

(4) Prohibition

No funds allocated to the program described in paragraph (1) may be obligated or expended for commercial application of energy technology.

(Pub. L. 109–58, title IX, §975, Aug. 8, 2005, 119 Stat. 903; Pub. L. 115–246, title III, §303(e)(1), Sept. 28, 2018, 132 Stat. 3143.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–246 amended section generally. Prior to amendment, text read as follows: "The Secretary shall conduct a program of fundamental research on solid state lighting in support of the Next Generation Lighting Initiative carried out under section 16192 of this title."

§16316. Advanced scientific computing research and development program

(1) In general

The Secretary shall conduct an advanced scientific computing research and development program that includes activities related to applied mathematics and activities authorized by the American Super Computing Leadership Act of 2017 (15 U.S.C. 5541 et seq.).

(2) Goal

The Secretary shall carry out the program with the goal of supporting departmental missions, and providing the high-performance computational, networking, advanced visualization technologies, and workforce resources, that are required for world leadership in science.

(Pub. L. 109–58, title IX, §976(a), Aug. 8, 2005, 119 Stat. 903; Pub. L. 115–246, title III, §304(a)(1)(B), Sept. 28, 2018, 132 Stat. 3145.)

EDITORIAL NOTES

REFERENCES IN TEXT

The American Super Computing Leadership Act of 2017, referred to in par. (1), is Pub. L. 108–423, Nov. 30, 2004, 118 Stat. 2400, which is classified principally to subchapter III (§5541 et seq.) of chapter 81 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 5501 of Title 15 and Tables.

AMENDMENTS

2018—Par. (1). Pub. L. 115–246 substituted "American Super Computing Leadership Act of 2017" for "Department of Energy High-End Computing Revitalization Act of 2004".

§16317. Systems biology program

(a) Program

(1) Establishment

The Secretary shall establish a research, development, and demonstration program in microbial and plant systems biology, protein science, computational biology, and environmental science to support the energy, national security, and environmental missions of the Department.

(2) Grants

The program shall support individual researchers and multidisciplinary teams of researchers through competitive, merit-reviewed grants.

(3) Consultation

In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) Goals

The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—

(1) can facilitate the production of fuels, including hydrogen in sustainable production systems that reduce greenhouse gas emissions;

(2) convert carbon dioxide to organic carbon;

(3) detoxify soils and water, including at facilities of the Department, contaminated with heavy metals and radiological materials;

(4) develop cellulosic and other feedstocks that are less resource and land intensive and that promote sustainable use of resources, including soil, water, energy, forests, and land, and ensure protection of air, water, and soil quality; and

(5) address other Department missions as identified by the Secretary.

(c) Plan

(1) Development of plan

Not later than 1 year after August 8, 2005, the Secretary shall prepare and transmit to Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

(2) Review of plan

The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary's

response to the recommendations contained in the review.

(d) User facilities and ancillary equipment

Within the funds authorized to be appropriated pursuant to this part, amounts shall be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities at National Laboratories, for researchers conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(e) Prohibition on biomedical and human cell and human subject research

(1) No biomedical research

In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) Limitations

Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

(f) Bioenergy research centers

(1) Establishment of centers

In carrying out the program under subsection (a), the Secretary shall establish at least 7 bioenergy research centers, which may be of varying size.

(2) Geographic distribution

The Secretary shall establish at least 1 bioenergy research center in each Petroleum Administration for Defense District or Subdistrict of a Petroleum Administration for Defense District.

(3) Goals

The goals of the centers established under this subsection shall be to accelerate basic transformational research and development of biofuels, including biological processes.

(4) Selection and duration

(A) In general

A center under this subsection shall be selected on a competitive basis for a period of 5 years.

(B) Reapplication

After the end of the period described in subparagraph (A), a grantee may reapply for selection on a competitive basis.

(5) Inclusion

A center that is in existence on December 19, 2007—

(A) shall be counted towards the requirement for establishment of at least 7 bioenergy research centers; and

(B) may continue to receive support for a period of 5 years beginning on the date of establishment of the center.

(Pub. L. 109–58, title IX, §977, Aug. 8, 2005, 119 Stat. 903; Pub. L. 110–140, title II, §§232(a), 233, Dec. 19, 2007, 121 Stat. 1537.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (d), was in the original "this subtitle", meaning subtitle G (§§971–984A) of

title IX of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 898, which enacted this part and amended section 5523 of Title 15, Commerce and Trade. For complete classification of subtitle G to the Code, see Tables.

AMENDMENTS

2007—Subsec. (a)(1). Pub. L. 110–140, §232(a)(1), substituted "computational biology, and environmental science" for "and computational biology".

Subsec. (b)(1). Pub. L. 110–140, §232(a)(2)(A), inserted "in sustainable production systems that reduce greenhouse gas emissions" after "hydrogen".

Subsec. (b)(4), (5). Pub. L. 110–140, §232(a)(2)(B)–(D), added par. (4) and redesignated former par. (4) as (5).

Subsec. (f). Pub. L. 110–140, §233, added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§16318. Fission and fusion energy materials research program

(a) In general

Along with the budget request of the President submitted to Congress for fiscal year 2007, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the fusion energy program of the Department.

(b) Administration

In carrying out the program, the Secretary shall develop—

(1) a catalog of material properties required for applications described in subsection (a);

(2) theoretical models for materials possessing the required properties;

(3) benchmark models against existing data; and

(4) a roadmap to guide further research and development in the area covered by the program.

(Pub. L. 109–58, title IX, §978, Aug. 8, 2005, 119 Stat. 904.)

§16319. Energy and water supplies

(a) In general

The Secretary shall carry out a program of research, development, demonstration, and commercial application to—

(1) address energy-related issues associated with provision of adequate water supplies, optimal management, and efficient use of water;

(2) address water-related issues associated with the provision of adequate supplies, optimal management, and efficient use of energy; and

(3) assess the effectiveness of existing programs within the Department and other Federal agencies to address these energy and water related issues.

(b) Program elements

The program under this section shall include—

(1) arsenic treatment;

(2) desalination; and

(3) planning, analysis, and modeling of energy and water supply and demand.

(c) Collaboration

In carrying out this section, the Secretary shall consult with the Administrator of the

Environmental Protection Agency, the Secretary of the Interior, the Chief Engineer of the Army Corps of Engineers, the Secretary of Commerce, the Secretary of Defense, and other Federal agencies as appropriate.

(d) Facilities

The Secretary may utilize all existing facilities within the Department and may design and construct additional facilities as needed to carry out the purposes of this program.

(e) Advisory committee

The Secretary shall establish or utilize an advisory committee to provide independent advice and review of the program.

(f) Reports

Not later than 2 years after August 8, 2005, the Secretary shall submit to Congress a report on the assessment described in subsection (b) and recommendations for future actions.

(Pub. L. 109–58, title IX, §979, Aug. 8, 2005, 119 Stat. 905.)

§16320. Spallation Neutron Source

(a) Definitions

In this section:

(1) SING

The term "SING" means the Spallation Neutron Source Instruments Next Generation major item of equipment.

(2) SNS power upgrade

The term "SNS power upgrade" means the Spallation Neutron Source power upgrade described in the 20-year facilities plan of the Office of Science of the Department.

(3) SNS second target station

The term "SNS second target station" means the Spallation Neutron Source second target station described in the 20-year facilities plan of the Office of Science of the Department.

(4) Spallation Neutron Source Facility

The terms "Spallation Neutron Source Facility" and "Facility" mean the completed Spallation Neutron Source scientific user facility located at Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) Spallation Neutron Source Project

The terms "Spallation Neutron Source Project" and "Project" means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) Spallation Neutron Source Project

(1) In general

The Secretary shall submit to Congress, as part of the annual budget request of the President submitted to Congress, a report on progress on the Spallation Neutron Source Project.

(2) Contents

The report shall include for the Project—

(A) a description of the achievement of milestones;

(B) a comparison of actual costs to estimated costs; and

(C) any changes in estimated Project costs or schedule.

(c) Spallation Neutron Source Facility plan

(1) In general

The Secretary shall develop an operational plan for the Spallation Neutron Source Facility that ensures that the Facility is employed to the full capability of the Facility in support of the study of advanced materials, nanoscience, and other missions of the Office of Science of the Department.

(2) Plan

The operational plan shall—

(A) include a plan for the operation of an effective scientific user program that—

(i) is based on peer review of proposals submitted for use of the Facility;

(ii) includes scientific and technical support to ensure that external users, including researchers based at institutions of higher education, are able to make full use of a variety of high quality scientific instruments; and

(iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility;

(B) include an ongoing program to develop new instruments that builds on the high performance neutron source and that allows neutron scattering techniques to be applied to a growing range of scientific problems and disciplines; and

(C) address the status of and, to the maximum extent practicable, costs and schedules for—

(i) full user mode operations of the Facility;

(ii) instrumentation built at the Facility during the operating phase through full use of the experimental hall, including the SING;

(iii) the SNS power upgrade; and

(iv) the SNS second target station.

(d) Authorization of appropriations

(1) Spallation Neutron Source Project

There is authorized to be appropriated to carry out the Spallation Neutron Source Project for the lifetime of the Project $1,411,700,000 for total project costs, of which—

(A) $1,192,700,000 shall be used for the costs of construction; and

(B) $219,000,000 shall be used for other Project costs.

(2) Spallation Neutron Source Facility

(A) In general

Except as provided in subparagraph (B), there is authorized to be appropriated for the Spallation Neutron Source Facility for—

(i) the SING, $75,000,000 for each of fiscal year 2007 through 2009; and

(ii) the SNS power upgrade, $160,000,000, to remain available until expended.

(B) Insufficient stockpiles of heavy water

If stockpiles of heavy water of the Department are insufficient to meet the needs of the Facility, there is authorized to be appropriated for the Facility $12,000,000 for fiscal year 2007.

(Pub. L. 109–58, title IX, §980, Aug. 8, 2005, 119 Stat. 905.)

§16321. Facility for Rare Isotope Beams

(a) Establishment

The Secretary shall construct and operate a Facility for Rare Isotope Beams. The Secretary shall commence construction no later than September 30, 2008.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section. The Secretary shall not spend more than $1,100,000,000 in Federal funds for all

activities associated with the Facility for Rare Isotope Beams, prior to operation of the Accelerator.

(Pub. L. 109–58, title IX, §981, Aug. 8, 2005, 119 Stat. 907; Pub. L. 115–246, title III, §308(b), Sept. 28, 2018, 132 Stat. 3150.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–246 substituted "Facility for Rare Isotope Beams" for "Rare Isotope Accelerator" in section catchline and in subsecs. (a) and (b).

§16322. Office of Scientific and Technical Information

The Secretary, through the Office of Scientific and Technical Information, shall maintain within the Department publicly available collections of scientific and technical information resulting from research, development, demonstration, and commercial applications activities supported by the Department.

(Pub. L. 109–58, title IX, §982, Aug. 8, 2005, 119 Stat. 907.)

§16323. Science and engineering education pilot program

(a) Establishment of pilot program

The Secretary shall award a grant to a Southeastern United States consortium of major research universities that currently advances science and education by partnering with National Laboratories, to establish a regional pilot program of its SEEK–16 program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decision-making. The consortium shall include leading research universities, one or more universities that train substantial numbers of elementary and secondary school teachers, and (where appropriate) National Laboratories.

(b) Program elements

The regional pilot program shall include—

(1) expanding strategic, formal partnerships among universities with strength in research, universities that train substantial numbers of elementary and secondary school teachers, and the private sector;

(2) combining Department expertise with one or more National Aeronautics and Space Administration Educator Resource Centers;

(3) developing programs to permit current and future teachers to participate in ongoing research projects at National Laboratories and research universities and to adapt lessons learned to the classroom;

(4) designing and implementing course work;

(5) designing and implementing a strategy for measuring and assessing progress under the program; and

(6) developing models for transferring knowledge gained under the pilot program to other institutions and areas of the United States.

(c) Categorization

A grant under this section shall be considered an authorized activity under section 7381b of this title.

(Pub. L. 109–58, title IX, §983, Aug. 8, 2005, 119 Stat. 907; Pub. L. 113–188, title VI, §601(a), Nov. 26, 2014, 128 Stat. 2019.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (d). Pub. L. 113–188 struck out subsec. (d). Text read as follows: "No later than 2 years after the award of the grant, the Secretary shall transmit to Congress a report outlining lessons learned and, if determined appropriate by the Secretary, containing a plan for expanding the program throughout the United States."

§16324. Energy research fellowships

(a) Postdoctoral fellowship program

The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) Senior research fellowships

(1) In general

The Secretary shall establish a program under which the Secretary provides fellowships to allow outstanding senior researchers and their research groups in energy research and development to explore research and development topics of their choosing for a period of not less than 3 years, to be determined by the Secretary.

(2) Consideration

In providing a fellowship under the program described in paragraph (1), the Secretary shall consider—

(A) the past scientific or technical accomplishment of a senior researcher; and

(B) the potential for continued accomplishment by the researcher during the period of the fellowship.

(Pub. L. 109–58, title IX, §984, Aug. 8, 2005, 119 Stat. 908.)

§16325. Science and Technology Scholarship Program

(a) In general

The Secretary is authorized to establish a Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department and National Laboratories.

(b) Service requirement

The Secretary may require that an individual receiving a scholarship under this section serve as a full-time employee of the Department or a National Laboratory for a fixed period in return for receiving the scholarship.

(Pub. L. 109–58, title IX, §984A, Aug. 8, 2005, 119 Stat. 908.)

PART H—INTERNATIONAL COOPERATION

§16341. Western Hemisphere energy cooperation

(a) Program

The Secretary shall carry out a program to promote cooperation on energy issues with countries of the Western Hemisphere.

(b) Activities

Under the program, the Secretary shall fund activities to work with countries of the Western Hemisphere to—

(1) increase the production of energy supplies;

(2) improve energy efficiency; and

(3) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) Participation by institutions of higher education

To the extent practicable, the Secretary shall carry out the program under this section with the participation of institutions of higher education so as to take advantage of the acceptance of institutions of higher education by countries of the Western Hemisphere as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of institutions of higher education that involve the participation of minority students, such as—

(A) Hispanic-serving institutions; and

(B) part B institutions.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2007;

(2) $13,000,000 for fiscal year 2008; and

(3) $16,000,000 for fiscal year 2009.

(Pub. L. 109–58, title IX, §985, Aug. 8, 2005, 119 Stat. 908.)

§16342. International energy training

(a) In general

The Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and Secretary of State, and the Federal Energy Regulatory Commission, shall coordinate training and outreach efforts for international commercial energy markets in countries with developing and restructuring economies.

(b) Components

The training and outreach efforts referred to in subsection (a) may include—

(1) production-related fiscal regimes;

(2) grid and network issues;

(3) energy user and demand side response;

(4) international trade of energy; and

(5) international transportation of energy.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2007 through 2010.

(Pub. L. 109–58, title IX, §986A, Aug. 8, 2005, 119 Stat. 910.)

PART I—RESEARCH ADMINISTRATION AND OPERATIONS

§16351. Availability of funds

Funds authorized to be appropriated to the Department under this Act or an amendment made by this Act shall remain available until expended.

(Pub. L. 109–58, title IX, §987, Aug. 8, 2005, 119 Stat. 910.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16352. Cost sharing

(a) Applicability

Notwithstanding any other provision of law, in carrying out a research, development, demonstration, or commercial application program or activity that is initiated after August 8, 2005, the Secretary shall require cost-sharing in accordance with this section.

(b) Research and development

(1) In general

Except as provided in paragraphs (2), (3), and (4) and subsection (f), the Secretary shall require not less than 20 percent of the cost of a research or development activity described in subsection (a) to be provided by a non-Federal source.

(2) Exclusion

Paragraph (1) shall not apply to a research or development activity described in subsection (a) that is of a basic or fundamental nature, as determined by the appropriate officer of the Department.

(3) Reduction

The Secretary may reduce or eliminate the requirement of paragraph (1) for a research and development activity of an applied nature if the Secretary determines that the reduction is necessary and appropriate.

(4) Exemption for institutions of higher education and other nonprofit institutions

(A) In general

Paragraph (1) shall not apply to a research or development activity performed by an institution of higher education or nonprofit institution (as defined in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703)).

(B) Termination date

The exemption under subparagraph (A) shall apply during the 2-year period beginning on September 28, 2018.

(c) Demonstration and commercial application

(1) In general

Except as provided in paragraph (2) and subsection (f), the Secretary shall require that not less than 50 percent of the cost of a demonstration or commercial application activity described in subsection (a) to [1] be provided by a non-Federal source.

(2) Reduction of non-Federal share

The Secretary may reduce the non-Federal share required under paragraph (1) if the Secretary determines the reduction to be necessary and appropriate, taking into consideration any technological risk relating to the activity.

(d) Calculation of amount

In calculating the amount of a non-Federal contribution under this section, the Secretary—

(1) may include allowable costs in accordance with the applicable cost principles, including—

(A) cash;

(B) personnel costs;

(C) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(D) indirect costs or facilities and administrative costs; or

(E) any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act); and

(2) shall not include—

(A) revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(B) proceeds from the prospective sale of an asset of an activity; or

(C) other appropriated Federal funds.

(e) Repayment of Federal share

The Secretary shall not require repayment of the Federal share of a cost-shared activity under this section as a condition of making an award.

(f) Exclusions

This section shall not apply to—

(1) a cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(2) a fee charged for the use of a Department facility; or

(3) an award under—

(A) the small business innovation research program under section 638 of title 15; or

(B) the small business technology transfer program under that section.

(Pub. L. 109–58, title IX, §988, Aug. 8, 2005, 119 Stat. 910; Pub. L. 115–246, title I, §108(a), Sept. 28, 2018, 132 Stat. 3134.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (f)(1), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–246, §108(a)(1), substituted "Except as provided in paragraphs (2), (3), and (4)" for "Except as provided in paragraphs (2) and (3)".

Subsec. (b)(4). Pub. L. 115–246, §108(a)(2), added par. (4).

[1] *So in original. The word "to" probably should not appear.*

§16353. Merit review of proposals

(a) Awards

Awards of funds authorized under this Act or an amendment made by this Act shall be made only after an impartial review of the scientific and technical merit of the proposals for the awards has been carried out by or for the Department.

(b) Competition

Competitive awards under this Act shall involve competitions open to all qualified entities within one or more of the following categories:

(1) Institutions of higher education.
(2) National Laboratories.
(3) Nonprofit and for-profit private entities.
(4) State and local governments.
(5) Consortia of entities described in paragraphs (1) through (4).

(c) Sense of Congress

It is the sense of Congress that research, development, demonstration, and commercial application activities carried out by the Department should be awarded using competitive procedures, to the maximum extent practicable.

(Pub. L. 109–58, title IX, §989, Aug. 8, 2005, 119 Stat. 911.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (b), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16354. External technical review of departmental programs

(a) National energy research and development advisory boards

(1) Establishment

The Secretary shall establish one or more advisory boards to review research, development, demonstration, and commercial application programs of the Department in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) Alternatives

The Secretary may—

(A) designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this section; and

(B) enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) Use of existing committees

The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(c) Membership

Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) Meetings and goals

(1) Meetings

Each advisory board under this section shall meet at least semiannually to review and advise on

the progress made by the respective one or more research, development, demonstration, and commercial application programs.

(2) Goals

The advisory board shall review the measurable cost and performance-based goals for the programs as established under section 16181 of this title, and the progress on meeting the goals.

(e) Periodic reviews and assessments

(1) In general

The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of—

(A) the research, development, demonstration, and commercial application programs authorized by this Act and amendments made by this Act;

(B) the measurable cost and performance-based goals for the programs as established under section 16181 of this title, if any; and

(C) the progress on meeting the goals.

(2) Timing

The reviews and assessments shall be conducted every 5 years or more often as the Secretary considers necessary.

(3) Reports

The Secretary shall submit to Congress reports describing the results of all the reviews and assessments.

(Pub. L. 109–58, title IX, §990, Aug. 8, 2005, 119 Stat. 912.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This Act, referred to in subsec. (e)(1)(A), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16355. National Laboratory designation

After August 8, 2005, the Secretary shall not designate a facility that is not listed in section 15801(3) of this title as a National Laboratory.

(Pub. L. 109–58, title IX, §991, Aug. 8, 2005, 119 Stat. 913.)

§16356. Report on equal employment opportunity practices

Not later than 12 months after August 8, 2005, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—

(1) a thorough review of each National Laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the National Laboratories;

(3) a description of how equal employment opportunity practices at the National Laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the

relevant contractors for each National Laboratory;

(5) a summary of outreach efforts to attract women and minorities to the National Laboratories;

(6) a summary of efforts to retain women and minorities in the National Laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the National Laboratories.

(Pub. L. 109–58, title IX, §992, Aug. 8, 2005, 119 Stat. 913.)

§16357. Strategy for facilities and infrastructure

(a) Facility and infrastructure policy

(1) In general

The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all National Laboratories and single-purpose research facilities.

(2) Strategy

The strategy shall provide cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility modifications; and

(D) building new facilities.

(b) Report

(1) In general

The Secretary shall prepare and submit, along with the budget request of the President submitted to Congress for fiscal year 2018, a report describing the strategy developed under subsection (a).

(2) Contents

For each National Laboratory and single-purpose research facility that is primarily used for science and energy research, the report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

(Pub. L. 109–58, title IX, §993, Aug. 8, 2005, 119 Stat. 913; Pub. L. 115–246, title II, §205(a), Sept. 28, 2018, 132 Stat. 3137.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–246, §205(a)(1), substituted "Strategy for facilities and infrastructure" for "Strategy and plan for science and energy facilities and infrastructure" in section catchline.

Subsec. (b)(1). Pub. L. 115–246, §205(a)(2), substituted "2018" for "2008".

§16358. Strategic research portfolio analysis and coordination plan

(a) In general

The Secretary shall periodically review all of the science and technology activities of the Department in a strategic framework that takes into account—

(1) the frontiers of science to which the Department can contribute;

(2) the national needs relevant to the statutory missions of the Department; and

(3) global energy dynamics.

(b) Coordination analysis and plan

(1) In general

As part of the review under subsection (a), the Secretary shall develop a plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across organizational boundaries of the Department.

(2) Plan contents

The plan developed under paragraph (1) shall describe—

(A) crosscutting scientific and technical issues and research questions that span more than one program or major office of the Department;

(B) ways in which the applied technology programs of the Department are coordinating activities and addressing the questions referred to in subparagraph (A);

(C) ways in which the technical interchange within the Department, particularly between the Office of Science and the applied technology programs, could be enhanced, including ways in which the research agendas of the Office of Science and the applied programs could better interact and assist each other;

(D) ways in which the Secretary would ensure that the overall research agenda of the Department includes, in addition to fundamental, curiosity-driven research, fundamental research related to topics of concern to the applied programs, and applications in Departmental technology programs of research results generated by fundamental, curiosity-driven research;

(E) critical assessments of any ongoing programs that have experienced subpar performance or cost overruns of 10 percent or more over 1 or more years;

(F) any activities that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders; and

(G) detailed evaluations and proposals for innovation hubs, institutes, and research centers of the Department, including—

(i) an affirmation that the hubs, institutes, and research centers will—

(I) advance the mission of the Department; and

(II) prioritize research, development, and demonstration; and

(ii) an affirmation that any hubs, institutes, or research centers that are established or renewed within the Office of Science are consistent with the mission of the Office of Science described in subsection (c) of section 7139 of this title.

(c) Submission to Congress

Every 4 years, the Secretary shall submit to Congress—

(1) the results of the review under subsection (a); and

(2) the coordination plan under subsection (b).

(Pub. L. 109–58, title IX, §994, as added Pub. L. 115–246, title II, §204, Sept. 28, 2018, 132 Stat. 3136.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16358, Pub. L. 109–58, title IX, §994, Aug. 8, 2005, 119 Stat. 914, which required the Secretary to periodically review Department of Energy science and technology activities taking into account the frontiers of science to which the Department can contribute and the national needs relevant to the

Department's statutory missions, was repealed by Pub. L. 115–246, title II, §204, Sept. 28, 2018, 132 Stat. 3135.

§16359. Competitive award of management contracts

None of the funds authorized to be appropriated to the Secretary by this subchapter may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), (N), and (O) of section 15801(3) of this title), unless such contract is competitively awarded, or the Secretary grants, on a case-by-case basis, a waiver. The Secretary may not delegate the authority to grant such a waiver and shall submit to Congress a report notifying it of the waiver, and setting forth the reasons for the waiver, at least 60 days prior to the date of the award of such contract.

(Pub. L. 109–58, title IX, §995, Aug. 8, 2005, 119 Stat. 914.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 856, which enacted this subchapter, amended sections 8101 and 8102 of Title 7, Agriculture, and section 5523 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 15801 of this title, section 8102 of Title 7, and section 2001 of Title 30, Mineral Lands and Mining, and amended provisions set out as notes under section 8101 of Title 7 and section 1902 of Title 30. For complete classification of title IX to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16360. Western Michigan demonstration project

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8-hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8-hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after August 8, 2005, and shall not impose any requirement or sanction under the Clean Air Act (42 U.S.C. 7401 et seq.) that might otherwise apply during the pendency of the demonstration project.

(Pub. L. 109–58, title IX, §996, Aug. 8, 2005, 119 Stat. 915.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in text, 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.

§16361. Arctic Engineering Research Center

(a) In general

The Secretary of Transportation, in consultation with the Secretary and the United States Arctic Research Commission, shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the "Arctic Engineering Research Center" (referred to in this section as the "Center").

(b) Purpose

The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as practicable;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) Objectives

The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) Amount of grant

For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2011.

(Pub. L. 109–58, title IX, §997, Aug. 8, 2005, 119 Stat. 915.)

§16362. Barrow Geophysical Research Facility

(a) Establishment

The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the "Barrow Geophysical Research Facility", to support scientific research activities in the Arctic.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical

Research Facility, $61,000,000.

(Pub. L. 109–58, title IX, §998, Aug. 8, 2005, 119 Stat. 916.)

PART J—CARBON DIOXIDE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

EDITORIAL NOTES

PRIOR PROVISIONS

A prior part J related to ultra-deepwater and unconventional natural gas and other petroleum resources, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16371. Definitions

In this part:

(1) CIFIA program

The term "CIFIA program" means the carbon dioxide transportation infrastructure finance and innovation program established under section 16372(a) of this title.

(2) Common carrier

The term "common carrier" means a transportation infrastructure operator or owner that—

(A) publishes a publicly available tariff containing the just and reasonable rates, terms, and conditions of nondiscriminatory service; and

(B) holds itself out to provide transportation services to the public for a fee.

(3) Contingent commitment

The term "contingent commitment" means a commitment to obligate funds from future available budget authority that is—

(A) contingent on those funds being made available in law at a future date; and

(B) not an obligation of the Federal Government.

(4) Eligible project costs

The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including—

(A) the cost of—

(i) development-phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition and installation of equipment (including labor); and

(iii) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction; and

(B) transaction costs associated with financing the project, including—

(i) the cost of legal counsel and technical consultants; and

(ii) any subsidy amount paid in accordance with section 16372(c)(3)(B)(ii) of this title or section 16373(b)(6)(B)(ii) of this title.

(5) Federal credit instrument

The term "Federal credit instrument" means a secured loan or loan guarantee authorized to be provided under the CIFIA program with respect to a project.

(6) Lender

The term "lender" means a qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or a successor regulation), commonly known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), that is not a Federal qualified institutional buyer.

(7) Letter of interest

The term "letter of interest" means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the CIFIA program that—

(A) describes the project and the location, purpose, and cost of the project;

(B) outlines the proposed financial plan, including the requested credit and grant assistance and the proposed obligor;

(C) provides a status of environmental review; and

(D) provides information regarding satisfaction of other eligibility requirements of the CIFIA program.

(8) Loan guarantee

The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of, and interest on, a loan made to an obligor, or debt obligation issued by an obligor, in each case funded by a lender.

(9) Master credit agreement

The term "master credit agreement" means a conditional agreement that—

(A) is for the purpose of extending credit assistance for—

(i) a project of high priority under section 16372(c)(3)(A) of this title; or

(ii) a project covered under section 16372(c)(3)(B) of this title;

(B) does not provide for a current obligation of Federal funds; and

(C) would—

(i) make a contingent commitment of a Federal credit instrument or grant at a future date, subject to—

(I) the availability of future funds being made available to carry out the CIFIA program; and

(II) the satisfaction of all conditions for the provision of credit assistance under the CIFIA program, including section 16373(b) of this title;

(ii) establish the maximum amounts and general terms and conditions of the Federal credit instruments or grants;

(iii) identify the 1 or more revenue sources that will secure the repayment of the Federal credit instruments;

(iv) provide for the obligation of funds for the Federal credit instruments or grants after all requirements have been met for the projects subject to the agreement, including—

(I) compliance with all applicable requirements specified under the CIFIA program, including sections 16372(d) and 16373(b)(1) of this title; and

(II) the availability of funds to carry out the CIFIA program; and

(v) require that contingent commitments shall result in a financial close and obligation of credit or grant assistance by not later than 4 years after the date of entry into the agreement or release of the commitment, as applicable, unless otherwise extended by the Secretary.

(10) Obligor

The term "obligor" means a corporation, partnership, joint venture, trust, non-Federal governmental entity, agency, or instrumentality, or other entity that is liable for payment of the principal of, or interest on, a Federal credit instrument.

(11) Produced in the United States

The term "produced in the United States", with respect to iron and steel, means that all manufacturing processes for the iron and steel, including the application of any coating, occurs within the United States.

(12) Project

The term "project" means a project for common carrier carbon dioxide transportation infrastructure or associated equipment, including pipeline, shipping, rail, or other transportation infrastructure and associated equipment, that will transport or handle carbon dioxide captured from anthropogenic sources or ambient air, as the Secretary determines to be appropriate.

(13) Project obligation

The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(14) Secured loan

The term "secured loan" means a direct loan to an obligor or a debt obligation issued by an obligor and purchased by the Secretary, in each case funded by the Secretary in connection with the financing of a project under section 16373 of this title.

(15) Subsidy amount

The term "subsidy amount" means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

(A) calculated on a net present value basis; and

(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(16) Substantial completion

The term "substantial completion", with respect to a project, means the date—

(A) on which the project commences transportation of carbon dioxide; or

(B) of a comparable event to the event described in subparagraph (A), as determined by the Secretary and specified in the project credit agreement.

(Pub. L. 109–58, title IX, §999A, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 988.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Securities Act of 1933, referred to in par. (6), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Federal Credit Reform Act of 1990, referred to in par. (15)(B), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 16371, Pub. L. 109–58, title IX, §999A, Aug. 8, 2005, 119 Stat. 916, authorized the Secretary of Energy to carry out a program of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resources, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16372. Determination of eligibility and project selection

(a) Establishment of program

The Secretary shall establish and carry out a carbon dioxide transportation infrastructure finance and innovation program, under which the Secretary shall provide for eligible projects in accordance with this part—

(1) a Federal credit instrument under section 16373 of this title;

(2) a grant under section 16374 of this title; or

(3) both a Federal credit instrument and a grant.

(b) Eligibility

(1) In general

A project shall be eligible to receive a Federal credit instrument or a grant under the CIFIA program if—

(A) the entity proposing to carry out the project submits a letter of interest prior to submission of an application under paragraph (3) for the project; and

(B) the project meets the criteria described in this subsection.

(2) Creditworthiness

(A) In general

Each project and obligor that receives a Federal credit instrument or a grant under the CIFIA program shall be creditworthy, such that there exists a reasonable prospect of repayment of the principal and interest on the Federal credit instrument, as determined by the Secretary under subparagraph (B).

(B) Reasonable prospect of repayment

The Secretary shall base a determination of whether there is a reasonable prospect of repayment under subparagraph (A) on a comprehensive evaluation of whether the obligor has a reasonable prospect of repaying the Federal credit instrument for the eligible project, including evaluation of—

(i) the strength of the contractual terms of an eligible project (if available for the applicable market segment);

(ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary, and cash sweeps or other structural enhancements;

(iii) the projected financial strength of the obligor—

(I) at the time of loan close; and

(II) throughout the loan term, including after the project is completed;

(iv) the financial strength of the investors and strategic partners of the obligor, if applicable; and

(v) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary.

(3) Applications

To be eligible for assistance under the CIFIA program, an obligor shall submit to the Secretary a project application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

(4) Eligible project costs

A project under the CIFIA program shall have eligible project costs that are reasonably anticipated to equal or exceed $100,000,000.

(5) Revenue sources

The applicable Federal credit instrument shall be repayable, in whole or in part, from—

(A) user fees;
(B) payments owing to the obligor under a public-private partnership; or
(C) other revenue sources that also secure or fund the project obligations.

(6) Obligor will be identified later

A State, local government, agency, or instrumentality of a State or local government, or a public authority, may submit to the Secretary an application under paragraph (3), under which a private party to a public-private partnership will be—
(A) the obligor; and
(B) identified at a later date through completion of a procurement and selection of the private party.

(7) Beneficial effects

The Secretary shall determine that financial assistance for each project under the CIFIA program will—
(A) attract public or private investment for the project; or
(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project.

(8) Project readiness

To be eligible for assistance under the CIFIA program, the applicant shall demonstrate a reasonable expectation that the contracting process for construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument or grant is obligated for the project under the CIFIA program.

(c) Selection among eligible projects

(1) Establishment of application process

The Secretary shall establish an application process under which projects that are eligible to receive assistance under subsection (b) may—
(A) receive credit assistance on terms acceptable to the Secretary, if adequate funds are available (including any funds provided on behalf of an eligible project under paragraph (3)(B)(ii)) to cover the subsidy amount associated with the Federal credit instrument; and
(B) receive grants under section 16374 of this title if—
(i) adequate funds are available to cover the amount of the grant; and
(ii) the Secretary determines that the project is eligible under subsection (b).

(2) Priority

In selecting projects to receive credit assistance under subsection (b), the Secretary shall give priority to projects that—
(A) are large-capacity, common carrier infrastructure;
(B) have demonstrated demand for use of the infrastructure by associated projects that capture carbon dioxide from anthropogenic sources or ambient air;
(C) enable geographical diversity in associated projects that capture carbon dioxide from anthropogenic sources or ambient air, with the goal of enabling projects in all major carbon dioxide-emitting regions of the United States; and
(D) are sited within, or adjacent to, existing pipeline or other linear infrastructure corridors, in a manner that minimizes environmental disturbance and other siting concerns.

(3) Master credit agreements

(A) Priority projects

The Secretary may enter into a master credit agreement for a project that the Secretary determines—
(i) will likely be eligible for credit assistance under subsection (b), on obtaining—
(I) additional commitments from associated carbon capture projects to use the project; or
(II) all necessary permits and approvals; and

(ii) is a project of high priority, as determined in accordance with the criteria described in paragraph (2).

(B) Adequate funding not available

If the Secretary fully obligates funding to eligible projects for a fiscal year and adequate funding is not available to fund a Federal credit instrument, a project sponsor (including a unit of State or local government) of an eligible project may elect—

(i)(I) to enter into a master credit agreement in lieu of the Federal credit instrument; and

(II) to wait to execute a Federal credit instrument until the fiscal year for which additional funds are available to receive credit assistance; or

(ii) if the lack of adequate funding is solely with respect to amounts available for the subsidy amount, to pay the subsidy amount to fund the Federal credit instrument.

(d) Federal requirements

(1) In general

Nothing in this part supersedes the applicability of any other requirement under Federal law (including regulations).

(2) NEPA

Federal credit assistance may only be provided under this part for a project that has received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Use of American iron, steel, and manufactured goods

(1) In general

Except as provided in paragraph (2), no Federal credit instrument or grant provided under the CIFIA program shall be made available for a project unless all iron, steel, and manufactured goods used in the project are produced in the United States.

(2) Exceptions

Paragraph (1) shall not apply in any case or category of cases with respect to which the Secretary determines that—

(A) the application would be inconsistent with the public interest;

(B) iron, steel, or a relevant manufactured good is not produced in the United States in sufficient and reasonably available quantity, or of a satisfactory quality; or

(C) the inclusion of iron, steel, or a manufactured good produced in the United States will increase the cost of the overall project by more than 25 percent.

(3) Waivers

If the Secretary receives a request for a waiver under this subsection, the Secretary shall—

(A) make available to the public a copy of the request, together with any information available to the Secretary concerning the request—

(i) on an informal basis; and

(ii) by electronic means, including on the official public website of the Department;

(B) allow for informal public comment relating to the request for not fewer than 15 days before making a determination with respect to the request; and

(C) approve or disapprove the request by not later than the date that is 120 days after the date of receipt of the request.

(4) Applicability

This subsection shall be applied in accordance with any applicable obligations of the United States under international agreements.

(f) Application processing procedures

(1) Notice of complete application

Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice describing whether—

(A) the application is complete; or

(B) additional information or materials are needed to complete the application.

(2) Approval or denial of application

Not later than 60 days after the date of issuance of a written notice under paragraph (1), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

(g) Development-phase activities

Any Federal credit instrument provided under the CIFIA program may be used to finance up to 100 percent of the cost of development-phase activities, as described in section 16371(4)(A) of this title.

(Pub. L. 109–58, title IX, §999B, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 991.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

PRIOR PROVISIONS

A prior section 16372, Pub. L. 109–58, title IX, §999B, Aug. 8, 2005, 119 Stat. 917, related to administration of the program under former part J, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16373. Secured loans

(a) Agreements

(1) In general

Subject to paragraph (2), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which—

(A) shall be used—

(i) to finance eligible project costs of any project selected under section 16372 of this title;

(ii) to refinance interim construction financing of eligible project costs of any project selected under section 16372 of this title; or

(iii) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(I) is selected under section 16372 of this title; or

(II) otherwise meets the requirements of that section; and

(B) may be used in accordance with subsection (b)(7) to pay any fees collected by the Secretary under subparagraph (B) of that subsection.

(2) Risk assessment

Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate credit subsidy amount for each secured loan, taking into account all relevant factors, including the

creditworthiness factors under section 16372(b)(2) of this title.

(b) Terms and limitations

(1) In general

A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

(2) Maximum amount

The amount of a secured loan under this section shall not exceed an amount equal to 80 percent of the reasonably anticipated eligible project costs.

(3) Payment

A secured loan under this section shall be payable, in whole or in part, from—

(A) user fees;

(B) payments owing to the obligor under a public-private partnership; or

(C) other revenue sources that also secure or fund the project obligations.

(4) Interest rate

(A) In general

Except as provided in subparagraph (B), the interest rate on a secured loan under this section shall be not less than the interest rate reflected in the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(B) Limited buydowns

(i) In general

Subject to clause (iii), the Secretary may lower the interest rate of a secured loan under this section to not lower than the interest rate described in clause (ii), if the interest rate has increased during the period—

(I) beginning on, as applicable—

(aa) the date on which an application acceptable to the Secretary is submitted for the applicable project; or

(bb) the date on which the Secretary entered into a master credit agreement for the applicable project; and

(II) ending on the date on which the Secretary executes the Federal credit instrument for the applicable project that is the subject of the secured loan.

(ii) Description of interest rate

The interest rate referred to in clause (i) is the interest rate reflected in the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan in effect, as applicable to the project that is the subject of the secured loan, on—

(I) the date described in clause (i)(I)(aa); or

(II) the date described in clause (i)(I)(bb).

(iii) Limitation

The interest rate of a secured loan may not be lowered pursuant to clause (i) by more than 1½ percentage points (150 basis points).

(5) Maturity date

The final maturity date of the secured loan shall be the earlier of—

(A) the date that is 35 years after the date of substantial completion of the project; and

(B) if the useful life of the capital asset being financed is of a lesser period, the date that is the end of the useful life of the asset.

(6) Nonsubordination

(A) In general

Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(B) Preexisting indenture

(i) In general

The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

(I) the secured loan is rated in the A category or higher; and

(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues.

(ii) Limitation

If the Secretary waives the nonsubordination requirement under this subparagraph—

(I) the maximum credit subsidy amount to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

(II) the obligor shall be responsible for paying the remainder of the subsidy amount, if any.

(7) Fees

(A) In general

The Secretary may collect a fee on or after the date of the financial close of a Federal credit instrument under this section in an amount equal to not more than $3,000,000 to cover all or a portion of the costs to the Federal Government of providing the Federal credit instrument.

(B) Amendment to add cost of fees to secured loan

If the Secretary collects a fee from an obligor under subparagraph (A) to cover all or a portion of the costs to the Federal Government of providing a secured loan, the obligor and the Secretary may amend the terms of the secured loan to add to the principal of the secured loan an amount equal to the amount of the fee collected by the Secretary.

(8) Maximum Federal involvement

The total Federal assistance provided for a project under the CIFIA program, including any grant provided under section 16374 of this title, shall not exceed an amount equal to 80 percent of the eligible project costs.

(c) Repayment

(1) Schedule

The Secretary shall establish a repayment schedule for each secured loan under this section based on—

(A) the projected cash flow from project revenues and other repayment sources; and

(B) the useful life of the project.

(2) Commencement

Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) Deferred payments

(A) In general

If, at any time after the date of substantial completion of a project, the project is unable to

generate sufficient revenues in excess of reasonable and necessary operating expenses to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) Interest

Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan.

(C) Criteria

(i) In general

Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

(ii) Repayment standards

The criteria established pursuant to clause (i) shall include standards for the reasonable prospect of repayment.

(4) Prepayment

(A) Use of excess revenues

Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan, without penalty.

(B) Use of proceeds of refinancing

A secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) Sale of secured loans

(1) In general

Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(2) Consent of obligor

In making a sale or reoffering under paragraph (1), the Secretary may not change any original term or condition of the secured loan without the written consent of the obligor.

(e) Loan guarantees

(1) In general

The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as, or less than, that of a secured loan.

(2) Terms

The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

(Pub. L. 109–58, title IX, §999C, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 995.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16373, Pub. L. 109–58, title IX, §999C, Aug. 8, 2005, 119 Stat. 921, related to additional requirements for awards, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16374. Future growth grants

(a) Establishment

The Secretary may provide grants to pay a portion of the cost differential, with respect to any projected future increase in demand for carbon dioxide transportation by an infrastructure project described in subsection (b), between—

(1) the cost of constructing the infrastructure asset with the capacity to transport an increased flow rate of carbon dioxide, as made practicable under the project; and

(2) the cost of constructing the infrastructure asset with the capacity to transport carbon dioxide at the flow rate initially required, based on commitments for the use of the asset.

(b) Eligibility

To be eligible to receive a grant under this section, an entity shall—

(1) be eligible to receive credit assistance under the CIFIA program;

(2) carry out, or propose to carry out, a project for large-capacity, common carrier infrastructure with a probable future increase in demand for carbon dioxide transportation; and

(3) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

(c) Use of funds

A grant provided under this section may be used only to pay the costs of any additional flow rate capacity of a carbon dioxide transportation infrastructure asset that the project sponsor demonstrates to the satisfaction of the Secretary can reasonably be expected to be used during the 20-year period beginning on the date of substantial completion of the project described in subsection (b)(2).

(d) Maximum amount

The amount of a grant provided under this section may not exceed an amount equal to 80 percent of the cost of the additional capacity described in subsection (a).

(Pub. L. 109–58, title IX, §999D, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 998.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16374, Pub. L. 109–58, title IX, §999D, Aug. 8, 2005, 119 Stat. 922, related to the Ultra-Deepwater Advisory Committee and Unconventional Resources Technology Advisory Committee, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16375. Program administration

(a) Requirement

The Secretary shall establish a uniform system to service the Federal credit instruments provided under the CIFIA program.

(b) Fees

If funding sufficient to cover the costs of services of expert firms retained pursuant to subsection

(d) and all or a portion of the costs to the Federal Government of servicing the Federal credit instruments is not provided in an appropriations Act for a fiscal year, the Secretary, during that fiscal year, may collect fees on or after the date of the financial close of a Federal credit instrument provided under the CIFIA program at a level that is sufficient to cover those costs.

(c) Servicer

(1) In general

The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

(2) Duties

A servicer appointed under paragraph (1) shall act as the agent for the Secretary.

(3) Fee

A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary.

(d) Assistance from expert firms

The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

(e) Expedited processing

The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under the CIFIA program.

(Pub. L. 109–58, title IX, §999E, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 999.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16375, Pub. L. 109–58, title IX, §999E, Aug. 8, 2005, 119 Stat. 923, related to limitations on eligibility for awards, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16376. State and local permits

The provision of credit assistance under the CIFIA program with respect to a project shall not—

(1) relieve any recipient of the assistance of any project obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

(Pub. L. 109–58, title IX, §999F, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 999.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16376, Pub. L. 109–58, title IX, §999F, Aug. 8, 2005, 119 Stat. 923, terminated the authority provided by former part J on Sept. 30, 2014, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16377. Regulations

The Secretary may promulgate such regulations as the Secretary determines to be appropriate to carry out the CIFIA program.

(Pub. L. 109–58, title IX, §999G, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 1000.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16377, Pub. L. 109–58, title IX, §999G, Aug. 8, 2005, 119 Stat. 923, defined terms for former part J, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§16378. Authorization of appropriations; contract authority

(a) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the Secretary to carry out this part—

(A) $600,000,000 for each of fiscal years 2022 and 2023; and

(B) $300,000,000 for each of fiscal years 2024 through 2026.

(2) Spending and borrowing authority

Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal-year basis.

(3) Reestimates

If the subsidy amount of a Federal credit instrument is reestimated, the cost increase or decrease of the reestimate shall be borne by, or benefit, the general fund of the Treasury, consistent with section 661c(f) of title 2.

(4) Administrative costs

Of the amounts made available to carry out the CIFIA program, the Secretary may use not more than $9,000,000 (as indexed for United States dollar inflation from November 15, 2021 (as measured by the Consumer Price Index)) each fiscal year for the administration of the CIFIA program.

(b) Contract authority

(1) In general

Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under the CIFIA program shall impose on the United States a contractual obligation to fund the Federal credit investment.

(2) Availability

Amounts made available to carry out the CIFIA program for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(Pub. L. 109–58, title IX, §999H, as added Pub. L. 117–58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 1000.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 16378, Pub. L. 109–58, title IX, §999H, Aug. 8, 2005, 119 Stat. 924; Pub. L. 113–287, §5(k)(6), Dec. 19, 2014, 128 Stat. 3270, related to the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund, prior to repeal by Pub. L. 113–67, div. A, title III, §301(a), Dec. 26, 2013,

SUBCHAPTER X—DEPARTMENT OF ENERGY MANAGEMENT

§16391. Improved technology transfer of energy technologies

(a) Office of Technology Transitions

(1) Establishment

There is established within the Department an Office of Technology Transitions (referred to in this section as the "Office").

(2) Mission

The mission of the Office shall be—

(A) to expand the commercial impact of the research investments of the Department; and

(B) to focus on commercializing technologies that support the missions of the Department, including reducing greenhouse gas emissions and other pollutants.

(3) Goals

(A) In general

In carrying out the mission and activities of the Office, the Chief Commercialization Officer appointed under paragraph (4) shall, with respect to commercialization activities, meet all of the goals described in subparagraph (B).

(B) Goals described

The goals referred to in subparagraph (A) are the following:

(i) Reduction of greenhouse gas emissions and other pollutants.

(ii) Ensuring economic competitiveness.

(iii) Enhancement of domestic energy security and national security.

(iv) Enhancement of domestic jobs.

(v) Improvement of energy efficiency.

(vi) Any other goals to support the transfer of technology developed by Department-funded programs to the private sector, as consistent with missions of the Department.

(4) Chief Commercialization Officer

(A) In general

The Office shall be headed by an officer, who shall be known as the "Chief Commercialization Officer", and who shall report directly to, and be appointed by, the Secretary.

(B) Principal advisor

The Chief Commercialization Officer shall be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization.

(C) Qualifications

The Chief Commercialization Officer shall be an individual who, by reason of professional background and experience, is specially qualified to advise the Secretary on matters pertaining to technology transfer at the Department.

(D) Duties

The Chief Commercialization Officer shall oversee—

(i) the activities of the Technology Transfer Working Group established under subsection (b);

(ii) the expenditure of funds allocated for technology transfer within the Department;

(iii) the activities of each technology partnership ombudsman appointed under section 7261c of this title; and

(iv) efforts to engage private sector entities, including venture capital companies.

(5) Coordination

In carrying out the mission and activities of the Office, the Chief Commercialization Officer shall coordinate with the senior leadership of the Department, other relevant program offices of the Department, National Laboratories, the Technology Transfer Working Group established under subsection (b), the Technology Transfer Policy Board, and other stakeholders (including private industry).

(b) Technology Transfer Working Group

The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including opportunities and procedures related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(c) Technology Commercialization Fund

The Secretary shall establish an Energy Technology Commercialization Fund, using 0.9 percent of the amount made available to the Department for applied energy research, development, demonstration, and commercial application for each fiscal year based on future planned activities and the amount of the appropriations for the fiscal year, to be used to provide matching funds with private partners to promote promising energy technologies for commercial purposes.

(d) Technology transfer responsibility

Nothing in this section affects the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(e) Technology Commercialization Fund

(1) Establishment

The Secretary, acting through the Chief Commercialization Officer established in subsection (a), shall establish a Technology Commercialization Fund (hereafter referred to as the "Fund"), using nine-tenths of one percent of the amount of appropriations made available to the Department for applied energy research, development, demonstration, and commercial application for each fiscal year, to be used to provide, in accordance with the cost-sharing requirements under section 16352 of this title, funds to private partners, including national laboratories, to promote promising energy technologies for commercial purposes.

(2) Applications

(A) Considerations

The Secretary shall develop criteria for evaluating applications for funding under this section, which may include—

(i) the potential that a proposed technology will result in a commercially successful product within a reasonable timeframe; and

(ii) the relative maturity of a proposed technology for commercial application.

(B) Selections

In awarding funds under this section, the Secretary may give special consideration to applications that involve at least one applicant that has participated in an entrepreneurial or commercialization training program, such as Energy Innovation Corps.

(f) Annual report

The Secretary shall include in the annual report required under section 16391a(a) of this title—

(1) description of the projects carried out with awards from the Fund for that fiscal year;

(2) each project's cost-share for that fiscal year; and

(3) each project's partners for that fiscal year.

(g) Technology commercialization fund report

(1) In general

Not later than 1 year after December 27, 2020, the Secretary shall submit to the Committee on Science, Space, and Technology and Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate a report on the current and recommended implementation of the Fund.

(2) Contents

The report under subparagraph (A) shall include—

(A) a summary, with supporting data, of how much Department program offices contribute to and use the Fund each year, including a list of current funding restrictions;

(B) recommendations on how to improve implementation and administration of the Fund; and

(C) an analysis on how to spend funds optimally on technology areas that have the greatest need and opportunity for commercial application, rather than spending funds at the programmatic level or under current funding restrictions.

(h) Planning and reporting

(1) In general

Not later than 180 days after August 8, 2005, the Secretary shall submit to Congress a technology transfer execution plan.

(2) Updates

Each year after the submission of the plan under paragraph (1), the Secretary shall submit to Congress an updated execution plan and reports that describe progress toward meeting goals set forth in the execution plan and the funds expended under subsection (c).

(i) Additional technology transfer programs

The Secretary may develop additional programs to—

(1) support regional energy innovation systems;

(2) support clean energy incubators;

(3) provide small business vouchers;

(4) provide financial and technical assistance for entrepreneurial fellowships at national laboratories;

(5) encourage students, energy researchers, and national laboratory employees to develop entrepreneurial skillsets and engage in entrepreneurial opportunities;

(6) support private companies and individuals in partnering with National Laboratories; and

(7) further support the mission and goals of the Office.

(Pub. L. 109–58, title X, §1001, Aug. 8, 2005, 119 Stat. 926; Pub. L. 113–291, div. C, title XXXI, §3144, Dec. 19, 2014, 128 Stat. 3902; Pub. L. 115–246, title I, §102, Sept. 28, 2018, 132 Stat. 3131; Pub. L. 116–260, div. Z, title IX, §§9001, 9003, Dec. 27, 2020, 134 Stat. 2595, 2597; Pub. L. 117–58, div. D, title XII, §41201(g), Nov. 15, 2021, 135 Stat. 1131.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (d), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

2021—Subsecs. (f) to (i). Pub. L. 117–58 redesignated subsecs. (f) relating to planning and reporting and (g) relating to additional technology transfer programs as (h) and (i), respectively.

2020—Subsec. (a). Pub. L. 116–260, §9001(1), added subsec. (a) through par. (4)(B) and struck out former subsec. (a). Prior to amendment, text read as follows: "The Secretary shall appoint a Technology Transfer Coordinator to be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization."

Subsec. (a)(4)(C). Pub. L. 116–260, §9001(1), redesignated subsec. (b) as subpar. (C) of subsec. (a)(4) and substituted "The Chief Commercialization Officer" for "The Coordinator".

Subsec. (a)(4)(D). Pub. L. 116–260, §9001(2)(B), (C), redesignated subsec. (c) as subpar. (D) of subsec. (a)(4), substituted "Duties" for "Duties of the Coordinator" in heading and "The Chief Commercialization Officer" for "The Coordinator" in introductory provisions, and redesignated pars. (1) to (4) of former subsec. (c) as cls. (i) to (iv), respectively, of subpar. (D).

Subsec. (a)(5). Pub. L. 116–260, §9001(3), added par. (5).

Subsec. (b). Pub. L. 116–260, §9001(4), redesignated subsec. (d) as (b). Former subsec. (b) effectively redesignated subpar. (C) of subsec. (a)(4).

Subsec. (c). Pub. L. 116–260, §9001(4), redesignated subsec. (e) as (c). Former subsec. (c) effectively redesignated subpar. (D) of subsec. (a)(4).

Subsec. (c)(1). Pub. L. 116–260, §9001(2)(A), substituted "subsection (b)" for "subsection (d)" in par. (1) prior to its redesignation as cl. (i) of subsec. (a)(4)(D).

Subsec. (d). Pub. L. 116–260, §9001(4), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 116–260, §9003, amended subsec. (e) generally. Prior to amendment, text read as follows: "The Secretary shall permit the directors of the National Laboratories to use funds authorized to support technology transfer within the Department to carry out early stage and precommercial technology demonstration activities to remove technology barriers that limit private sector interest and demonstrate potential commercial applications of any research and technologies arising from National Laboratory activities."

Pub. L. 116–260, §9001(4), redesignated subsec. (g) as (e). Former subsec. (e) redesignated (c).

Subsec. (f). Pub. L. 116–260, §9003, which directed the general amendment of subsec. (e) and included in the new text a subsec. (f) relating to annual report, was executed by adding such subsec. (f).

Pub. L. 116–260, §9001(4), redesignated subsec. (h) as (f) relating to planning and reporting. Former subsec. (f) redesignated (d).

Subsec. (f)(2). Pub. L. 116–260, §9001(5), substituted "subsection (c)" for "subsection (e)" in par. (2) of subsec. (f) relating to planning and reporting.

Subsec. (g). Pub. L. 116–260, §9003, which directed the general amendment of subsec. (e) and included in the new text a subsec. (g) relating to Technology Commercialization Fund report, was executed by adding such subsec. (g).

Pub. L. 116–260, §9001(6), added subsec. (g) relating to additional technology transfer programs. Former subsec. (g) redesignated (e).

Pub. L. 116–260, §9001(4), redesignated subsec. (g) as (e).

Subsec. (h). Pub. L. 116–260, §9001(4), redesignated subsec. (h) as (f) relating to planning and reporting.

2018—Subsecs. (g), (h). Pub. L. 115–246 added subsec. (g) and redesignated former subsec. (g) as (h).

2014—Subsec. (e). Pub. L. 113–291 inserted "based on future planned activities and the amount of the appropriations for the fiscal year" after "each fiscal year".

STATUTORY NOTES AND RELATED SUBSIDIARIES

LAB PARTNERING SERVICE PILOT PROGRAM

Pub. L. 116–260, div. Z, title IX, §9002, Dec. 27, 2020, 134 Stat. 2596, provided that:

"(a) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Energy (in this section referred to as the 'Secretary'), acting through the Chief Commercialization Officer established in section 1001(a) of the Energy Policy Act of 2005 (42 U.S.C. 16391(a)), shall establish a Lab Partnering Service Pilot Program (hereinafter in this section referred to as the 'pilot program').

"(2) PURPOSES.—The purposes of the pilot program are to provide services that encourage and support partnerships between the National Laboratories and public and private sector entities, and to improve communication of research, development, demonstration, and commercial application projects and opportunities at the National Laboratories to potential partners through the development of a website and the provision of services, in collaboration with relevant external entities, and to identify and develop metrics regarding the effectiveness of such partnerships.

"(3) ACTIVITIES.—In carrying out this pilot program, the Secretary shall—

"(A) conduct outreach to and engage with relevant public and private entities;

"(B) identify and disseminate best practices for strengthening connections between the National Laboratories and public and private sector entities; and

"(C) develop a website to disseminate information on—

"(i) different partnering mechanisms for working with the National Laboratories;

"(ii) National Laboratory experts and research areas; and

"(iii) National Laboratory facilities and user facilities.

"(b) METRICS.—The Secretary shall support the development of metrics, including conversion metrics, to determine the effectiveness of the pilot program in achieving the purposes in subsection (a) and the number and types of partnerships established between public and private sector entities and the National Laboratories compared to baseline data.

"(c) COORDINATION.—In carrying out the activities authorized in this section, the Secretary shall coordinate with the Directors of (and dedicated technology transfer staff at) the National Laboratories, in particular for matchmaking services for individual projects, which should be led by the National Laboratories.

"(d) FUNDING EMPLOYEE PARTNERING ACTIVITIES.—The Secretary shall delegate to the Directors of each National Laboratory and single-purpose research facility of the Department the authority to compensate National Laboratory employees providing services under this section.

"(e) DURATION.—Subject to the availability of appropriations, the pilot program established in this section shall operate for not less than 3 years and may be built off an existing program.

"(f) EVALUATION.—Not later than 6 months after the completion of this pilot program, the Secretary shall support the evaluation of the success of the pilot program in achieving the purposes in subsection (a) and shall submit the evaluation to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The assessment shall include analyses of the performance of the pilot program based on the metrics developed under subsection (b).

"(g) DEFINITION.—In this section, the term 'National Laboratory' has the meaning given such term in section 2(3) of the Energy Policy Act of 2005 (42 U.S.C. 15801(3))."

§16391a. Technology transfer reports and evaluation

(a) Annual report

As part of the updated technology transfer execution plan required each year under section 16391(h)(2) of this title, the Secretary of Energy (in this section referred to as the "Secretary") shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the progress and implementation of programs established under sections 9001, 9002, 9003, 9004, and 9005 of this Act.

(b) Evaluation

Not later than 3 years after December 27, 2020, and every 3 years thereafter the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an evaluation on the extent to which programs established under sections 9001, 9002, 9003, 9004, and 9005 of this Act are achieving success based on relevant short-term and long-term metrics.

(c) Report on technology transfer gaps

Not later than 3 years after December 27, 2020, the Secretary shall enter into an agreement with the National Academies of Science, Engineering, and Medicine to submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on programmatic gaps that exist to advance the commercial application of technologies developed at the National Laboratories (as defined in section 15801(3) of this title).

(Pub. L. 116–260, div. Z, title IX, §9007, Dec. 27, 2020, 134 Stat. 2600.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 9001, 9002, 9003, 9004, and 9005 of this Act, referred to in subsecs. (a) and (b), are sections 9001, 9002, 9003, 9004, and 9005 of div. Z of Pub. L. 116–260, known as the Energy Act of 2020. Sections 9001 and 9003 of the Act amended section 16391 of this title. Section 9002 of the Act enacted provisions set out as a note under section 16391 of this title. Section 9004 of the Act amended section 16396 of this title. Section 9005 of the Act enacted section 7256c of this title.

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

§16392. Technology Infrastructure Program

(a) Definitions

In this section:

(1) Program

The term "Program" means the Technology Infrastructure Program established under subsection (b).

(2) Technology cluster

The term "technology cluster" means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(3) Technology-related business concern

The term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research;

(B) develops new technologies;

(C) manufactures products based on new technologies; or

(D) performs technological services.

(b) Establishment

The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(c) Purpose

The purpose of the Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between—

(A) National Laboratories or single-purpose research facilities; and

(B) entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as—

(i) institutions of higher education;

(ii) technology-related business concerns;

(iii) nonprofit institutions; and

(iv) agencies of State, tribal, or local governments.

(d) Projects

The Secretary shall authorize the director of each National Laboratory or single-purpose research facility to implement the Program at the National Laboratory or facility through one or more projects that meet the requirements of subsections (e) and (f).

(e) Program requirements

(1) In general

Each project funded under this section shall meet the requirements of this subsection.

(2) Entities

Each project shall include at least one of each of the following entities:

(A) A business.

(B) An institution of higher education.

(C) A nonprofit institution.

(D) An agency of a State, local, or tribal government.

(3) Cost-sharing

(A) In general

The costs of carrying out projects under this section shall be shared in accordance with section 16352 of this title.

(B) Sources

The calculation of costs paid by the non-Federal sources for a project shall include cash, personnel, services, equipment, and other resources expended on the project after the commencement of the project.

(C) Research and development expenses

Independent research and development expenses of Government contractors that qualify for reimbursement under section 31.205–18(e) of title 48, Code of Federal Regulations, issued pursuant to section 1303(a)(1) of title 41, may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(4) Competitive selection

A project under this section shall be competitively selected using procedures determined by the Secretary.

(5) Accounting

Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(6) Duration

No Federal funds shall be made available under this section for a construction project or for any project with a duration of more than 5 years.

(f) Selection criteria

(1) Departmental missions

The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to

achieve technical success in meeting departmental missions.

(2) Other criteria

In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(g) Allocation

In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate the activities with the project.

(h) Report to Congress

Not later than July 1, 2008, the Secretary shall submit to Congress a report on whether the Program should be continued and, if so, how the program should be managed.

(i) Authorization of appropriations

There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2006 through 2008.

(Pub. L. 109–58, title X, §1002, Aug. 8, 2005, 119 Stat. 927.)

EDITORIAL NOTES

CODIFICATION

In subsec. (e)(3)(C), "section 1303(a)(1) of title 41" substituted for "section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§16393. Small business advocacy and assistance

(a) Small business advocate

The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns (as defined in section 637(a)(4) of title 15), in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(b) Establishment of small business assistance program

The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns with—

(1) assistance directed at making the small business concerns more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facilities; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the products or services of the small business concern.

(c) Use of funds

None of the funds expended under subsection (b) may be used for direct grants to small business concerns.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2006 through 2008.

(Pub. L. 109–58, title X, §1003, Aug. 8, 2005, 119 Stat. 929.)

§16394. Outreach

The Secretary shall ensure that each program authorized by this Act or an amendment made by this Act includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

(Pub. L. 109–58, title X, §1004, Aug. 8, 2005, 119 Stat. 930.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16395. Relationship to other laws

Except as otherwise provided in this Act or an amendment made by this Act, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this Act or an amendment made by this Act in accordance with the applicable provisions of—

(1) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.);
(4) the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);
(5) chapter 18 of title 35 (commonly known as the "Bayh-Dole Act"); and
(6) any other Act under which the Secretary is authorized to carry out the programs, projects, and activities.

(Pub. L. 109–58, title X, §1005, Aug. 8, 2005, 119 Stat. 930.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, as amended, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

The Atomic Energy Act of 1954, referred to in par. (1), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974, referred to in par. (2), is Pub. L. 93–577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of this title and Tables.

The Energy Policy Act of 1992, referred to in par. (3), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in par. (4), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

§16396. Prizes for achievement in grand challenges of science and technology

(a) Authority

The Secretary may carry out a program to award cash prizes in recognition of breakthrough achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

(b) Competition requirements

The program under subsection (a) may include prizes for the achievement of goals articulated by the Secretary in a specific area through a widely advertised solicitation of submission of results for research, development, demonstration, or commercial application projects.

(c) Prizes for processes and technologies to reduce dependence on imported oil

The Secretary, in cooperation with the Freedom Prize Foundation, shall support a program of awarding prizes, to be known as Freedom Prizes, to encourage and recognize the development and deployment of processes and technologies that serve to reduce the dependence of the United States on imported oil.

(d) Relationship to other authority

The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of the Secretary to acquire, support, or stimulate research, development, demonstration, or commercial application projects.

(e) Coordination

In carrying out subsection (a), and for any prize competitions under section 105 of the America

Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, the Secretary shall—

(1) issue Department-wide guidance on the design, development, and implementation of prize competitions;

(2) collect and disseminate best practices on the design and administration of prize competitions;

(3) streamline contracting mechanisms for the implementation of prize competitions; and

(4) provide training and prize competition design support, as necessary, to Department staff to develop prize competitions and challenges.

(f) Authorization of appropriations

There are authorized to be appropriated—

(1) $10,000,000 to carry out the program under subsection (a); and

(2) $5,000,000 to carry out the program under subsection (c).

(g) H-prize

(1) Prize authority

(A) In general

As part of the program under this section, the Secretary shall carry out a program to competitively award cash prizes in conformity with this subsection to advance the research, development, demonstration, and commercial application of hydrogen energy technologies.

(B) Advertising and solicitation of competitors

(i) Advertising

The Secretary shall widely advertise prize competitions under this subsection to encourage broad participation, including by individuals, universities (including historically Black colleges and universities and other minority serving institutions), and large and small businesses (including businesses owned or controlled by socially and economically disadvantaged persons).

(ii) Announcement through Federal Register notice

The Secretary shall announce each prize competition under this subsection by publishing a notice in the Federal Register. This notice shall include essential elements of the competition such as the subject of the competition, the duration of the competition, the eligibility requirements for participation in the competition, the process for participants to register for the competition, the amount of the prize, and the criteria for awarding the prize.

(C) Administering the competitions

The Secretary shall enter into an agreement with a private, nonprofit entity to administer the prize competitions under this subsection, subject to the provisions of this subsection (in this subsection referred to as the "administering entity"). The duties of the administering entity under the agreement shall include—

(i) advertising prize competitions under this subsection and their results;

(ii) raising funds from private entities and individuals to pay for administrative costs and to contribute to cash prizes, including funds provided in exchange for the right to name a prize awarded under this subsection;

(iii) developing, in consultation with and subject to the final approval of the Secretary, the criteria for selecting winners in prize competitions under this subsection, based on goals provided by the Secretary;

(iv) determining, in consultation with the Secretary, the appropriate amount and funding sources for each prize to be awarded under this subsection, subject to the final approval of the Secretary with respect to Federal funding;

(v) providing advice and consultation to the Secretary on the selection of judges in accordance with paragraph (2)(D), using criteria developed in consultation with and subject

to the final approval of the Secretary; and

(vi) protecting against the administering entity's unauthorized use or disclosure of a registered participant's trade secrets and confidential business information. Any information properly identified as trade secrets or confidential business information that is submitted by a participant as part of a competitive program under this subsection may be withheld from public disclosure.

(D) Funding sources

Prizes under this subsection shall consist of Federal appropriated funds and any funds provided by the administering entity (including funds raised pursuant to subparagraph (C)(ii)) for such cash prize programs. The Secretary may accept funds from other Federal agencies for such cash prizes and, notwithstanding section 3302(b) of title 31, may use such funds for the cash prize program under this subsection. Other than publication of the names of prize sponsors, the Secretary may not give any special consideration to any private sector entity or individual in return for a donation to the Secretary or administering entity.

(E) Announcement of prizes

The Secretary may not issue a notice required by subparagraph (B)(ii) until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by the administering entity. The Secretary may increase the amount of a prize after an initial announcement is made under subparagraph (B)(ii) if—

(i) notice of the increase is provided in the same manner as the initial notice of the prize; and

(ii) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by the administering entity.

(F) Sunset

The authority to announce prize competitions under this subsection shall terminate on September 30, 2018.

(2) Prize categories

(A) Categories

The Secretary shall establish prizes under this subsection for—

(i) advancements in technologies, components, or systems related to—

(I) hydrogen production;

(II) hydrogen storage;

(III) hydrogen distribution; and

(IV) hydrogen utilization;

(ii) prototypes of hydrogen-powered vehicles or other hydrogen-based products that best meet or exceed objective performance criteria, such as completion of a race over a certain distance or terrain or generation of energy at certain levels of efficiency; and

(iii) transformational changes in technologies for the distribution or production of hydrogen that meet or exceed far-reaching objective criteria, which shall include minimal carbon emissions and which may include cost criteria designed to facilitate the eventual market success of a winning technology.

(B) Awards

(i) Advancements

To the extent permitted under paragraph (1)(E), the prizes authorized under subparagraph (A)(i) shall be awarded biennially to the most significant advance made in each of the four subcategories described in subclauses (I) through (IV) of subparagraph (A)(i) since the submission deadline of the previous prize competition in the same category under subparagraph (A)(i) or December 19, 2007, whichever is later, unless no such advance is

significant enough to merit an award. No one such prize may exceed $1,000,000. If less than $4,000,000 is available for a prize competition under subparagraph (A)(i), the Secretary may omit one or more subcategories, reduce the amount of the prizes, or not hold a prize competition.

(ii) Prototypes

To the extent permitted under paragraph (1)(E), prizes authorized under subparagraph (A)(ii) shall be awarded biennially in alternate years from the prizes authorized under subparagraph (A)(i). The Secretary is authorized to award up to one prize in this category in each 2-year period. No such prize may exceed $4,000,000. If no registered participants meet the objective performance criteria established pursuant to subparagraph (C) for a competition under this clause, the Secretary shall not award a prize.

(iii) Transformational technologies

To the extent permitted under paragraph (1)(E), the Secretary shall announce one prize competition authorized under subparagraph (A)(iii) as soon after December 19, 2007, as is practicable. A prize offered under this clause shall be not less than $10,000,000, paid to the winner in a lump sum, and an additional amount paid to the winner as a match for each dollar of private funding raised by the winner for the hydrogen technology beginning on the date the winner was named. The match shall be provided for 3 years after the date the prize winner is named or until the full amount of the prize has been paid out, whichever occurs first. A prize winner may elect to have the match amount paid to another entity that is continuing the development of the winning technology. The Secretary shall announce the rules for receiving the match in the notice required by paragraph (1)(B)(ii). The Secretary shall award a prize under this clause only when a registered participant has met the objective criteria established for the prize pursuant to subparagraph (C) and announced pursuant to paragraph (1)(B)(ii). Not more than $10,000,000 in Federal funds may be used for the prize award under this clause. The administering entity shall seek to raise $40,000,000 toward the matching award under this clause.

(C) Criteria

In establishing the criteria required by this subsection, the Secretary—

(i) shall consult with the Department's Hydrogen Technical and Fuel Cell Advisory Committee;

(ii) shall consult with other Federal agencies, including the National Science Foundation; and

(iii) may consult with other experts such as private organizations, including professional societies, industry associations, and the National Academy of Sciences and the National Academy of Engineering.

(D) Judges

For each prize competition under this subsection, the Secretary in consultation with the administering entity shall assemble a panel of qualified judges to select the winner or winners on the basis of the criteria established under subparagraph (C). Judges for each prize competition shall include individuals from outside the Department, including from the private sector. A judge, spouse, minor children, and members of the judge's household may not—

(i) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in the prize competition for which he or she will serve as a judge; or

(ii) have a familial or financial relationship with an individual who is a registered participant in the prize competition for which he or she will serve as a judge.

(3) Eligibility

To be eligible to win a prize under this subsection, an individual or entity—

(A) shall have complied with all the requirements in accordance with the Federal Register

notice required under paragraph (1)(B)(ii);

(B) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen of, or an alien lawfully admitted for permanent residence in, the United States; and

(C) shall not be a Federal entity, a Federal employee acting within the scope of his employment, or an employee of a national laboratory acting within the scope of his employment.

(4) Intellectual property

The Federal Government shall not, by virtue of offering or awarding a prize under this subsection, be entitled to any intellectual property rights derived as a consequence of, or direct relation to, the participation by a registered participant in a competition authorized by this subsection. This paragraph shall not be construed to prevent the Federal Government from negotiating a license for the use of intellectual property developed for a prize competition under this subsection.

(5) Liability

(A) Waiver of liability

The Secretary may require registered participants to waive claims against the Federal Government and the administering entity (except claims for willful misconduct) for any injury, death, damage, or loss of property, revenue, or profits arising from the registered participants' participation in a competition under this subsection. The Secretary shall give notice of any waiver required under this subparagraph in the notice required by paragraph (1)(B)(ii). The Secretary may not require a registered participant to waive claims against the administering entity arising out of the unauthorized use or disclosure by the administering entity of the registered participant's trade secrets or confidential business information.

(B) Liability insurance

(i) Requirements

Registered participants in a prize competition under this subsection shall be required to obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

(I) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with participation in a competition under this subsection; and

(II) the Federal Government for damage or loss to Government property resulting from such an activity.

(ii) Federal Government insured

The Federal Government shall be named as an additional insured under a registered participant's insurance policy required under clause (i)(I), and registered participants shall be required to agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities under this subsection.

(6) Report to Congress

Not later than 60 days after the awarding of the first prize under this subsection, and annually thereafter, the Secretary shall transmit to the Congress a report that—

(A) identifies each award recipient;

(B) describes the technologies developed by each award recipient; and

(C) specifies actions being taken toward commercial application of all technologies with respect to which a prize has been awarded under this subsection.

(7) Authorization of appropriations

(A) In general

(i) Awards

There are authorized to be appropriated to the Secretary for the period encompassing fiscal years 2008 through 2017 for carrying out this subsection—

(I) $20,000,000 for awards described in paragraph (2)(A)(i);

(II) $20,000,000 for awards described in paragraph (2)(A)(ii); and

(III) $10,000,000 for the award described in paragraph (2)(A)(iii).

(ii) Administration

In addition to the amounts authorized in clause (i), there are authorized to be appropriated to the Secretary for each of fiscal years 2008 and 2009 $2,000,000 for the administrative costs of carrying out this subsection.

(B) Carryover of funds

Funds appropriated for prize awards under this subsection shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this subsection permits obligation or payment of funds in violation of section 1341 of title 31 (commonly referred to as the Anti-Deficiency Act).

(8) Nonsubstitution

The programs created under this subsection shall not be considered a substitute for Federal research and development programs.

(Pub. L. 109–58, title X, §1008, Aug. 8, 2005, 119 Stat. 933; Pub. L. 110–140, title VI, §654, Dec. 19, 2007, 121 Stat. 1695; Pub. L. 116–260, div. Z, title IX, §9004, Dec. 27, 2020, 134 Stat. 2598.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 105 of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Reauthorization Act of 2010, referred to in subsec. (e), is section 105 of Pub. L. 111–358, title I, Jan. 4, 2011, 124 Stat. 3989, which enacted section 3719 of Title 15, Commerce and Trade, and amended section 20144 of Title 51, National and Commercial Space Programs.

AMENDMENTS

2020—Subsec. (e). Pub. L. 116–260 added subsec. (e). Former subsec. (e) redesignated (f) as the probable intent of Congress.

Subsecs. (f) to (h). Pub. L. 116–260, which directed redesignation of subsecs. (f) and (g) as (g) and (h), respectively, was executed by redesignating subsecs. (e) and (f) as (f) and (g), respectively, to reflect the probable intent of Congress.

2007—Subsec. (f). Pub. L. 110–140 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

SUBCHAPTER XI—PERSONNEL AND TRAINING

§16411. Workforce trends and traineeship grants

(a) Definitions

In this section:

(1) Energy technology industry

The term "energy technology industry" includes—

(A) a renewable energy industry;
(B) a company that develops or commercializes a device to increase energy efficiency;
(C) the oil and gas industry;
(D) the nuclear power industry;
(E) the coal industry;
(F) the electric utility industry; and
(G) any other industrial sector, as the Secretary determines to be appropriate.

(2) Skilled technical personnel

The term "skilled technical personnel" means—

(A) journey- and apprentice-level workers who are enrolled in, or have completed, a federally-recognized or State-recognized apprenticeship program; and
(B) other skilled workers in energy technology industries, as determined by the Secretary.

(b) Workforce trends

(1) Monitoring

The Secretary, in consultation with, and using data collected by, the Secretary of Labor, shall monitor trends in the workforce of—

(A) skilled technical personnel that support energy technology industries; and
(B) electric power and transmission engineers.

(2) Report on trends

Not later than 1 year after August 8, 2005, the Secretary shall submit to Congress a report on current trends under paragraph (1), with recommendations (as appropriate) to meet the future labor requirements for the energy technology industries.

(3) Report on shortage

As soon as practicable after the date on which the Secretary identifies or predicts a significant national shortage of skilled technical personnel in one or more energy technology industries, the Secretary shall submit to Congress a report describing the shortage.

(c) Traineeship grants for skilled technical personnel

The Secretary, in consultation with the Secretary of Labor, may establish programs in the appropriate offices of the Department under which the Secretary provides grants to enhance training (including distance learning) for any workforce category for which a shortage is identified or predicted under subsection (b)(2).

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2008.

(Pub. L. 109–58, title XI, §1101, Aug. 8, 2005, 119 Stat. 937.)

§16412. Training guidelines for nonnuclear electric energy industry personnel

(a) In general

The Secretary of Labor, in consultation with the Secretary and in conjunction with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support the reliability and safety of the nonnuclear electric system.

(b) Requirements

The training guidelines under subsection (a) shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, or maintenance of nonnuclear electric generation, transmission, or distribution systems, including requirements relating to—

(A) competency;

(B) certification; and

(C) assessment, including—

(i) initial and continuous evaluation of workers;

(ii) recertification procedures; and

(iii) methods for examining or testing the qualification of an individual who performs a covered task; and

(2) consolidate training guidelines in existence on the date on which the guidelines under subsection (a) are developed relating to the construction, operation, maintenance, and inspection of nonnuclear electric generation, transmission, and distribution facilities, such as guidelines established by the National Electric Safety Code and other industry consensus standards.

(Pub. L. 109–58, title XI, §1103, Aug. 8, 2005, 119 Stat. 939.)

§16413. National Center for Energy Management and Building Technologies

The Secretary shall support the ongoing activities of and explore opportunities for expansion of the National Center for Energy Management and Building Technologies to carry out research, education, and training activities to facilitate the improvement of energy efficiency, indoor environmental quality, and security of industrial, commercial, residential, and public buildings.

(Pub. L. 109–58, title XI, §1104, Aug. 8, 2005, 119 Stat. 939.)

§16414. National Power Plant Operations Technology and Educational Center

(a) Establishment

The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (referred to in this section as the "Center"), to address the need for training and educating certified operators and technicians for the electric power industry.

(b) Location of Center

The Secretary shall support the establishment of the Center at an institution of higher education that has—

(1) expertise in providing degree programs in electric power generation, transmission, and distribution technologies;

(2) expertise in providing onsite and Internet-based training; and

(3) demonstrated responsiveness to workforce and training requirements in the electric power industry.

(c) Training and continuing education

(1) In general

The Center shall provide training and continuing education in electric power generation, transmission, and distribution technologies and operations.

(2) Location

The Center shall carry out training and education activities under paragraph (1)—

(A) at the Center; and

(B) through Internet-based information technologies that allow for learning at remote sites.

(Pub. L. 109–58, title XI, §1106, Aug. 8, 2005, 119 Stat. 940.)

SUBCHAPTER XII—ELECTRICITY

PART A—TRANSMISSION INFRASTRUCTURE MODERNIZATION

§16421. Third-party finance

(a) Existing facilities

The Secretary, acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as "WAPA"), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as "SWPA"), or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities ("Project") needed to upgrade existing transmission facilities owned by SWPA or WAPA if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act [16 U.S.C. 824p(a)] and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in the Federal Power Act [16 U.S.C. 791a et seq.]), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) New facilities

The Secretary, acting through WAPA or SWPA, or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities ("Project") located within any State in which WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in an area designated under section 216(a) of the Federal Power Act [16 U.S.C. 824p(a)] and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in the Federal Power Act [16 U.S.C. 791a et seq.]) if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Transmission Organization, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities

which are the subject of ongoing or approved siting and related permitting proceedings.

(c) Other funds

(1) In general

In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

(2) Availability

The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

(3) Allocation of costs

In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

(d) Relationship to other laws

Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

(e) Savings clause

Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

(f) Secretarial determinations

Any determination made pursuant to subsections [1] (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) Maximum funding amount

The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.

(Pub. L. 109–58, title XII, §1222, Aug. 8, 2005, 119 Stat. 952.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a)(2)(A) and (b)(2)(A), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (d)(1), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of title XII of Pub. L. 109–58, which enacted this subchapter, as the "Electricity Modernization Act of 2005", see section 1201 of Pub. L. 109–58, set out as a note under section 15801 of this title.

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

§16421a. Western Area Power Administration borrowing authority

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of the Western Area Power Administration.

(2) Secretary

The term "Secretary" means the Secretary of the Treasury.

(b) Authority

(1) In general

Notwithstanding any other provision of law, subject to paragraphs (2) through (5)—

(A) the Western Area Power Administration may borrow funds from the Treasury; and

(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), $3,250,000,000 in outstanding repayable balances at any one time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

(i) constructing, financing, facilitating, planning, operating, maintaining, or studying construction of new or upgraded electric power transmission lines and related facilities with at least one terminus within the area served by the Western Area Power Administration; and

(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after February 17, 2009.

(2) Interest

The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

(3) Refinancing

The Western Area Power Administration may refinance loans taken pursuant to this section within the Treasury.

(4) Participation

The Administrator may permit other entities to participate in the financing, construction and ownership projects financed under this section.

(5) Congressional review of disbursement

Effective upon February 17, 2009, the Administrator shall have the authority to have utilized $1,750,000,000 at any one time. If the Administrator seeks to borrow funds above $1,750,000,000, the funds will be disbursed unless there is enacted, within 90 calendar days of the first such request, a joint resolution that rescinds the remainder of the balance of the borrowing authority provided in this section.

(c) Transmission line and related facility projects

(1) In general

For repayment purposes, each transmission line and related facility project in which the Western Area Power Administration participates pursuant to this section shall be treated as separate and distinct from—

(A) each other such project; and

(B) all other Western Area Power Administration power and transmission facilities.

(2) Proceeds

The Western Area Power Administration shall apply the proceeds from the use of the transmission capacity from an individual project under this section to the repayment of the principal and interest of the loan from the Treasury attributable to that project, after reserving such funds as the Western Area Power Administration determines are necessary—

(A) to pay for any ancillary services that are provided; and

(B) to meet the costs of operating and maintaining the new project from which the revenues are derived.

(3) Source of revenue

Revenue from the use of projects under this section shall be the only source of revenue for—

(A) repayment of the associated loan for the project; and

(B) payment of expenses for ancillary services and operation and maintenance.

(4) Limitation on authority

Nothing in this section confers on the Administrator any additional authority or obligation to provide ancillary services to users of transmission facilities developed under this section.

(5) Treatment of certain revenues

Revenue from ancillary services provided by existing Federal power systems to users of transmission projects funded pursuant to this section shall be treated as revenue to the existing power system that provided the ancillary services.

(d) Certification

(1) In general

For each project in which the Western Area Power Administration participates pursuant to this section, the Administrator shall certify, prior to committing funds for any such project, that—

(A) the project is in the public interest;

(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and

(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

(2) Forgiveness of balances

(A) In general

If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

(B) Unconstructed projects

Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

(C) Notification

The Administrator shall notify the Secretary of such amounts as are to be forgiven under this paragraph.

(e) Public processes

(1) Policies and practices

Prior to requesting any loans under this section, the Administrator shall use a public process to develop practices and policies that implement the authority granted by this section.

(2) Requests for interest

In the course of selecting potential projects to be funded under this section, the Administrator shall seek Requests For Interest from entities interested in identifying potential projects through

one or more notices published in the Federal Register.

(Pub. L. 98–381, title III, §301, as added Pub. L. 111–5, div. A, title IV, §402, Feb. 17, 2009, 123 Stat. 141.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Hoover Power Plant Act of 1984, and not as part of the Electricity Modernization Act of 2005, which comprises this subchapter, or the Energy Policy Act of 2005, which comprises this chapter.

§16422. Advanced transmission technologies

(a) Definition of advanced transmission technology

In this section, the term "advanced transmission technology" means a technology that increases the capacity, efficiency, or reliability of an existing or new transmission facility, including—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, and microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software);

(18) mobile transformers and mobile substations; and

(19) any other technologies the Commission considers appropriate.

(b) Authority

In carrying out the Federal Power Act (16 U.S.C. 791a et seq.) and the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Commission shall encourage, as appropriate, the deployment of advanced transmission technologies.

(Pub. L. 109–58, title XII, §1223, Aug. 8, 2005, 119 Stat. 953.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (b), is Pub. L. 95–617, Nov. 9,

1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

§16423. Advanced Power System Technology Incentive Program

(a) Program

The Secretary is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) Incentives

Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) Eligibility

For purposes of this section:

(1) Qualifying advanced power system technology facility

The term "qualifying advanced power system technology facility" means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) Qualifying security and assured power facility

The term "qualifying security and assured power facility" means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) Authorization

There are authorized to be appropriated to the Secretary for the purposes of this section, $10,000,000 for each of the fiscal years 2006 through 2012.

(Pub. L. 109–58, title XII, §1224, Aug. 8, 2005, 119 Stat. 954.)

PART B—TRANSMISSION OPERATION IMPROVEMENTS

§16431. Federal utility participation in transmission organizations

(a) Definitions

In this section:

(1) Appropriate Federal regulatory authority

The term "appropriate Federal regulatory authority" means—

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) Federal power marketing agency

The term "Federal power marketing agency" has the meaning given the term in section 796 of title 16.

(3) Federal utility

The term "Federal utility" means—

(A) a Federal power marketing agency; or

(B) the Tennessee Valley Authority.

(4) Transmission Organization

The term "Transmission Organization" has the meaning given the term in section 796 of title 16.

(5) Transmission system

The term "transmission system" means an electric transmission facility owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) Transfer

The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement transferring control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) Contents

The contract, agreement, or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines are necessary or appropriate, including standards that ensure—

(A) recovery of all of the costs and expenses of the Federal utility related to the transmission facilities that are the subject of the contract, agreement, or other arrangement;

(B) consistency with existing contracts and third-party financing arrangements; and

(C) consistency with the statutory authorities, obligations, and limitations of the Federal utility;

(2) provisions for monitoring and oversight by the Federal utility of the Transmission Organization's terms and conditions of the contract, agreement, or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.

(d) Commission

Neither this section, actions taken pursuant to this section, nor any other transaction of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility.

(e) Existing statutory and other obligations

(1) System operation requirements

No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility prohibits a transfer of control and use of the transmission system pursuant to, and subject to, the requirements of this section.

(2) Other obligations

This subsection does not—

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on August 8, 2005, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(Pub. L. 109–58, title XII, §1232, Aug. 8, 2005, 119 Stat. 956.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 1232 of Pub. L. 109–58. Subsec. (e)(3) of section 1232 of Pub. L. 109–58 repealed section 824n of Title 16, Conservation.

§16432. Study on the benefits of economic dispatch

(a) Study

The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each State if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) Definition

The term "economic dispatch" when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) Report to Congress and the States

Not later than 90 days after August 8, 2005, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

(Pub. L. 109–58, title XII, §1234, Aug. 8, 2005, 119 Stat. 960.)

PART C—TRANSMISSION RATE REFORM

§16441. Funding new interconnection and transmission upgrades

The Commission may approve a participant funding plan that allocates costs related to

transmission upgrades or new generator interconnection, without regard to whether an applicant is a member of a Commission-approved Transmission Organization, if the plan results in rates that—

(1) are just and reasonable;

(2) are not unduly discriminatory or preferential; and

(3) are otherwise consistent with sections 824d and 824e of title 16.

(Pub. L. 109–58, title XII, §1242, Aug. 8, 2005, 119 Stat. 962.)

PART D—REPEAL OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

§16451. Definitions

For purposes of this part:

(1) Affiliate

The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) Associate company

The term "associate company" of a company means any company in the same holding company system with such company.

(3) Commission

The term "Commission" means the Federal Energy Regulatory Commission.

(4) Company

The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) Electric utility company

The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) Exempt wholesale generator and foreign utility company

The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 79z–5a and 79z–5b of title 15, as those sections existed on the day before the effective date of this part.

(7) Gas utility company

The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) Holding company

(A) In general

The term "holding company" means—

(i) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(ii) any person, determined by the Commission, after notice and opportunity for hearing, to

exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this part upon holding companies.

(B) Exclusions

The term "holding company" shall not include—

(i) a bank, savings association, or trust company, or their operating subsidiaries that own, control, or hold, with the power to vote, public utility or public utility holding company securities so long as the securities are—

(I) held as collateral for a loan;

(II) held in the ordinary course of business as a fiduciary; or

(III) acquired solely for purposes of liquidation and in connection with a loan previously contracted for and owned beneficially for a period of not more than two years; or

(ii) a broker or dealer that owns, controls, or holds with the power to vote public utility or public utility holding company securities so long as the securities are—

(I) not beneficially owned by the broker or dealer and are subject to any voting instructions which may be given by customers or their assigns; or

(II) acquired within 12 months in the ordinary course of business as a broker, dealer, or underwriter with the bona fide intention of effecting distribution of the specific securities so acquired.

(9) Holding company system

The term "holding company system" means a holding company, together with its subsidiary companies.

(10) Jurisdictional rates

The term "jurisdictional rates" means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) Natural gas company

The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) Person

The term "person" means an individual or company.

(13) Public utility

The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) Public-utility company

The term "public-utility company" means an electric utility company or a gas utility company.

(15) State commission

The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) Subsidiary company

The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this part upon subsidiary companies of holding companies.

(17) Voting security

The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

(Pub. L. 109–58, title XII, §1262, Aug. 8, 2005, 119 Stat. 972.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under this section and section 15801 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

For the effective date of this part, referred to in par. (6), see Effective Date note set out below.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 109–58, title XII, §1274, Aug. 8, 2005, 119 Stat. 977, provided that:

"(a) IN GENERAL.—Except for section 1272 [42 U.S.C. 16460] (relating to implementation), this subtitle [subtitle F (§§1261 to 1277) of title XII of Pub. L. 109–58, enacting this part, amending sections 824 and 824m of Title 16, Conservation, repealing chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacting provisions set out as a note under section 15801 of this title] shall take effect 6 months after the date of enactment of this subtitle [Aug. 8, 2005].

"(b) COMPLIANCE WITH CERTAIN RULES.—If the [Federal Energy Regulatory] Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.)."

SHORT TITLE

For short title of subtitle F of title XII of Pub. L. 109–58, which enacted this part, as the "Public Utility Holding Company Act of 2005", see section 1261 of Pub. L. 109–58, set out as a note under section 15801 of this title.

§16452. Federal access to books and records

(a) In general

Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that

is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) Affiliate companies

Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) Holding company systems

The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) Confidentiality

No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

(Pub. L. 109–58, title XII, §1264, Aug. 8, 2005, 119 Stat. 974.)

§16453. State access to books and records

(a) In general

Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) Limitation

Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) Confidentiality of information

The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) Effect on State law

Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) Court jurisdiction

Any United States district court located in the State in which the State commission referred to in

subsection (a) is located shall have jurisdiction to enforce compliance with this section.

(Pub. L. 109–58, title XII, §1265, Aug. 8, 2005, 119 Stat. 975.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (b), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

§16454. Exemption authority

(a) Rulemaking

Not later than 90 days after the effective date of this part, the Commission shall issue a final rule to exempt from the requirements of section 16452 of this title (relating to Federal access to books and records) any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) Other authority

The Commission shall exempt a person or transaction from the requirements of section 16452 of this title (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

(Pub. L. 109–58, title XII, §1266, Aug. 8, 2005, 119 Stat. 975.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of this part, referred to in subsec. (a), see Effective Date note set out under section 16451 of this title.

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a)(1), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

§16455. Affiliate transactions

(a) Commission authority unaffected

Nothing in this part shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) Recovery of costs

Nothing in this part shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an

associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

(Pub. L. 109–58, title XII, §1267, Aug. 8, 2005, 119 Stat. 976.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

§16456. Applicability

Except as otherwise specifically provided in this part, no provision of this part shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

(Pub. L. 109–58, title XII, §1268, Aug. 8, 2005, 119 Stat. 976.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16457. Effect on other regulations

Nothing in this part precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

(Pub. L. 109–58, title XII, §1269, Aug. 8, 2005, 119 Stat. 976.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section

825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16458. Enforcement

The Commission shall have the same powers as set forth in sections 825e through 825p of title 16 to enforce the provisions of this part.

(Pub. L. 109–58, title XII, §1270, Aug. 8, 2005, 119 Stat. 976.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16459. Savings provisions

(a) In general

Nothing in this part, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on August 8, 2005, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) Effect on other Commission authority

Nothing in this part limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

(c) Tax treatment

Tax treatment under section 1081 [1] of title 26 as a result of transactions ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) shall not be affected in any manner due to the repeal of that Act and the enactment of the Public Utility Holding Company Act of 2005 [42 U.S.C. 16451 et seq.].

(Pub. L. 109–58, title XII, §1271, Aug. 8, 2005, 119 Stat. 976.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, known as the Public Utility Holding Company Act of 2005, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

The Public Utility Holding Company Act of 1935, referred to in subsecs. (a) and (c), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109–58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

The Federal Power Act, referred to in subsec. (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The Natural Gas Act, referred to in subsec. (b), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

Section 1081 of title 26, referred to in subsec. (c), was repealed by Pub. L. 109–135, title IV, §402(a)(1), Dec. 21, 2005, 119 Stat. 2610.

The Public Utility Holding Company Act of 2005, referred to in subsec. (c), is subtitle F (§§1261–1277) of title XII of Pub. L. 109–58. See note for this part above.

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

§16460. Implementation

Not later than 4 months after August 8, 2005, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this part (other than section 16453 of this title, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this part and the amendments made by this part.

(Pub. L. 109–58, title XII, §1272, Aug. 8, 2005, 119 Stat. 977.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16461. Transfer of resources

All books and records that relate primarily to the functions transferred to the Commission under this part shall be transferred from the Securities and Exchange Commission to the Commission.

(Pub. L. 109–58, title XII, §1273, Aug. 8, 2005, 119 Stat. 977.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

§16462. Service allocation

(a) Definition of public utility

In this section, the term "public utility" has the meaning given the term in section 824(e) of title

16.

(b) FERC review

In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this part, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company.

(c) Effect on Federal and State law

Nothing in this section shall affect the authority of the Commission or a State commission under other applicable law.

(d) Rules

Not later than 4 months after August 8, 2005, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this part) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(Pub. L. 109–58, title XII, §1275, Aug. 8, 2005, 119 Stat. 977.)

EDITORIAL NOTES

REFERENCES IN TEXT

For the effective date of this part, referred to in subsecs. (b) and (d), see Effective Date note set out under section 16451 of this title.

§16463. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out this part.

(Pub. L. 109–58, title XII, §1276, Aug. 8, 2005, 119 Stat. 978.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in text, was in the original "this subtitle", meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

PART E—MARKET TRANSPARENCY, ENFORCEMENT, AND CONSUMER PROTECTION

§16471. Consumer privacy and unfair trade practices

(a) Privacy

The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric

energy to electric consumers.

(b) Slamming

The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) Cramming

The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) Rulemaking

The Federal Trade Commission shall proceed in accordance with section 553 of title 5 when prescribing a rule under this section.

(e) State authority

If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) Definitions

For purposes of this section:

(1) State regulatory authority

The term "State regulatory authority" has the meaning given that term in section 796(21) of title 16.

(2) Electric consumer and electric utility

The terms "electric consumer" and "electric utility" have the meanings given those terms in section 2602 of title 16.

(Pub. L. 109–58, title XII, §1287, Aug. 8, 2005, 119 Stat. 981.)

PART F—DEFINITIONS

§16481. Commission defined

In this subchapter, the term "Commission" means the Federal Energy Regulatory Commission.

(Pub. L. 109–58, title XII, §1291(a), Aug. 8, 2005, 119 Stat. 984.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 941, which enacted this subchapter and sections 824j–1 and 824o to 824w of Title 16, Conservation, amended sections 796, 824, 824a–3, 824b, 824e, 824j, 824m, 825e, 825f, 825l to 825o, 825o–1, 2621, 2622, 2625, 2634, and 2642 of Title 16, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and sections 824n and 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title and sections 824b, 824o, 824q, and 2642 of Title 16. For complete classification of title XII to the Code, see Short Title note set out under section 15801 of this title and Tables.

SUBCHAPTER XIII—MISCELLANEOUS

§16491. Energy production incentives

(a) In general

A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) Eligible entities

Subsection (a) shall apply with respect to the production in the State of electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology.

(c) Effect on interstate commerce

Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after August 8, 2005, shall—

(1) be considered to be a reasonable regulation of commerce; and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

(Pub. L. 109–58, title XIV, §1402, Aug. 8, 2005, 119 Stat. 1061.)

§16492. Regulation of certain oil used in transformers

Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil identified under section 2720(a)(1)(B) of title 33.

(Pub. L. 109–58, title XIV, §1403, Aug. 8, 2005, 119 Stat. 1061.)

§16493. National Priority Project Designation

(a) Designation of National Priority Projects

(1) In general

There is established the National Priority Project Designation (referred to in this section as the "Designation"), which shall be evidenced by a medal bearing the inscription "National Priority Project".

(2) Design and materials

The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.

(b) Making and presentation of Designation

(1) In general

The President, on the basis of recommendations made by the Secretary, shall annually designate organizations that have—

(A) advanced the field of renewable energy technology and contributed to North American energy independence; and

(B) been certified by the Secretary under subsection (e).

(2) Presentation

The President shall designate projects with such ceremonies as the President may prescribe.

(3) Use of Designation

An organization that receives a Designation under this section may publicize the Designation of the organization as a National Priority Project in advertising.

(4) Categories in which the Designation may be given

Separate Designations shall be made to qualifying projects in each of the following categories:

(A) Wind and biomass energy generation projects.

(B) Photovoltaic and fuel cell energy generation projects.

(C) Energy efficient building and renewable energy projects.

(D) First-in-Class projects.

(c) Selection criteria

(1) In general

Certification and selection of the projects to receive the Designation shall be based on criteria established under this subsection.

(2) Wind, biomass, and building projects

In the case of a wind, biomass, or building project, the project shall demonstrate that the project will install not less than 30 megawatts of renewable energy generation capacity.

(3) Solar photovoltaic and fuel cell projects

In the case of a solar photovoltaic or fuel cell project, the project shall demonstrate that the project will install not less than 3 megawatts of renewable energy generation capacity.

(4) Energy efficient building and renewable energy projects

In the case of an energy efficient building or renewable energy project, in addition to meeting the criteria established under paragraph (2), each building project shall demonstrate that the project will—

(A) comply with third-party certification standards for high-performance, sustainable buildings;

(B) use whole-building integration of energy efficiency and environmental performance design and technology, including advanced building controls;

(C) use renewable energy for at least 50 percent of the energy consumption of the project;

(D) comply with applicable Energy Star standards; and

(E) include at least 5,000,000 square feet of enclosed space.

(5) First-in-Class use

Notwithstanding paragraphs (2) through (4), a new building project may qualify under this section if the Secretary determines that the project—

(A) represents a First-In-Class use of renewable energy; or

(B) otherwise establishes a new paradigm of building integrated renewable energy use or energy efficiency.

(d) Application

(1) Initial applications

No later than 120 days after August 8, 2005, and annually thereafter, the Secretary shall publish in the Federal Register an invitation and guidelines for submitting applications, consistent with this section.

(2) Contents

The application shall describe the project, or planned project, and the plans to meet the criteria established under subsection (c).

(e) Certification

(1) In general

Not later than 60 days after the application period described in subsection (d), and annually thereafter, the Secretary shall certify projects that are reasonably expected to meet the criteria established under subsection (c).

(2) Certified projects

The Secretary shall designate personnel of the Department to work with persons carrying out each certified project and ensure that the personnel—

(A) provide each certified project with guidance in meeting the criteria established under subsection (c);

(B) identify programs of the Department, including National Laboratories and Technology Centers, that will assist each project in meeting the criteria established under subsection (c); and

(C) ensure that knowledge and transfer of the most current technology between the applicable resources of the Federal Government (including the National Laboratories and Technology Centers, the Department, and the Environmental Protection Agency) and the certified projects is being facilitated to accelerate commercialization of work developed through those resources.

(f) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

(Pub. L. 109–58, title XIV, §1405, Aug. 8, 2005, 119 Stat. 1062.)

§16494. Oxygen-fuel

(a) Program

The Secretary shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $100,000,000 for fiscal year 2006;

(2) $100,000,000 for fiscal year 2007; and

(3) $100,000,000 for fiscal year 2008.

(c) Definitions

For purposes of this section—

(1) the term "large unit" means a unit with a generating capacity of 100 megawatts or more;

(2) the term "oxygen-fuel systems" means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units; and

(3) the term "small unit" means a unit with a generating capacity in the 10–50 megawatt range.

(Pub. L. 109–58, title XIV, §1407, Aug. 8, 2005, 119 Stat. 1064.)

SUBCHAPTER XIV—ETHANOL AND MOTOR FUELS

§16501. Commercial byproducts from municipal solid waste and cellulosic biomass loan guarantee program

(a) Definition of municipal solid waste

In this section, the term "municipal solid waste" has the meaning given the term "solid waste" in section 6903 of this title.

(b) Establishment of program

The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.

(c) Requirements

The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) Criteria

In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;

(B) the availability of sufficient quantities of cellulosic biomass; or

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) Maturity

A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) Terms and conditions

The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) Assurance of repayment

The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) Guarantee fee

The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) Reports

Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(k) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) Termination of authority

The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after August 8, 2005.

(Pub. L. 109–58, title XV, §1510, Aug. 8, 2005, 119 Stat. 1085.)

§16502. Advanced Biofuel Technologies Program

(a) In general

Subject to the availability of appropriations under subsection (d), the Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 8605 [1] of title 7, establish a program, to be known as the "Advanced Biofuel Technologies Program", to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) Priority

In carrying out the program under subsection (a), the Administrator shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) Demonstration projects

(1) In general

As part of the program under subsection (a), the Administrator shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) Administration

Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 16352 of this title.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section $110,000,000 for each of fiscal years 2005 through 2009.

(Pub. L. 109–58, title XV, §1514, Aug. 8, 2005, 119 Stat. 1090.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 8605 of title 7, referred to in subsec. (a), was repealed by Pub. L. 110–246, title IX, §9001(b), June 18, 2008, 122 Stat. 2095. Provisions relating to a Biomass Research and Development Technical Advisory Committee are now contained in section 8108(d) of title 7, Agriculture.

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

§16503. Sugar ethanol loan guarantee program

(a) In general

Funds may be provided for the cost (as defined in section 661a of title 2) of loan guarantees issued under title XIV [1] to carry out commercial demonstration projects for ethanol derived from sugarcane, bagasse, and other sugarcane byproducts.

(b) Demonstration projects

The Secretary may issue loan guarantees under this section to projects to demonstrate commercially the feasibility and viability of producing ethanol using sugarcane, sugarcane bagasse, and other sugarcane byproducts as a feedstock.

(c) Requirements

An applicant for a loan guarantee under this section may provide assurances, satisfactory to the Secretary, that—

(1) the project design has been validated through the operation of a continuous process facility;
(2) the project has been subject to a full technical review;
(3) the project, with the loan guarantee, is economically viable; and
(4) there is a reasonable assurance of repayment of the guaranteed loan.

(d) Limitations

(1) Maximum guarantee

Except as provided in paragraph (2), a loan guarantee under this section—
(A) may be issued for up to 80 percent of the estimated cost of a project; but
(B) shall not exceed $50,000,000 for any 1 project.

(2) Additional guarantees

(A) In general

The Secretary may issue additional loan guarantees for a project to cover—
(i) up to 80 percent of the excess of actual project costs; but
(ii) not to exceed 15 percent of the amount of the original loan guarantee.

(B) Principal and interest

Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan guarantee made under subparagraph (A).

(Pub. L. 109–58, title XV, §1516, Aug. 8, 2005, 119 Stat. 1091.)

EDITORIAL NOTES

REFERENCES IN TEXT

Title XIV, referred to in subsec. (a), is title XIV of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 1061, which enacted subchapter XIII of this chapter and section 13557 of this title.

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

SUBCHAPTER XV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

§16511. Definitions

In this subchapter:

(1) Commercial technology

(A) In general

The term "commercial technology" means a technology in general use in the commercial marketplace.

(B) Inclusions

The term "commercial technology" does not include a technology solely by use of the technology in a demonstration project funded by the Department.

(2) Cost

The term "cost" has the meaning given the term "cost of a loan guarantee" within the meaning of section 661a(5)(C) of title 2.

(3) Eligible project

The term "eligible project" means a project described in section 16513 of this title.

(4) Guarantee

(A) In general

The term "guarantee" has the meaning given the term "loan guarantee" in section 661a of title 2.

(B) Inclusion

The term "guarantee" includes a loan guarantee commitment (as defined in section 661a of title 2).

(5) Obligation

The term "obligation" means the loan or other debt obligation that is guaranteed under this section.

(6) State

The term "State" has the meaning given the term in section 6802 of this title.

(7) State energy financing institution

(A) In general

The term "State energy financing institution" means a quasi-independent entity or an entity within a State agency or financing authority established by a State—

(i) to provide financing support or credit enhancements, including loan guarantees and loan loss reserves, for eligible projects; and

(ii) to create liquid markets for eligible projects, including warehousing and securitization, or take other steps to reduce financial barriers to the deployment of existing and new eligible projects.

(B) Inclusion

The term "State energy financing institution" includes an entity or organization established to achieve the purposes described in clauses (i) and (ii) of subparagraph (A) by an Indian Tribal entity or an Alaska Native Corporation.

(Pub. L. 109–58, title XVII, §1701, Aug. 8, 2005, 119 Stat. 1117; Pub. L. 117–58, div. D, title IV, §40401(c)(1), Nov. 15, 2021, 135 Stat. 1037.)

EDITORIAL NOTES

AMENDMENTS

2021—Pars. (6), (7). Pub. L. 117–58 added pars. (6) and (7).

§16512. Terms and conditions

(a) In general

Except for division C of Public Law 108–324 [15 U.S.C. 720 et seq.], the Secretary shall make guarantees under this or any other Act for projects, including projects receiving financial support or credit enhancements from a State energy financing institution, on such terms and conditions as the Secretary determines, after consultation with the Secretary of the Treasury, only in accordance with this section.

(b) Specific appropriation or contribution

(1) In general

Except as provided in paragraph (2), the cost of a guarantee shall be paid by the Secretary using an appropriation made for the cost of the guarantee, subject to the availability of such an appropriation.

(2) Insufficient appropriations

If sufficient appropriated funds to pay the cost of a guarantee are not available, then the guarantee shall not be made unless—

(A) the Secretary has received from the borrower a payment in full for the cost of the guarantee and deposited the payment into the Treasury; or

(B) a combination of one or more appropriations and one or more payments from the borrower under this subsection has been made that is sufficient to cover the cost of the guarantee.

(c) Amount

Unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.

(d) Repayment

(1) Requirement

(A) In general

No guarantee, including a guarantee for a project receiving financial support or credit enhancements from a State energy financing institution, shall be made unless the Secretary determines that there is reasonable prospect of repayment of the principal and interest on the obligation by the borrower.

(B) Reasonable prospect of repayment

The Secretary shall base a determination of whether there is reasonable prospect of repayment under subparagraph (A) on a comprehensive evaluation of whether the borrower has a reasonable prospect of repaying the guaranteed obligation for the eligible project, including, as applicable, an evaluation of—

(i) the strength of the contractual terms of the eligible project (if commercially reasonably available);

(ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary;

(iii) cash sweeps and other structure enhancements;

(iv) the projected financial strength of the borrower—

(I) at the time of loan close; and

(II) throughout the loan term after the project is completed;

(v) the financial strength of the investors and strategic partners of the borrower, if applicable; and

(vi) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary.

(2) Amount

No guarantee shall be made unless the Secretary determines that the amount of the obligation (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project.

(3) Subordination

The obligation shall be subject to the condition that the obligation, including any reorganization, restructuring, or termination thereof, shall not at any time be subordinate to other financing.

(e) Interest rate

An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(f) Term

The term of an obligation shall require full repayment over a period not to exceed the lesser of—

(1) 30 years; or

(2) 90 percent of the projected useful life of the physical asset to be financed by the obligation (as determined by the Secretary).

(g) Defaults

(1) Payment by Secretary

(A) In general

If a borrower defaults on the obligation (as defined in regulations promulgated by the Secretary and specified in the guarantee contract), the holder of the guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) Payment required

Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee the unpaid interest on, and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) Forbearance

Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) Subrogation

(A) In general

If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to—

(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines this to be in the public interest.

(B) Superiority of rights

The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) Terms and conditions

A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

(i) protect the interests of the United States in the case of default; and

(ii) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

(3) Payment of principal and interest by Secretary

With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the borrower, from funds appropriated for that purpose, the principal and interest payments which become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(A)(i) the borrower is unable to meet the payments and is not in default;

(ii) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and

(iii) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(B) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the agreement being guaranteed; and

(C) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(4) Action by Attorney General

(A) Notification

If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(B) Recovery

On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(i) such assets of the defaulting borrower as are associated with the obligation; or

(ii) any other security pledged to secure the obligation.

(h) Fees

(1) In general

The Secretary shall charge, and collect on or after the date of the financial close of an obligation, a fee for a guarantee in an amount that the Secretary determines is sufficient to cover applicable administrative expenses (including any costs associated with third-party consultants engaged by the Secretary).

(2) Availability

Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(3) Reduction in fee amount

Notwithstanding paragraph (1) and subject to the availability of appropriations, the Secretary may reduce the amount of a fee for a guarantee under this subsection.

(i) Records; audits

(1) In general

A recipient of a guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) Access

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(j) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

(k) Wage rate requirements

All laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part by a loan guaranteed under this subchapter shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40. With respect to the labor standards in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40.

(l) Restructuring of loan guarantees

The Secretary shall consult with the Secretary of the Treasury regarding any restructuring of the terms or conditions of a guarantee issued pursuant to this subchapter, including with respect to any deviations from the financial terms of the guarantee.

(m) Written analysis

(1) Requirement

The Secretary may not make a guarantee under this subchapter until the Secretary of the Treasury has transmitted to the Secretary, and the Secretary has taken into consideration, a written analysis of the financial terms and conditions of the proposed guarantee.

(2) Transmission

Not later than 30 days after receiving information on a proposed guarantee from the Secretary, the Secretary of the Treasury shall transmit the written analysis of the financial terms and conditions of the proposed guarantee required under paragraph (1) to the Secretary.

(3) Explanation

If the Secretary makes a guarantee the financial terms and conditions of which are not consistent with the written analysis required under this subsection, not later than 30 days after making such guarantee, the Secretary shall submit 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, a written explanation of any material inconsistencies.

(n) Application status

(1) Request

If the Secretary does not make a final decision on an application for a guarantee under this subchapter by the date that is 180 days after receipt of the application by the Secretary, the applicant may request, on or after that date and not more than once every 60 days thereafter until a final decision is made, that the Secretary provide to the applicant a response described in paragraph (2).

(2) Response

Not later than 10 days after receiving a request from an applicant under paragraph (1), the Secretary shall provide to the applicant a response that includes—

(A) a description of the current status of review of the application;

(B) a summary of any factors that are delaying a final decision on the application, a list of what items are required in order to reach a final decision, citations to authorities stating the reasons why such items are required, and a list of actions the applicant can take to expedite the

process; and

(C) an estimate of when a final decision on the application will be made.

(o) Outreach

In carrying out this subchapter, the Secretary shall—

(1) provide assistance with the completion of applications for a guarantee under this subchapter;

(2) conduct outreach, including through conferences and online programs, to disseminate information to potential applicants;

(3) conduct outreach to encourage participation of supporting finance institutions and private lenders in eligible projects.

(p) Coordination

In carrying out this subchapter, the Secretary shall coordinate activities under this subchapter with activities of other relevant offices with the Department.

(q) Report

Not later than 2 years after December 27, 2020, and every 3 years thereafter, the Secretary shall submit to Congress a report on the status of applications for, and projects receiving, guarantees under this title, including—

(1) a list of such projects, including the guarantee amount, construction status, and financing partners of each such project;

(2) the status of each such project's loan repayment, including interest paid and future repayment projections;

(3) an estimate of the air pollutant or greenhouse gas emissions avoided or reduced from each such project;

(4) data regarding the number of direct and indirect jobs retained, restored, or created by such projects;

(5) identification of—

(A) technologies deployed by projects that have received guarantees that have subsequently been deployed commercially without guarantees; and

(B) novel technologies that have been deployed by such projects and deployed in the commercial energy market;

(6) the number of new projects projected to receive a guarantee under this subchapter during the next 2 years and the aggregate guarantee amount;

(7) the number of outreach engagements conducted with potential applicants;

(8) the number of applications received and currently pending for each open solicitation; and

(9) any other metrics the Secretary finds appropriate.

(r) [1] Conflicts of interest

For each project selected for a guarantee under this subchapter, the Secretary shall certify that political influence did not impact the selection of the project.

(r) [1] State energy financing institutions

(1) Eligibility

To be eligible for a guarantee under this subchapter, a project receiving financial support or credit enhancements from a State energy financing institution—

(A) shall meet the requirements of section 16513(a)(1) of this title; and

(B) shall not be required to meet the requirements of section 16513(a)(2) of this title.

(2) Partnerships authorized

In carrying out a project receiving a loan guarantee under this subchapter, State energy financing institutions may enter into partnerships with private entities, Tribal entities, and Alaska Native corporations.

(3) Prohibition on use of appropriated funds

Amounts appropriated to the Department of Energy before November 15, 2021, shall not be available to be used for the cost of loan guarantees for projects receiving financing support or credit enhancements under this subsection.

(Pub. L. 109–58, title XVII, §1702, Aug. 8, 2005, 119 Stat. 1117; Pub. L. 111–85, title III, §310, Oct. 28, 2009, 123 Stat. 2873; Pub. L. 112–74, div. B, title III, §305(1), Dec. 23, 2011, 125 Stat. 877; Pub. L. 116–260, div. Z, title IX, §9010(a), Dec. 27, 2020, 134 Stat. 2603; Pub. L. 117–58, div. D, title IV, §40401(a)(1), (3), (c)(2), Nov. 15, 2021, 135 Stat. 1033, 1034, 1037.)

EDITORIAL NOTES

REFERENCES IN TEXT

Division C of Public Law 108–324, referred to in subsec. (a), is division C of Pub. L. 108–324, Oct. 13, 2004, 118 Stat. 1255, known as the Alaska Natural Gas Pipeline Act, which is classified principally to chapter 15D (§720 et seq.) of Title 15, Commerce and Trade. For complete classification of division C to the Code, see Short Title note set out under section 720 of Title 15 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (k), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2021—Subsec. (a). Pub. L. 117–58, §40401(c)(2)(A), inserted ", including projects receiving financial support or credit enhancements from a State energy financing institution," after "for projects".

Subsec. (d)(1). Pub. L. 117–58, §40401(a)(1), substituted "Requirement" for "In general" in par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (d)(1)(A). Pub. L. 117–58, §40401(c)(2)(B), inserted ", including a guarantee for a project receiving financial support or credit enhancements from a State energy financing institution," after "No guarantee".

Subsec. (r). Pub. L. 117–58, §40401(c)(2)(C), added subsec. (r) relating to State energy financing institutions.

Pub. L. 117–58, §40401(a)(3), added subsec. (r) relating to conflicts of interest.

2020—Subsec. (b). Pub. L. 116–260, §9010(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: "No guarantee shall be made unless—

"(A) an appropriation for the cost of the guarantee has been made;

"(B) the Secretary has received from the borrower a payment in full for the cost of the guarantee and deposited the payment into the Treasury; or

"(C) a combination of one or more appropriations under subparagraph (A) and one or more payments from the borrower under subparagraph (B) has been made that is sufficient to cover the cost of the guarantee."

Subsec. (d)(3). Pub. L. 116–260, §9010(a)(2), substituted ", including any reorganization, restructuring, or termination thereof, shall not at any time be subordinate" for "is not subordinate".

Subsec. (h)(1). Pub. L. 116–260, §9010(a)(3)(A), amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall charge and collect fees for guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses."

Subsec. (h)(3). Pub. L. 116–260, §9010(a)(3)(B), added par. (3).

Subsecs. (l) to (q). Pub. L. 116–260, §9010(a)(4), added subsecs. (l) to (q).

2011—Subsec. (b). Pub. L. 112–74 added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "No guarantee shall be made unless—

"(1) an appropriation for the cost has been made; or

"(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury."

2009—Subsec. (k). Pub. L. 111–85 added subsec. (k).

[1] *So in original. Two subsecs. (r) have been enacted.*

§16513. Eligible projects

(a) In general

The Secretary may make guarantees under this section only for projects that—

(1) avoid, reduce, utilize, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued, including projects that employ elements of commercial technologies in combination with new or significantly improved technologies.

(b) Categories

Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial, or transportation applications.

(4) Advanced nuclear energy facilities, including manufacturing of nuclear supply components for advanced nuclear reactors.

(5) Carbon capture, utilization, and sequestration practices and technologies, including—

(A) agricultural and forestry practices that store and sequester carbon; and

(B) synthetic technologies to remove carbon from the air and oceans.

(6) Efficient electrical generation, transmission, and distribution technologies.

(7) Efficient end-use energy technologies.

(8) Production facilities for the manufacture of fuel efficient vehicles or parts of those vehicles, including electric drive vehicles and advanced diesel vehicles.

(9) Pollution control equipment.

(10) Refineries, meaning facilities at which crude oil is refined into gasoline.

(11) Energy storage technologies for residential, industrial, transportation, and power generation applications.

(12) Technologies or processes for reducing greenhouse gas emissions from industrial applications, including iron, steel, cement, and ammonia production, hydrogen production, and the generation of high-temperature heat.

(13) Projects that increase the domestically produced supply of critical minerals (as defined in section 1606(a) of title 30, including through the production, processing, manufacturing, recycling, or fabrication of mineral alternatives.

(c) Gasification projects

The Secretary may make guarantees for the following gasification projects:

(1) Integrated gasification combined cycle projects

Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the

Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commission to sell at least 450 megawatts of output to a utility;

(D) facilities that—

(i) generate one or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

(ii) use those streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process; and

(E) a project to produce energy and clean fuels, using appropriate coal liquefaction technology, from Western bituminous or subbituminous coal, that—

(i) is owned by a State government; and

(ii) may include tribal and private coal resources.

(2) Industrial gasification projects

Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) Petroleum coke gasification projects

The Secretary is encouraged to make loan guarantees under this subchapter available for petroleum coke gasification projects.

(4) Liquefaction project

Notwithstanding any other provision of law, funds awarded under the Department of Energy's Clean Coal Power Initiative for Fischer-Tropsch coal-to-oil liquefaction projects may be used to finance the cost of loan guarantees for projects awarded such funds.

(d) Emission levels

In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/MMBtu;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/MMBtu; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/MMBtu.

(e) Qualification of facilities receiving tax credits

A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this subchapter.

(f) Regional variation

Notwithstanding subsection (a)(2), the Secretary may, if regional variation significantly affects the deployment of a technology, make guarantees under this subchapter for up to 6 projects that employ the same or similar technology as another project, provided no more than 2 projects that use the same or a similar technology are located in the same region of the United States.

(Pub. L. 109–58, title XVII, §1703, Aug. 8, 2005, 119 Stat. 1120; Pub. L. 109–168, §1(b)(1), Jan. 10, 2006, 119 Stat. 3580; Pub. L. 110–140, title I, §134(b), Dec. 19, 2007, 121 Stat. 1513; Pub. L. 116–260, div. Z, title IX, §9010(b), Dec. 27, 2020, 134 Stat. 2605; Pub. L. 117–58, div. D, title IV, §40401(a)(2)(A), Nov. 15, 2021, 135 Stat. 1033.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(13). Pub. L. 117–58 added par. (13).

2020—Subsec. (a)(1). Pub. L. 116–260, §9010(b)(1)(A), inserted ", utilize" after "reduce".

Subsec. (a)(2). Pub. L. 116–260, §9010(b)(1)(B), inserted ", including projects that employ elements of commercial technologies in combination with new or significantly improved technologies" before period at end.

Subsec. (b)(4). Pub. L. 116–260, §9010(b)(2)(A), inserted ", including manufacturing of nuclear supply components for advanced nuclear reactors" after "facilities".

Subsec. (b)(5). Pub. L. 116–260, §9010(b)(2)(B), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon."

Subsec. (b)(11), (12). Pub. L. 116–260, §9010(b)(2)(C), added pars. (11) and (12).

Subsec. (f). Pub. L. 116–260, §9010(b)(3), added subsec. (f).

2007—Subsec. (b)(8). Pub. L. 110–140 added par. (8) and struck out former par. (8) which read as follows: "Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles."

2006—Subsec. (c)(4). Pub. L. 109–168 substituted "Department of Energy's Clean Coal Power Initiative for Fischer-Tropsch" for "clean coal power initiative under part A of subchapter IV for".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§16514. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this subchapter.

(b) Use of other appropriated funds

The Department may use amounts awarded under the Clean Coal Power Initiative to carry out the project described in section 16513(c)(1)(C) of this title, on the request of the recipient of such award, for a loan guarantee, to the extent that the amounts have not yet been disbursed to, or have been repaid by, the recipient.

(c) Administrative and other expenses

There are authorized to be appropriated—

(1) $32,000,000 for each of fiscal years 2021 through 2025 to carry out this subchapter; and

(2) for fiscal year 2021, in addition to amounts authorized under paragraph (1), $25,000,000, to remain available until expended, for administrative expenses described in section 16512(h)(1) of this title that are not covered by fees collected pursuant to section 16512(h) of this title.

(Pub. L. 109–58, title XVII, §1704, Aug. 8, 2005, 119 Stat. 1122; Pub. L. 109–168, §1(b)(2), Jan. 10, 2006, 119 Stat. 3580; Pub. L. 116–260, div. Z, title IX, §9010(c), Dec. 27, 2020, 134 Stat. 2606.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (c). Pub. L. 116–260 added subsec. (c).

2006—Subsec. (b). Pub. L. 109–168 substituted "Clean Coal Power Initiative" for "clean coal power initiative under part A of subchapter IV".

§16515. Limitation on commitments to guarantee loans

(a) Notwithstanding section 101,[1] subject to the Federal Credit Reform Act of 1990, as amended [2 U.S.C. 661 et seq.], commitments to guarantee loans under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.] shall not exceed a total principal amount, any part of which is to be guaranteed, of $4,000,000,000: *Provided*, That there are appropriated for the cost of the guaranteed loans such sums as are hereafter derived from amounts received from borrowers pursuant to section 16512(b)(2) of this title, to remain available until expended: *Provided further*, That the source of payments received from borrowers for the subsidy cost shall not be a loan or other debt obligation that is made or guaranteed by the Federal government.[2] In addition, fees collected pursuant to section 16512(h) of this title in fiscal year 2007 shall be credited as offsetting collections to the Departmental Administration account for administrative expenses of the Loan Guarantee Program: *Provided further*, That the sum appropriated for administrative expenses for the Loan Guarantee Program shall be reduced by the amount of fees received during fiscal year 2007: *Provided further*, That any fees collected under section 16512(h) of this title in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

(b) No loan guarantees may be awarded under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.] until final regulations are issued that include—

(1) programmatic, technical, and financial factors the Secretary will use to select projects for loan guarantees;

(2) policies and procedures for selecting and monitoring lenders and loan performance; and

(3) any other policies, procedures, or information necessary to implement title XVII of the Energy Policy Act of 2005.

(c) The Secretary of Energy shall enter into an arrangement with an independent auditor for annual evaluations of the program under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.]. In addition to the independent audit, the Comptroller General shall conduct a review every three years of the Department's execution of the program under title XVII of the Energy Policy Act of 2005. The results of the independent audit and the Comptroller General's review shall be provided directly to the Committees on Appropriations of the House of Representatives and the Senate.

(d) The Secretary of Energy shall promulgate final regulations for loan guarantees under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.] within 6 months of February 15, 2007.

(e) Not later than 120 days after February 15, 2007, and annually thereafter, the Secretary of Energy shall transmit to the Committees on Appropriations of the House of Representatives and the Senate a report containing a summary of all activities under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16511 et seq.], beginning in fiscal year 2007, with a listing of responses to loan guarantee solicitations under such title, describing the technologies, amount of loan guarantee sought, and the applicants' assessment of risk.

(Pub. L. 109–289, div. B, title II, §20320, as added Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 21; amended Pub. L. 113–76, div. D, title III, §307, Jan. 17, 2014, 128 Stat. 175.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 101, referred to in subsec. (a), is section 101 of title I of div. B of Pub. L. 109–289, as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 8. Subsec. (b) of section 101 is classified as a note under section 12651i of this title. Subsecs. (a) and (c) of section 101 are not classified to the Code.

The Federal Credit Reform Act of 1990, referred to in subsec. (a), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Energy Policy Act of 2005, referred to in text, is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594. Title XVII of the Act is classified generally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Continuing Appropriations Resolution, 2007, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113–76 substituted "a review every three years" for "an annual review".

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

[2] *So in original. Probably should be capitalized.*

§16516. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–58, title XVII, §1705, as added Pub. L. 111–5, div. A, title IV, §406(a), Feb. 17, 2009, 123 Stat. 145, which related to temporary program for rapid deployment of renewable energy and electric power transmission projects, was omitted from the Code due to expiration of authority to enter into guarantees under this section on Sept. 30, 2011.

SUBCHAPTER XVI—STUDIES

§16521. Report on energy integration with Latin America

The Secretary shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation's energy capacity. In particular this report shall outline efforts the

Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

(Pub. L. 109–58, title XVIII, §1807, Aug. 8, 2005, 119 Stat. 1124.)

§16522. Low-volume gas reservoir study

(a) Study

The Secretary shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) Contents

The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal wells and reservoirs;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

(4) locate low-pressure gathering facilities and pipelines;

(5) recommend incentives which will enable the continued production of these resources;

(6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and

(7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

(c) Data analysis

Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, such organization shall contract with one or more entities with—

(1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and

(2) the ability to—

(A) process remotely sensed imagery with high spatial resolution;

(B) deploy global positioning systems;

(C) process and synthesize existing, variable-format gas well, pipeline, gathering facility, and reservoir data;

(D) create and query GIS databases with infrastructure location and attribute information;

(E) write computer programs to customize relevant GIS software;

(F) generate maps, charts, and graphs which summarize findings from data research for presentation to different audiences; and

(G) deliver data in a variety of formats, including Internet Map Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $1,500,000 for fiscal year 2006; and

(2) $450,000 for each of the fiscal years 2007 through 2010.

(e) Definitions

For purposes of this section, the term "GIS" means geographic information systems technology that facilitates the organization and management of data with a geographic component.

(Pub. L. 109–58, title XVIII, §1808, Aug. 8, 2005, 119 Stat. 1124.)

§16523. Alaska natural gas pipeline

Not later than 180 days after August 8, 2005, and every 180 days thereafter until the Alaska natural gas pipeline commences operation, the Federal Energy Regulatory Commission shall submit to Congress a report describing—

(1) the progress made in licensing and constructing the pipeline; and

(2) any issue impeding that progress.

(Pub. L. 109–58, title XVIII, §1810, Aug. 8, 2005, 119 Stat. 1126.)

§16524. Study on the benefits of economic dispatch

(a) Study

The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state [1] if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) Definition

The term "economic dispatch" when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) Report to Congress and the States

Not later than 90 days after August 8, 2005, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

(Pub. L. 109–58, title XVIII, §1832, Aug. 8, 2005, 119 Stat. 1138.)

[1] *So in original. Probably should be capitalized.*

SUBCHAPTER XVII—PROTECTING AMERICA'S COMPETITIVE EDGE THROUGH ENERGY

EDITORIAL NOTES

CODIFICATION

This subchapter was enacted as part of the America COMPETES Act, also known as the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science Act, and also as part of the Protecting America's Competitive Edge Through Energy Act, also known as the PACE–Energy Act, and not as part of the Energy Policy Act of 2005, which enacted subchapters I to XVI of this chapter.

§16531. Definitions

In this subchapter:

(1) Department

The term "Department" means the Department of Energy.

(2) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001(a) of title 20.

(3) National Laboratory

The term "National Laboratory" has the meaning given the term in section 15801 of this title.

(4) Secretary

The term "Secretary" means the Secretary of Energy.

(Pub. L. 110–69, title V, §5002, Aug. 9, 2007, 121 Stat. 600.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in introductory provisions, was in the original "this title", meaning title V of Pub. L. 110–69, Aug. 9, 2007, 121 Stat. 600, known as the Protecting America's Competitive Edge Through Energy Act and also as the PACE–Energy Act, which is classified principally to this subchapter. For complete classification of this title to the Code, see Short Title of 2007 Amendment note set out under section 15801 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

For short title of title V of Pub. L. 110–69, which enacted this subchapter, as the "Protecting America's Competitive Edge Through Energy Act" or the "PACE–Energy Act", see section 5001 of Pub. L. 110–69, set out as a note under section 15801 of this title .

§16532. Nuclear science talent expansion program for institutions of higher education

(a) Purposes

The purposes of this section are—

(1) to address the decline in the number of and resources available to nuclear science programs at institutions of higher education; and

(2) to increase the number of graduates with degrees in nuclear science, an area of strategic importance to the economic competitiveness and energy security of the United States.

(b) Definition of nuclear science

In this section, the term "nuclear science" includes—

(1) nuclear science;

(2) nuclear engineering;

(3) nuclear chemistry;

(4) radio chemistry; and

(5) health physics.

(c) Establishment

The Secretary shall establish, in accordance with this section, a program to expand and enhance institution of higher education nuclear science educational capabilities.

(d) Nuclear science program expansion grants for institutions of higher education

(1) In general

The Secretary shall award up to 3 competitive grants for each fiscal year to institutions of

higher education that establish new academic degree programs in nuclear science.

(2) Priority

In evaluating grants under this subsection, the Secretary shall give priority to proposals that involve partnerships with a National Laboratory or other eligible nuclear-related entity, as determined by the Secretary.

(3) Criteria

Criteria for a grant awarded under this subsection shall be based on—

(A) the potential to attract new students to the program;

(B) academic rigor; and

(C) the ability to offer hands-on learning opportunities.

(4) Duration and amount

(A) Duration

A grant under this subsection may be up to 5 years in duration.

(B) Amount

An institution of higher education that receives a grant under this subsection shall be eligible for up to $1,000,000 for each year of the grant period.

(5) Use of funds

An institution of higher education that receives a grant under this subsection may use the grant to—

(A) recruit and retain new faculty;

(B) develop core and specialized course content;

(C) encourage collaboration between faculty and researchers in the nuclear science field; and

(D) support outreach efforts to recruit students.

(e) Nuclear science competitiveness grants for institutions of higher education

(1) In general

The Secretary shall award up to 5 competitive grants for each fiscal year to institutions of higher education with existing academic degree programs that produce graduates in nuclear science.

(2) Criteria

Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in the nuclear sciences who enter into careers in nuclear-related fields.

(3) Duration and amount

(A) Duration

A grant under this subsection may be up to 5 years in duration.

(B) Amount

An institution of higher education that receives a grant under this subsection shall be eligible for up to $500,000 for each year of the grant period.

(4) Use of funds

An institution of higher education that receives a grant under this subsection may use the grant to—

(A) increase the number of graduates in nuclear science that enter into careers in the nuclear science field;

(B) enhance the teaching of advanced nuclear technologies;

(C) aggressively pursue collaboration opportunities with industry and National Laboratories;

(D) bolster or sustain nuclear infrastructure and research facilities of the institution of higher

education, such as research and training reactors or laboratories; and

(E) provide tuition assistance and stipends to undergraduate and graduate students.

(f) Authorization of appropriations

(1) Nuclear science program expansion grants for institutions of higher education

There are authorized to be appropriated to carry out subsection (d)—

(A) $3,500,000 for fiscal year 2008;
(B) $6,500,000 for fiscal year 2009;
(C) $9,500,000 for fiscal year 2010;
(D) $9,800,000 for fiscal year 2011;
(E) $10,100,000 for fiscal year 2012; and
(F) $10,400,000 for fiscal year 2013.

(2) Nuclear science competitiveness grants for institutions of higher education

There are authorized to be appropriated to carry out subsection (e)—

(A) $3,000,000 for fiscal year 2008;
(B) $5,500,000 for fiscal year 2009;
(C) $8,000,000 for fiscal year 2010;
(D) $8,240,000 for fiscal year 2011;
(E) $8,500,000 for fiscal year 2012; and
(F) $8,750,000 for fiscal year 2013.

(Pub. L. 110–69, title V, §5004, Aug. 9, 2007, 121 Stat. 612; Pub. L. 111–358, title IX, §902(a), Jan. 4, 2011, 124 Stat. 4044.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (f)(1)(D) to (F). Pub. L. 111–358, §902(a)(1), added subpars. (D) to (F).
Subsec. (f)(2)(D) to (F). Pub. L. 111–358, §902(a)(2), added subpars. (D) to (F).

§16533. Hydrocarbon systems science talent expansion program for institutions of higher education

(a) Purposes

The purposes of this section are—

(1) to address the decline in the number of and resources available to hydrocarbon systems science programs at institutions of higher education; and

(2) to increase the number of graduates with degrees in hydrocarbon systems science, an area of strategic importance to the economic competitiveness and energy security of the United States.

(b) Definition of hydrocarbon systems science

In this section:

(1) In general

The term "hydrocarbon systems science" means a science involving natural gas or other petroleum exploration, development, or production.

(2) Inclusions

The term "hydrocarbon systems science" includes—

(A) petroleum or reservoir engineering;
(B) environmental geoscience;
(C) petrophysics;
(D) geophysics;

(E) geochemistry;
(F) petroleum geology;
(G) ocean engineering;
(H) environmental engineering;
(I) computer science, as computer science relates to a science described in this subsection; and
(J) hydrocarbon spill response and remediation.

(c) Establishment

The Secretary shall establish, in accordance with this section, a program to expand and enhance institution of higher education hydrocarbon systems science educational capabilities.

(d) Hydrocarbon systems science program expansion grants for institutions of higher education

(1) In general

The Secretary shall award up to 3 competitive grants for each fiscal year to institutions of higher education that establish new academic degree programs in hydrocarbon systems science.

(2) Eligibility

In evaluating grants under this subsection, the Secretary shall give priority to proposals that involve partnerships with the National Laboratories, including the National Energy Technology Laboratory, or other hydrocarbon systems scientific entities, as determined by the Secretary.

(3) Criteria

Criteria for a grant awarded under this subsection shall be based on—
(A) the potential to attract new students to the program;
(B) academic rigor; and
(C) the ability to offer hands-on learning opportunities.

(4) Duration and amount

(A) Duration

A grant under this subsection may be up to 5 years in duration.

(B) Amount

An institution of higher education that receives a grant under this subsection shall be eligible for up to $1,000,000 for each year of the grant period.

(5) Use of funds

An institution of higher education that receives a grant under this subsection may use the grant to—
(A) recruit and retain new faculty;
(B) develop core and specialized course content;
(C) encourage collaboration between faculty and researchers in the hydrocarbon systems science field; and
(D) support outreach efforts to recruit students.

(e) Hydrocarbon systems science competitiveness grants for institutions of higher education

(1) In general

The Secretary shall award up to 5 competitive grants for each fiscal year to institutions of higher education with existing academic degree programs that produce graduates in hydrocarbon systems science.

(2) Criteria

Criteria for a grant awarded under this subsection shall be based on the potential for increasing the number and academic quality of graduates in hydrocarbon systems sciences who enter into careers in natural gas and other petroleum exploration, development, and production related fields.

(3) Duration and amount

(A) Duration

A grant under this subsection may be up to 5 years in duration.

(B) Amount

An institution of higher education that receives a grant under this subsection shall be eligible for up to $500,000 for each year of the grant period.

(4) Use of funds

An institution of higher education that receives a grant under this subsection may use the grant to—

(A) increase the number of graduates in the hydrocarbon systems sciences that enter into careers in the natural gas and other petroleum exploration, development, and production science fields;

(B) enhance the teaching of advanced natural gas and other petroleum exploration, development, and production technologies;

(C) aggressively pursue collaboration opportunities with industry and the National Laboratories, including the National Energy Technology Laboratory;

(D) bolster or sustain natural gas and other petroleum exploration, development, and production infrastructure and research facilities of the institution of higher education, such as research and training or laboratories; and

(E) provide tuition assistance and stipends to undergraduate and graduate students.

(f) Authorization of appropriations

(1) Hydrocarbon systems science program expansion grants for institutions of higher education

There are authorized to be appropriated to carry out subsection (d)—

(A) $3,500,000 for fiscal year 2008;
(B) $6,500,000 for fiscal year 2009;
(C) $9,500,000 for fiscal year 2010;
(D) $9,800,000 for fiscal year 2011;
(E) $10,000,000 for fiscal year 2012; and
(F) $10,400,000 for fiscal year 2013.

(2) Hydrocarbon systems science competitiveness grants for institutions of higher education

There are authorized to be appropriated to carry out subsection (e)—

(A) $3,000,000 for fiscal year 2008;
(B) $5,500,000 for fiscal year 2009; and
(C) $8,000,000 for fiscal year 2010.

(Pub. L. 110–69, title V, §5005, Aug. 9, 2007, 121 Stat. 613; Pub. L. 111–358, title IX, §902(b), Jan. 4, 2011, 124 Stat. 4044.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (b)(2)(J). Pub. L. 111–358, §902(b)(1), added subpar. (J).
Subsec. (f)(1)(D) to (F). Pub. L. 111–358, §902(b)(2), added subpars. (D) to (F).

§16534. Department of Energy early career awards for science, engineering, and mathematics researchers

(a) Grant awards

The Director of the Office of Science of the Department (referred to in this section as the "Director") shall carry out a program to award grants to scientists and engineers at an early career stage at institutions of higher education and organizations described in subsection (c) to conduct research in fields relevant to the mission of the Department.

(b) Amount and duration

(1) Amount

The amount of a grant awarded under this section shall be—

(A) not less than $80,000; and

(B) not more than $125,000.

(2) Duration

The term of a grant awarded under this section shall be not more than 5 years.

(c) Eligibility

(1) In general

To be eligible to receive a grant under this section, an individual shall, as determined by the Director—

(A) subject to paragraph (2), have completed a doctorate or other terminal degree not more than 10 years before the date on which the proposal for a grant is submitted under subsection (e)(1);

(B) have demonstrated promise in a science, engineering, or mathematics field relevant to the missions of the Department; and

(C) be employed—

(i) in a tenure track-position as an assistant professor or equivalent title at an institution of higher education in the United States;

(ii) at an organization in the United States that is a nonprofit, nondegree-granting research organization such as a museum, observatory, or research laboratory; or

(iii) as a scientist at a National Laboratory.

(2) Waiver

Notwithstanding paragraph (1)(A), the Director may determine that an individual who has completed a doctorate more than 10 years before the date of submission of a proposal under subsection (e)(1) is eligible to receive a grant under this section if the individual was unable to conduct research for a period of time because of extenuating circumstances, including military service or family responsibilities, as determined by the Director.

(d) Selection

Grant recipients shall be selected on a competitive, merit-reviewed basis.

(e) Selection process and criteria

(1) Proposal

To be eligible to receive a grant under this section, an individual shall submit to the Director a proposal at such time, in such manner, and containing such information as the Director may require.

(2) Evaluation

In evaluating the proposals submitted under paragraph (1), the Director shall take into consideration, at a minimum—

(A) the intellectual merit of the proposed project;

(B) the innovative or transformative nature of the proposed research;

(C) the extent to which the proposal integrates research and education, including undergraduate education in science and engineering disciplines; and

(D) the potential of the applicant for leadership at the frontiers of knowledge.

(f) Diversity requirement

(1) In general

In awarding grants under this section, the Director shall endeavor to ensure that the grant recipients represent a variety of types of institutions of higher education and nonprofit, nondegree-granting research organizations.

(2) Requirement

In support of the goal described in paragraph (1), the Director shall broadly disseminate information regarding the deadlines applicable to, and manner in which to submit, proposals for grants under this section, including by conducting outreach activities for—

(A) part B institutions, as defined in section 1061 of title 20; and

(B) minority institutions, as defined in section 1067k of title 20.

(g) Report on recruiting and retaining early career science and engineering researchers at National Laboratories

(1) In general

Not later than 90 days after August 9, 2007, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing efforts of the Director to recruit and retain young scientists and engineers at early career stages at the National Laboratories.

(2) Inclusions

The report under paragraph (1) shall include—

(A) a description of applicable Department and National Laboratory policies and procedures, including policies and procedures relating to financial incentives, awards, promotions, time reserved for independent research, access to equipment or facilities, and other forms of recognition, designed to attract and retain young scientists and engineers;

(B) an evaluation of the impact of the incentives described in subparagraph (A) on—

(i) the careers of young scientists and engineers at the National Laboratories; and

(ii) the quality of the research at the National Laboratories and in Department programs;

(C) a description of barriers, if any, that exist with respect to efforts to recruit and retain young scientists and engineers, including the limited availability of full-time equivalent positions, legal and procedural requirements, and pay grading systems; and

(D) the amount of funding devoted to efforts to recruit and retain young researchers, and the source of the funds.

(h) Authorization of appropriations

There is authorized to be appropriated to the Secretary, acting through the Director, to carry out this section $25,000,000 for each of fiscal years 2008 through 2013.

(Pub. L. 110–69, title V, §5006, Aug. 9, 2007, 121 Stat. 615; Pub. L. 111–358, title IX, §902(c), Jan. 4, 2011, 124 Stat. 4045.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (h). Pub. L. 111–358 substituted "2013" for "2010".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth

§16535. Discovery science and engineering innovation institutes

(a) In general

The Secretary shall establish distributed, multidisciplinary institutes (referred to in this section as "Institutes") centered at National Laboratories to apply fundamental science and engineering discoveries to technological innovations relating to—

(1) the missions of the Department; and

(2) the global competitiveness of the United States.

(b) Topical areas

The Institutes shall support scientific and engineering research and education activities on critical emerging technologies determined by the Secretary to be essential to global competitiveness, including activities relating to—

(1) sustainable energy technologies;

(2) multiscale materials and processes;

(3) micro- and nano-engineering;

(4) computational and information engineering; and

(5) genomics and proteomics.

(c) Partnerships

In carrying out this section, the Secretary shall establish partnerships between the Institutes and—

(1) institutions of higher education—

(A) to train undergraduate and graduate science and engineering students;

(B) to develop innovative undergraduate and graduate educational curricula; and

(C) to conduct research within the topical areas described in subsection (b); and

(2) private industry to develop innovative technologies within the topical areas described in subsection (b).

(d) Grants

(1) In general

For each fiscal year, the Secretary may select not more than 3 Institutes to receive a grant under this section.

(2) Merit-based selection

The selection of Institutes under paragraph (1) shall be—

(A) merit-based; and

(B) made through an open, competitive selection process.

(3) Term

An Institute shall receive a grant under this section for not more than 3 fiscal years.

(e) Review

The Secretary shall offer to enter into an agreement with the National Academy of Sciences under which the Academy shall, by not later than 3 years after August 9, 2007—

(1) review the performance of the Institutes under this section; and

(2) submit to Congress and the Secretary a report describing the results of the review.

(f) Authorization of appropriations

There is authorized to be appropriated to provide grants to each Institute selected under this section $10,000,000 for each of fiscal years 2008 through 2010.

(Pub. L. 110–69, title V, §5008, Aug. 9, 2007, 121 Stat. 618.)

§16536. Protecting America's Competitive Edge (PACE) graduate fellowship program

(a) Definition of eligible student

In this section, the term "eligible student" means a student who attends an institution of higher education that offers a doctoral degree in a field relevant to a mission area of the Department.

(b) Establishment

The Secretary shall establish a graduate fellowship program for eligible students pursuing a doctoral degree in a mission area of the Department.

(c) Selection

(1) In general

The Secretary shall award fellowships to eligible students under this section through a competitive merit review process, involving written and oral interviews, that will result in a wide distribution of awards throughout the United States, as determined by the Secretary.

(2) Criteria

The Secretary shall establish selection criteria for awarding fellowships under this section that require an eligible student—

(A) to pursue a field of science or engineering of importance to a mission area of the Department;

(B) to demonstrate to the Secretary—

(i) the capacity of the eligible student to understand technical topics relating to the fellowship that can be derived from the first principles of the technical topics;

(ii) imagination and creativity;

(iii) leadership skills in organizations or intellectual endeavors, demonstrated through awards and past experience; and

(iv) excellent verbal and communication skills to explain, defend, and demonstrate an understanding of technical subjects relating to the fellowship; and

(C) to be a citizen or legal permanent resident of the United States.

(d) Awards

(1) Amount

A fellowship awarded under this section shall—

(A) provide an annual living stipend; and

(B) cover—

(i) graduate tuition at an institution of higher education described in subsection (a); and

(ii) incidental expenses associated with curricula and research at the institution of higher education (including books, computers, and software).

(2) Duration

A fellowship awarded under this section shall be up to 3 years duration within a 5-year period.

(3) Portability

A fellowship awarded under this section shall be portable with the eligible student.

(e) Administration

The Secretary, acting through the Director of Science, Engineering, and Mathematics Education—

(1) shall administer the program established under this section; and

(2) may enter into a contract with a nonprofit entity to administer the program, including the selection and award of fellowships.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $7,500,000 for fiscal year 2008;

(2) $12,000,000 for fiscal year 2009, including nonexpiring fellowships for the preceding fiscal year;

(3) $20,000,000 for fiscal year 2010, including nonexpiring fellowships for preceding fiscal years;

(4) $20,600,000 for fiscal year 2011;

(5) $21,200,000 for fiscal year 2012; and

(6) $21,900,000 for fiscal year 2013.

(Pub. L. 110–69, title V, §5009, Aug. 9, 2007, 121 Stat. 618; Pub. L. 111–358, title IX, §902(d), Jan. 4, 2011, 124 Stat. 4045.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (f)(4) to (6). Pub. L. 111–358 added pars. (4) to (6).

§16537. Distinguished scientist program

(a) Purpose

The purpose of this section is to promote scientific and academic excellence through collaborations between institutions of higher education and National Laboratories.

(b) Establishment

The Secretary shall establish a program to support the joint appointment of distinguished scientists by institutions of higher education and National Laboratories.

(c) Qualifications

To be eligible for appointment as a distinguished scientist under this section, an individual, by reason of professional background and experience, shall be able to bring international recognition to the appointing institution of higher education or National Laboratory in the field of scientific endeavor of the individual.

(d) Selection

A distinguished scientist appointed under this section shall be selected through an open, competitive process.

(e) Appointment

(1) Institution of higher education

An appointment by an institution of higher education under this section shall be filled within the tenure allotment of the institution of higher education, at a minimum rank of professor.

(2) National Laboratory

An appointment by a National Laboratory under this section shall be at the rank of the highest grade of distinguished scientist or technical staff of the National Laboratory.

(f) Duration

An appointment under this section shall—

(1) be for a term of 6 years; and

(2) consist of 2 3-year funding allotments.

(g) Use of funds

Funds made available under this section may be used for—

(1) the salary of the distinguished scientist and support staff;

(2) undergraduate, graduate, and post-doctoral appointments;
(3) research-related equipment;
(4) professional travel; and
(5) such other requirements as the Secretary determines to be necessary to carry out the purpose of the program.

(h) Review

(1) In general

The appointment of a distinguished scientist under this section shall be reviewed at the end of the first 3-year allotment for the distinguished scientist through an open peer-review process to determine whether the appointment is meeting the purpose of this section under subsection (a).

(2) Funding

Funding of the appointment of the distinguished scientist for the second 3-year allotment shall be determined based on the review conducted under paragraph (1).

(i) Cost sharing

To be eligible for assistance under this section, an appointing institution of higher education shall pay at least 50 percent of the total costs of the appointment.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section—
(1) $15,000,000 for fiscal year 2008;
(2) $20,000,000 for fiscal year 2009;
(3) $30,000,000 for fiscal year 2010;
(4) $31,000,000 for fiscal year 2011;
(5) $32,000,000 for fiscal year 2012; and
(6) $33,000,000 for fiscal year 2013.

(Pub. L. 110–69, title V, §5011, Aug. 9, 2007, 121 Stat. 620; Pub. L. 111–358, title IX, §902(e), Jan. 4, 2011, 124 Stat. 4045.)

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (j)(4) to (6). Pub. L. 111–358 added pars. (4) to (6).

§16538. Advanced Research Projects Agency—Energy

(a) Definitions

In this section:

(1) ARPA-E

The term "ARPA–E" means the Advanced Research Projects Agency—Energy established by subsection (b).

(2) Director

The term "Director" means the Director of ARPA-E appointed under subsection (d).

(3) Fund

The term "Fund" means the Energy Transformation Acceleration Fund established under subsection (o)(1).

(b) Establishment

There is established the Advanced Research Projects Agency—Energy within the Department to overcome the long-term and high-risk technological barriers in the development of transformative

science and technology solutions to address the energy and environmental missions of the Department.

(c) Goals

(1) In general

The goals of ARPA-E shall be—

(A) to enhance the economic and energy security of the United States through the development of energy technologies that—

(i) reduce imports of energy from foreign sources;

(ii) reduce energy-related emissions, including greenhouse gases;

(iii) improve the energy efficiency of all economic sectors;

(iv) provide transformative solutions to improve the management, clean-up, and disposal of radioactive waste and spent nuclear fuel; and

(v) improve the resilience, reliability, and security of infrastructure to produce, deliver, and store energy; and

(B) to ensure that the United States maintains a technological lead in developing and deploying advanced energy technologies.

(2) Means

ARPA-E shall achieve the goals established under paragraph (1) through advanced technology projects by—

(A) identifying and promoting revolutionary advances in fundamental and applied sciences;

(B) translating scientific discoveries and cutting-edge inventions into technological innovations; and

(C) accelerating transformational technological advances in areas that industry by itself is not likely to undertake because of technical and financial uncertainty.

(d) Director

(1) Appointment

There shall be in the Department of Energy a Director of ARPA-E, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Qualifications

The Director shall be an individual who, by reason of professional background and experience, is especially qualified to advise the Secretary on, and manage research programs addressing, matters pertaining to long-term and high-risk technological barriers to the development of energy technologies.

(3) Relationship to Secretary

The Director shall report to the Secretary.

(4) Relationship to other programs

No other programs within the Department shall report to the Director.

(e) Responsibilities

The responsibilities of the Director shall include—

(1) approving all new programs within ARPA-E;

(2) developing funding criteria and assessing the success of programs through the establishment of technical milestones;

(3) administering the Fund through awards to institutions of higher education, companies, research foundations, trade and industry research collaborations, or consortia of such entities, which may include federally-funded research and development centers, to achieve the goals described in subsection (c) through targeted acceleration of—

(A) novel early-stage research with possible technology applications;

(B) development of techniques, processes, and technologies, and related testing and evaluation;

(C) research and development of advanced manufacturing process and technologies for the domestic manufacturing of novel energy technologies; and

(D) coordination with nongovernmental entities for demonstration of technologies and research applications to facilitate technology transfer;

(4) terminating programs carried out under this section that are not achieving the goals of the programs; and

(5) pursuant to subsection (c)(2)(C)—

(A) ensuring that applications for funding disclose the extent of current and prior efforts, including monetary investments as appropriate, in pursuit of the technology area for which funding is being requested;

(B) adopting measures to ensure that, in making awards, program managers adhere to the purposes of subsection (c)(2)(C); and

(C) providing as part of the annual report required by subsection (h)(1) a summary of the instances of and reasons for ARPA–E funding projects in technology areas already being undertaken by industry.

(f) Awards

In carrying out this section, the Director may provide awards in the form of grants, contracts, cooperative agreements, cash prizes, and other transactions.

(g) Personnel

(1) In general

The Director shall establish and maintain within ARPA–E a staff with sufficient qualifications and expertise to enable ARPA–E to carry out the responsibilities of ARPA–E under this section in conjunction with other operations of the Department.

(2) Program directors

(A) In general

The Director shall designate employees to serve as program directors for the programs established pursuant to the responsibilities established for ARPA-E under subsection (e).

(B) Responsibilities

A program director of a program shall be responsible for—

(i) establishing research and development goals for the program, including through the convening of workshops and conferring with outside experts, and publicizing the goals of the program to the public and private sectors;

(ii) soliciting applications for specific areas of particular promise, especially areas that the private sector or the Federal Government are not likely to undertake alone;

(iii) building research collaborations for carrying out the program;

(iv) selecting on the basis of merit each of the projects to be supported under the program after considering—

(I) the novelty and scientific and technical merit of the proposed projects;

(II) the demonstrated capabilities of the applicants to successfully carry out the proposed project;

(III) the consideration by the applicant of future commercial applications of the project, including the feasibility of partnering with 1 or more commercial entities; and

(IV) such other criteria as are established by the Director;

(v) identifying innovative cost-sharing arrangements for ARPA–E projects, including through use of the authority provided under section 16352(b)(3) of this title;

(vi) monitoring the progress of projects supported under the program;

(vii) identifying mechanisms for commercial application of successful energy technology development projects, including through establishment of partnerships between awardees and commercial entities; and

(viii) recommending program restructure or termination of research partnerships or whole projects.

(C) Term

The term of a program manager shall be not more than 3 years and may be renewed.

(3) Hiring and management

(A) In general

The Director shall have the authority to—

(i) make appointments of scientific, engineering, and professional personnel without regard to the civil service laws;

(ii) fix the basic pay of such personnel at a rate to be determined by the Director at rates not in excess of Level II of the Executive Schedule (EX–II) without regard to the civil service laws; and

(iii) pay any employee appointed under this subparagraph payments in addition to basic pay, except that the total amount of additional payments paid to an employee under this subparagraph for any 12-month period shall not exceed the least of the following amounts:

(I) $25,000.

(II) The amount equal to 25 percent of the annual rate of basic pay of the employee.

(III) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5.

(B) Number

The Director shall appoint not more than 120 personnel under this section.

(C) Private recruiting firms

The Secretary, or the Director serving as an agent of the Secretary, may contract with private recruiting firms for the hiring of qualified technical staff to carry out this section.

(D) Additional staff

The Director may use all authorities in existence on August 9, 2007, that are provided to the Secretary to hire administrative, financial, and clerical staff as necessary to carry out this section.

(h) Reports and roadmaps

(1) Annual report

As part of the annual budget request submitted for each fiscal year, the Director shall provide to the relevant authorizing and appropriations committees of Congress a report that—

(A) describes projects supported by ARPA–E during the previous fiscal year;

(B) describes projects supported by ARPA–E during the previous fiscal year that examine topics and technologies closely related to other activities funded by the Department, and includes an analysis of whether in supporting such projects, the Director is in compliance with subsection (i)(1); and

(C) describes current, proposed, and planned projects to be carried out pursuant to subsection (e)(3)(D).

(2) Strategic vision roadmap

Not later than October 1, 2021, and every four years thereafter, the Director shall provide to the relevant authorizing and appropriations committees of Congress a roadmap describing the strategic vision that ARPA–E will use to guide the choices of ARPA–E for future technology investments over the following 4 fiscal years.

(i) Coordination and nonduplication

(1) In general

To the maximum extent practicable, the Director shall ensure that—

(A) the activities of ARPA–E are coordinated with, and do not duplicate the efforts of, programs and laboratories within the Department and other relevant research agencies; and

(B) ARPA–E does not provide funding for a project unless the prospective grantee demonstrates sufficient attempts to secure private financing or indicates that the project is not independently commercially viable.

(2) Technology Transfer Coordinator

To the extent appropriate, the Director may coordinate technology transfer efforts with the Technology Transfer Coordinator appointed under section 16391 of this title.

(j) Federal demonstration of technologies

The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate energy technologies resulting from activities funded through ARPA–E.

(k) Advice

(1) Advisory committees

The Director may seek advice on any aspect of ARPA-E from—

(A) an existing Department of Energy advisory committee; and

(B) a new advisory committee organized to support the programs of ARPA-E and to provide advice and assistance on—

(i) specific program tasks; or

(ii) overall direction of ARPA-E.

(2) Additional sources of advice

In carrying out this section, the Director may seek advice and review from—

(A) the President's Committee of Advisors on Science and Technology; and

(B) any professional or scientific organization with expertise in specific processes or technologies under development by ARPA-E.

(l) ARPA-E evaluation

(1) In general

Not later than 3 years after December 27, 2020, the Secretary is authorized to enter into a contract with the National Academy of Sciences under which the National Academy shall conduct an evaluation of how well ARPA–E is achieving the goals and mission of ARPA–E.

(2) Inclusions

The evaluation may include—

(A) a recommendation on whether ARPA-E should be continued or terminated; and

(B) a description of lessons learned from operation of ARPA-E, and the manner in which those lessons may apply to the operation of other programs of the Department.

(3) Availability

On completion of the evaluation, the evaluation shall be made available to Congress and the public.

(m) Existing authorities

The authorities granted by this section are—

(1) in addition to existing authorities granted to the Secretary; and

(2) are not intended to supersede or modify any existing authorities.

(n) Protection of information

The following types of information collected by ARPA–E from recipients of financial assistance awards shall be considered commercial and financial information obtained from a person and

privileged or confidential and not subject to disclosure under section 552(b)(4) of title 5:

(1) Plans for commercialization of technologies developed under the award, including business plans, technology-to-market plans, market studies, and cost and performance models.

(2) Investments provided to an awardee from third parties (such as venture capital firms, hedge funds, and private equity firms), including amounts and the percentage of ownership of the awardee provided in return for the investments.

(3) Additional financial support that the awardee—

(A) plans to or has invested into the technology developed under the award; or

(B) is seeking from third parties.

(4) Revenue from the licensing or sale of new products or services resulting from research conducted under the award.

(o) Funding

(1) Fund

There is established in the Treasury of the United States a fund, to be known as the "Energy Transformation Acceleration Fund", which shall be administered by the Director for the purposes of carrying out this section.

(2) Authorization of appropriations

Subject to paragraph (4), there are authorized to be appropriated to the Director for deposit in the Fund, without fiscal year limitation—

(A) $435,000,000 for fiscal year 2021;

(B) $500,000,000 for fiscal year 2022;

(C) $575,000,000 for fiscal year 2023;

(D) $662,000,000 for fiscal year 2024; and

(E) $761,000,000 for fiscal year 2025.

(3) Separate budget and appropriation

(A) Budget request

The budget request for ARPA-E shall be separate from the rest of the budget of the Department.

(B) Appropriations

Appropriations to the Fund shall be separate and distinct from the rest of the budget for the Department.

(4) Allocation

Of the amounts appropriated for a fiscal year under paragraph (2)—

(A) not more than 50 percent of the amount shall be used to carry out subsection (e)(3)(D);

(B) at least 5 percent of the amount shall be used for technology transfer and outreach activities, consistent with the goal described in subsection (c)(2)(C) and within the responsibilities of program directors described in subsection (g)(2)(B)(vii); and

(C) no funds may be used for construction of new buildings or facilities during the 5-year period beginning on August 9, 2007.

(Pub. L. 110–69, title V, §5012, Aug. 9, 2007, 121 Stat. 621; Pub. L. 111–358, title IX, §904, Jan. 4, 2011, 124 Stat. 4045; Pub. L. 115–246, title II, §202, Sept. 28, 2018, 132 Stat. 3134; Pub. L. 116–260, div. Z, title X, §10001, Dec. 27, 2020, 134 Stat. 2609.)

EDITORIAL NOTES

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (g)(3)(A)(ii), is set out in section 5313 of Title 5, Government Organization and Employees.

AMENDMENTS

2020—Subsec. (b). Pub. L. 116–260, §10001(a), substituted "development of transformative science and technology solutions to address the energy and environmental missions of the Department" for "development of energy technologies".

Subsec. (c)(1)(A). Pub. L. 116–260, §10001(b)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "to enhance the economic and energy security of the United States through the development of energy technologies that result in—

"(i) reductions of imports of energy from foreign sources;

"(ii) reductions of energy-related emissions, including greenhouse gases; and

"(iii) improvement in the energy efficiency of all economic sectors; and".

Subsec. (c)(2). Pub. L. 116–260, §10001(b)(2), substituted "advanced technology projects" for "energy technology projects" in introductory provisions.

Subsec. (e)(3)(A). Pub. L. 116–260, §10001(c), struck out "energy" before "research".

Subsec. (g)(3)(A)(iii). Pub. L. 116–260, §10001(h)(1), substituted "subparagraph" for "subpart" in two places in introductory provisions.

Subsec. (h). Pub. L. 116–260, §10001(d), amended subsec. (h) generally. Prior to amendment, text read as follows:

"(1) ANNUAL REPORT.—As part of the annual budget request submitted for each fiscal year, the Director shall provide to the relevant authorizing and appropriations committees of Congress a report describing projects supported by ARPA-E during the previous fiscal year.

"(2) STRATEGIC VISION ROADMAP.—Not later than October 1, 2010, and October 1, 2013, the Director shall provide to the relevant authorizing and appropriations committees of Congress a roadmap describing the strategic vision that ARPA-E will use to guide the choices of ARPA-E for future technology investments over the following 3 fiscal years."

Subsec. (i)(1). Pub. L. 116–260, §10001(e), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "To the maximum extent practicable, the Director shall ensure that the activities of ARPA-E are coordinated with, and do not duplicate the efforts of, programs and laboratories within the Department and other relevant research agencies."

Subsec. (l)(1). Pub. L. 116–260, §10001(f)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "After ARPA-E has been in operation for 6 years, the Secretary shall offer to enter into a contract with the National Academy of Sciences under which the National Academy shall conduct an evaluation of how well ARPA-E is achieving the goals and mission of ARPA-E."

Subsec. (l)(2). Pub. L. 116–260, §10001(f)(2)(A), substituted "may" for "shall" in introductory provisions.

Subsec. (l)(2)(A). Pub. L. 116–260, §10001(f)(2)(B), substituted "a recommendation" for "the recommendation of the National Academy of Sciences".

Subsec. (o)(2). Pub. L. 116–260, §10001(g), amended par. (2) generally. Prior to amendment, par. (2) authorized appropriations for fiscal years 2008 to 2013.

Subsec. (o)(4)(B). Pub. L. 116–260, §10001(h)(2), substituted "(c)(2)(C)" for "(c)(2)(D)".

2018—Subsec. (a)(3). Pub. L. 115–246, §202(1), substituted "subsection (o)(1)" for "subsection (n)(1)".

Subsecs. (n), (o). Pub. L. 115–246, §202(2), (3), added subsec. (n) and redesignated former subsec. (n) as (o).

2011—Subsec. (a)(3). Pub. L. 111–358, §904(1), substituted "subsection (n)(1)" for "subsection (m)(1)".

Subsec. (c)(2)(A). Pub. L. 111–358, §904(2), inserted "and applied" after "advances in fundamental".

Subsec. (e)(3)(C). Pub. L. 111–358, §904(3)(A)(i), added subpar. (C) and struck out former subpar. (C) which read as follows: "research and development of manufacturing processes for novel energy technologies; and".

Subsec. (e)(5). Pub. L. 111–358, §904(3)(A)(ii)–(C), added par. (5).

Subsec. (f). Pub. L. 111–358, §904(5), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 111–358, §904(4), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 111–358, §904(6)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (g)(2). Pub. L. 111–358, §904(6)(A),(C)(i), redesignated par. (1) as (2) and substituted "Program directors" for "Program managers" in heading.

Subsec. (g)(2)(A). Pub. L. 111–358, §904(6)(C)(ii), substituted "program directors for" for "program managers for each of".

Subsec. (g)(2)(B). Pub. L. 111–358, §904(6)(C)(iii)(I), substituted "program director" for "program manager" in introductory provisions.

Subsec. (g)(2)(B)(iv). Pub. L. 111–358, §904(6)(C)(iii)(II), struck out ", with advice under subsection (j) as appropriate," after "basis of merit" in introductory provisions.

Subsec. (g)(2)(B)(v) to (viii). Pub. L. 111–358, §904(6)(C)(iii)(III)–(VI), added cls. (v) and (vii) and redesignated former cls. (v) and (vi) as (vi) and (viii), respectively.

Subsec. (g)(2)(C). Pub. L. 111–358, §904(6)(C)(iv), inserted "not more than" after "shall be".

Subsec. (g)(3). Pub. L. 111–358, §904(6)(A), redesignated par. (2) as (3).

Subsec. (g)(3)(A)(ii), (iii). Pub. L. 111–358, §904(6)(D)(i), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows: "fix the compensation of such personnel at a rate to be determined by the Director."

Subsec. (g)(3)(B). Pub. L. 111–358, §904(6)(D)(ii), substituted "not more than 120" for "not less than 70, and not more than 120,".

Subsec. (h). Pub. L. 111–358, §904(4), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(2). Pub. L. 111–358, §904(7), substituted "2010" for "2008" and "2013" for "2011".

Subsec. (i). Pub. L. 111–358, §904(4), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 111–358, §904(8), added subsec. (j) and struck out former subsec. (j). Prior to amendment, text read as follows: "The Secretary shall make information available to purchasing and procurement programs of Federal agencies regarding the potential to demonstrate technologies resulting from activities funded through ARPA-E."

Pub. L. 111–358, §904(4), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsecs. (k), (l). Pub. L. 111–358, §904(4), redesignated subsecs. (j) and (k) as (k) and (l), respectively. Former subsec. (l) redesignated (m).

Subsec. (l)(1). Pub. L. 111–358, §904(9)(A), substituted "6 years" for "4 years".

Subsec. (l)(2)(B). Pub. L. 111–358, §904(9)(B), inserted ", and the manner in which those lessons may apply to the operation of other programs of the Department" after "ARPA-E".

Subsecs. (m), (n). Pub. L. 111–358, §904(4), redesignated subsecs. (l) and (m) as (m) and (n), respectively.

Subsec. (n)(2)(C) to (E). Pub. L. 111–358, §904(10)(A), added subpars. (C) to (E).

Subsec. (n)(4). Pub. L. 111–358, §904(10)(B), (C), redesignated par. (5) as (4) and struck out former par. (4). Prior to amendment, text read as follows: "No amounts may be appropriated for ARPA-E for fiscal year 2008 unless the amount appropriated for the activities of the Office of Science of the Department for fiscal year 2008 exceeds the amount appropriated for the Office for fiscal year 2007, as adjusted for inflation in accordance with the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor."

Subsec. (n)(4)(B). Pub. L. 111–358, §904(10)(D), substituted "5 percent" for "2.5 percent" and inserted ", consistent with the goal described in subsection (c)(2)(D) and within the responsibilities of program directors described in subsection (g)(2)(B)(vii)" after "outreach activities".

Subsec. (n)(5). Pub. L. 111–358, §904(10)(C), redesignated par. (5) as (4).

§16539. National Laboratory Jobs ACCESS Program

(a) In general

On or after the date that is 180 days after December 20, 2019, the Secretary may establish a program, to be known as the "Department of Energy National Lab Jobs ACCESS Program", under which the Secretary may award, on a competitive basis, 5-year grants to eligible entities described in subsection (c) for the Federal share of the costs of pre-apprenticeship programs and apprenticeship programs described in subsection (b).

(b) Pre-apprenticeship and apprenticeship programs described

A pre-apprenticeship program or apprenticeship program described in this subsection is a pre-apprenticeship program or apprenticeship program that—

(1) leads to recognized postsecondary credentials for secondary school and postsecondary students;

(2) is focused on skills and qualifications needed, as determined by the Secretary in consultation with the directors of the National Laboratories, to meet the immediate and ongoing needs of traditional and emerging technician positions (including machinists and cybersecurity technicians) at the National Laboratories and covered facilities of the National Nuclear Security Administration;

(3) is established in consultation with a National Laboratory or covered facility of the National Nuclear Security Administration;

(4) is registered with and approved by the Secretary of Labor or a State apprenticeship agency;

and

(5) ensures that participants in the pre-apprenticeship program or apprenticeship program do not displace paid employees.

(c) Eligible entities described

An eligible entity described in this subsection is a workforce intermediary or an eligible sponsor of a pre-apprenticeship program or apprenticeship program that—

(1) demonstrates experience in implementing and providing career planning and career pathways toward pre-apprenticeship programs or apprenticeship programs;

(2)(A) has a relationship with a National Laboratory or covered facility of the National Nuclear Security Administration;

(B) has knowledge of the technician workforce needs of the laboratory or facility and the associated security requirements of the laboratory or facility; and

(C) is eligible to enter into an agreement with the laboratory or facility that would be paid for in part or entirely from grant funds received under this section;

(3) demonstrates the ability to recruit and support individuals who plan to work in relevant technician positions upon the successful completion of the pre-apprenticeship program or apprenticeship program;

(4) provides students who complete the pre-apprenticeship program or apprenticeship program with, or prepares such students for obtaining, a recognized postsecondary credential;

(5) uses related instruction that is specifically aligned with the needs of the laboratory or facility and utilizes workplace learning advisors and on-the-job training to the greatest extent possible; and

(6) demonstrates successful outcomes connecting graduates of the pre-apprenticeship program or apprenticeship program to careers relevant to the program.

(d) Applications

If the Secretary establishes the program described in subsection (a), an eligible entity described in subsection (c) seeking a grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) Priority

In selecting eligible entities described in subsection (c) to receive grants under this section, the Secretary may prioritize an eligible entity that—

(1) is a member of an industry or sector partnership;

(2) provides related instruction for a pre-apprenticeship program or apprenticeship program through—

(A) a local educational agency, a secondary school, a provider of adult education, an area career and technical education school, or an institution of higher education (such as a community college) that includes basic science, technology, and mathematics education in the related instruction; or

(B) an apprenticeship program that was registered with the Department of Labor or a State apprenticeship agency before the date on which the eligible entity applies for the grant under subsection (d);

(3) works with the Secretary of Defense, the Secretary of Veterans Affairs, or veterans organizations to transition members of the Armed Forces and veterans to pre-apprenticeship programs or apprenticeship programs in a relevant sector;

(4) plans to use the grant to carry out the pre-apprenticeship program or apprenticeship program with an entity that receives State funding or is operated by a State agency; and

(5) plans to use the grant to carry out the pre-apprenticeship program or apprenticeship program for—

(A) young adults ages 16 to 29, inclusive; or

(B) individuals with barriers to employment.

(f) Additional consideration

In making grants under this section, the Secretary may consider regional diversity.

(g) Limitation on applications

An eligible entity described in subsection (c) may not submit, either individually or as part of a joint application, more than one application for a grant under this section during any one fiscal year.

(h) Limitations on amount of grant

The amount of a grant provided under this section may not, for any 24-month period of the 5-year grant period, exceed $500,000.

(i) Non-Federal share

The non-Federal share of the cost of a pre-apprenticeship program or apprenticeship program carried out using a grant under this section shall be not less than 25 percent of the total cost of the program.

(j) Technical assistance

The Secretary may provide technical assistance to eligible entities described in subsection (c) to leverage the existing job training and education programs of the Department of Labor and other relevant programs at appropriate Federal agencies.

(k) Report

(1) In general

If the Secretary establishes the program described in subsection (a), not less than once every 2 years thereafter, the Secretary shall submit to Congress, and make publicly available on the website of the Department of Energy, a report on the program, including—

(A) a description of—

(i) any entity that receives a grant under this section;

(ii) any activity carried out using a grant under this section; and

(iii) best practices used to leverage the investment of the Federal Government under this section; and

(B) an assessment of the results achieved by the program, including the rate of employment for participants after completing a pre-apprenticeship program or apprenticeship program carried out using a grant under this section.

(2) Performance reports

Not later than one year after the establishment of a pre-apprenticeship program or apprenticeship program using a grant awarded under this section, and annually thereafter, the entity carrying out the program shall submit to the Secretary and the Secretary of Labor a report on the effectiveness of the program based on the accountability measures described in clauses (i) and (ii) of section 3141(b)(2)(A) of title 29.

(l) Definitions

In this section:

(1) ESEA terms

The terms "local educational agency" and "secondary school" have the meanings given the terms in section 7801 of title 20.

(2) WIOA terms

The terms "career planning", "community-based organization", "customized training", "economic development agency", "individual with a barrier to employment", "industry or sector partnership", "on-the-job training", "recognized postsecondary credential", and "workplace learning advisor" have the meanings given such terms in section 3102 of title 29.

(3) Apprenticeship program

The term "apprenticeship program" means a program registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.).

(4) Area career and technical education school

The term "area career and technical education school" has the meaning given the term in section 2302 of title 20.

(5) Community college

The term "community college" has the meaning given the term "junior or community college" in section 1058(f) of title 20.

(6) Covered facility of the national nuclear security administration

The term "covered facility of the National Nuclear Security Administration" means a national security laboratory or a nuclear weapons production facility as such terms are defined in section 2501 of title 50.

(7) Eligible sponsor

The term "eligible sponsor" means a public organization or nonprofit organization that—

(A) with respect to an apprenticeship program, administers the program through a partnership that may include—

(i) an industry or sector partnership;

(ii) an employer or industry association;

(iii) a labor-management organization;

(iv) a local workforce development board or State workforce development board;

(v) a 2- or 4-year institution of higher education that offers an educational program leading to an associate's or bachelor's degree in conjunction with a certificate of completion of apprenticeship;

(vi) the Armed Forces (including the National Guard and Reserves);

(vii) a community-based organization; or

(viii) an economic development agency; and

(B) with respect to a pre-apprenticeship program, is a local educational agency, a secondary school, an area career and technical education school, a provider of adult education, a State workforce development board, a local workforce development board, or a community-based organization, that administers the program with any required coordination and necessary approvals from the Secretary of Labor or a State department of labor.

(8) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001 of title 20.

(9) Local workforce development board

The term "local workforce development board" has the meaning given the term "local board" in section 3102 of title 29.

(10) National Laboratory

The term "National Laboratory" has the meaning given the term in section 15801 of this title.

(11) Nonprofit organization

The term "nonprofit organization" means an organization that is described in section 501(c) of title 26 and exempt from tax under section 501(a) of such title.

(12) Pre-apprenticeship program

The term "pre-apprenticeship program" means a program—

(A) designed to prepare individuals to enter and succeed in an apprenticeship program; and

(B) that has a documented partnership with at least one, if not more, apprenticeship programs.

(13) Provider of adult education

The term "provider of adult education" has the meaning given the term "eligible provider" in section 3272 of title 29.

(14) Related instruction

The term "related instruction" means an organized and systematic form of instruction designed to provide an individual in a pre-apprenticeship program or apprenticeship program with the knowledge of the technical subjects related to the intended occupation of the individual after completion of the program.

(15) Secretary

The term "Secretary" means the Secretary of Energy, in consultation with the Secretary of Labor, except as otherwise specified in this section.

(16) Sponsor

The term "sponsor" means any person, association, committee, or organization operating a pre-apprenticeship program or apprenticeship program and in whose name the program is (or is to be) registered or approved.

(17) State apprenticeship agency

The term "State apprenticeship agency" has the meaning given that term in section 29.2 of title 29, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(18) State workforce development board

The term "State workforce development board" has the meaning given the term "State board" in section 3102 of title 29.

(19) Workforce intermediary

The term "workforce intermediary"—

(A) means a nonprofit organization that—

(i) proactively addresses workforce needs using a dual customer approach, which considers the needs of both employees and employers; and

(ii) has partnered with a sponsor of a pre-apprenticeship program or apprenticeship program or is a sponsor of a pre-apprenticeship program or apprenticeship program; and

(B) may include a community organization, an employer organization, a community college, a temporary staffing agency, a State workforce development board, a local workforce development board, or a labor or labor-management organization.

(Pub. L. 116–92, div. C, title XXXI, §3122, Dec. 20, 2019, 133 Stat. 1953.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2020, and not as part of the America COMPETES Act, which comprises this subchapter.

CHAPTER 150—NATIONAL AERONAUTICS AND SPACE PROGRAMS, 2005

§16601. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, §2, Dec. 30, 2005, 119 Stat. 2897, which related to definitions, was transferred and is set out as a note under section 10101 of Title 51, National and Commercial Space Programs.

SUBCHAPTER I—GENERAL PRINCIPLES AND REPORTS

§§16611, 16611a. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section 16611, Pub. L. 109–155, title I, §101, Dec. 30, 2005, 119 Stat. 2897, which related to responsibilities, policies, and plans, was repealed in part and omitted in part. Subsecs. (a) and (b) were repealed and reenacted as sections 20301 and 20302, respectively, of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsecs. (c) to (g), requiring certain reports and studies by past dates, were omitted from the Code following the enactment of Title 51. Subsec. (h)(1) was repealed and reenacted as subsec. (a) of section 30103 of Title 51. Subsec. (h)(2), providing sense of Congress regarding budget evaluation, was omitted from the Code following the enactment of Title 51. Subsec. (i) was repealed and reenacted as subsec. (b) of section 30103 of Title 51. Subsec. (j), providing for independent review of strategic need for aeronautics test facilities, was omitted from the Code following the enactment of Title 51.

Section 16611a, Pub. L. 110–69, title II, §2001, Aug. 9, 2007, 121 Stat. 582, which related to NASA's contribution to innovation, was repealed in part and omitted in part. Subsecs. (a), (b), (c), and (e) were repealed and reenacted as subsecs. (a), (b), (c), and (d), respectively, of section 20303 of Title 51 by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (d), which provided sense of Congress regarding NASA funding, and subsec. (f), requiring report by Administrator regarding assessments of educational program effectiveness not later than one year after Aug. 9, 2007, were omitted from the Code following the enactment of Title 51.

§16611b. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–161, div. B, title III, Dec. 26, 2007, 121 Stat. 1919, related to NASA annual budget justification. See subsec. (c) of section 30103 of Title 51, National and Commercial Space Programs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

ESTIMATES OF RECEIPTS AND COLLECTIONS AND PROPOSED USE OF FUNDS FROM LEASES OF NON-EXCESS PROPERTY

Pub. L. 111–8, div. B, title III, Mar. 11, 2009, 123 Stat. 589, which provided in part that each annual budget request shall include an annual estimate of gross receipts and collections and proposed use of all funds collected pursuant to section 315 of the National Aeronautics and Space Act of 1958 ([former] 42 U.S.C. 2459j), was repealed and reenacted as subsec. (d) of section 30103 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51.

§16612. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title I, §102, Dec. 30, 2005, 119 Stat. 2905, which related to national awareness campaign to encourage young Americans to enter the fields of science, mathematics, and engineering, budget information, space communications plan, Joint Dark Energy Mission, and Office of Science and Technology Policy, and related reports, was transferred and is set out as a note preceding section 40901 of Title 51, National and Commercial Space Programs.

§§16613 to 16615. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16613, Pub. L. 109–155, title I, §103, Dec. 30, 2005, 119 Stat. 2907, related to baselines and cost controls. See section 30104 of Title 51, National and Commercial Space Programs.

Section 16614, Pub. L. 109–155, title I, §105, Dec. 30, 2005, 119 Stat. 2912, related to foreign launch vehicles. See section 30703 of Title 51.

Section 16615, Pub. L. 109–155, title I, §107, Dec. 30, 2005, 119 Stat. 2912, related to implementation plan describing lessons learned and best practices for major programs and projects. See section 30501 of Title 51.

§§16616, 16617. Omitted

EDITORIAL NOTES

CODIFICATION

Section 16616, Pub. L. 109–155, title I, §108, Dec. 30, 2005, 119 Stat. 2913, which related to commercialization plan for missions to the Moon and Mars, and required plan submission to Congress not later than 180 days after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

Section 16617, Pub. L. 109–155, title I, §109, Dec. 30, 2005, 119 Stat. 2913, which related to study on the feasibility of use of ground source heat pumps and required study transmission to Congress not later than one year after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51.

§16618. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title I, §110, Dec. 30, 2005, 119 Stat. 2914, related to whistleblower protection. See section 30502 of Title 51, National and Commercial Space Programs.

SUBCHAPTER II—AUTHORIZATION OF APPROPRIATIONS

§§16631 to 16634. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16631, Pub. L. 109–155, title II, §202, Dec. 30, 2005, 119 Stat. 2915, related to appropriations for fiscal year 2007.

Section 16632, Pub. L. 109–155, title II, §203, Dec. 30, 2005, 119 Stat. 2915, related to appropriations for fiscal year 2008.

Section 16633, Pub. L. 109–155, title II, §204, Dec. 30, 2005, 119 Stat. 2916, related to ISS research. See section 70902 of Title 51, National and Commercial Space Programs.

Section 16634, Pub. L. 109–155, title II, §205, Dec. 30, 2005, 119 Stat. 2916, related to charges and funding account for test facilities. See section 50505 of Title 51.

§§16635, 16636. Omitted

Section 16635, Pub. L. 109–155, title II, §206, Dec. 30, 2005, 119 Stat. 2916, which related to limitation on use of appropriated funds for official representation, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

Section 16636, Pub. L. 109–155, title II, §207, Dec. 30, 2005, 119 Stat. 2916, which required Administrator to report ISS development costs and related matters to Congress and provided for repeal of section 202 of Pub. L. 106–391 thirty days after transmission of report, was omitted from the Code following the enactment of Title 51.

SUBCHAPTER III—SCIENCE

PART A—GENERAL PROVISIONS

§16651. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title III, §301, Dec. 30, 2005, 119 Stat. 2916, related to performance assessments. See section 30503 of Title 51, National and Commercial Space Programs.

§§16652, 16653. Omitted

EDITORIAL NOTES

Section 16652, Pub. L. 109–155, title III, §302, Dec. 30, 2005, 119 Stat. 2917, which related to status of Hubble Space Telescope servicing mission and required Administrator's report to Congress not later than 60 days after second Space Shuttle mission, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

Section 16653, Pub. L. 109–155, title III, §303, Dec. 30, 2005, 119 Stat. 2917, which required independent assessment of Landsat-NPOESS integrated mission to be transmitted to Congress not later than 180 days after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51.

§§16654, 16655. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section 16654, Pub. L. 109–155, title III, §304, Dec. 30, 2005, 119 Stat. 2918; Pub. L. 111–314, §4(e), Dec. 18, 2010, 124 Stat. 3443, which related to assessment of science mission extensions, was repealed in part and omitted in part. Introductory provisions of subsec. (a) were repealed and reenacted as subsec. (a) of section 30504 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a)(1), requiring Administrator to carry out assessment for certain missions not later than 60 days after Dec. 30, 2005, was amended and redesignated subsec. (a) by Pub. L. 111–314, §4(e)(1), Dec. 18, 2010, 124 Stat. 3443, and was omitted from the Code following the enactment of Title 51. Subsec. (a)(2) was repealed and reeenacted as subsec. (b) of section 30504 of Title 51. Subsec. (b), requiring Administrator to submit report on assessment to congressional committees not later than 30 days after completion of assessment, was amended by Pub. L. 111–314, §4(e)(2), Dec. 18, 2010, 124 Stat. 3443, and was omitted from the Code following the enactment of Title 51.

Section 16655, Pub. L. 109–155, title III, §305, Dec. 30, 2005, 119 Stat. 2918, which related to microgravity research, was repealed in part and omitted in part. Par. (1), which required Administrator to submit report to congressional committees not later than 90 days after Dec. 30, 2005, as required by former

section 16766 of this title, was omitted from the Code following the enactment of Title 51. Pars. (2) and (3) were repealed and reenacted as section 40904 of Title 51 by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51.

§16656. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title III, §306, Dec. 30, 2005, 119 Stat. 2919, related to coordination with National Oceanic and Atmospheric Administration. See section 60505 of Title 51, National and Commercial Space Programs.

§16657. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title III, §307, Dec. 30, 2005, 119 Stat. 2919; Pub. L. 110–234, title VII, §7511(c)(40), May 22, 2008, 122 Stat. 1271; Pub. L. 110–246, §4(a), title VII, §7511(c)(40), June 18, 2008, 122 Stat. 1664, 2032, which related to Administrator's review of Headquarters Earth-Sun System Applied Sciences Program research and development implemented in calendar years 2001 to 2005, and required report to be submitted to congressional committees not later than one year after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

§16658. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–69, title II, §2003, Aug. 9, 2007, 121 Stat. 583, related to basic research enhancement. See section 20304 of Title 51, National and Commercial Space Programs.

PART B—REMOTE SENSING

§§16671 to 16676. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16671, Pub. L. 109–155, title III, §311, Dec. 30, 2005, 119 Stat. 2920, related to definitions. See section 60301 of Title 51, National and Commercial Space Programs.

Section 16672, Pub. L. 109–155, title III, §312, Dec. 30, 2005, 119 Stat. 2920, related to Administrator's general responsibilities. See section 60302 of Title 51.

Section 16673, Pub. L. 109–155, title III, §313, Dec. 30, 2005, 119 Stat. 2921, related to pilot projects to encourage public sector applications. See section 60303 of Title 51.

Section 16674, Pub. L. 109–155, title III, §314, Dec. 30, 2005, 119 Stat. 2921, related to program evaluation. See section 60304 of Title 51.

Section 16675, Pub. L. 109–155, title III, §315, Dec. 30, 2005, 119 Stat. 2922, related to pilot projects data availability. See section 60305 of Title 51.

Section 16676, Pub. L. 109–155, title III, §316, Dec. 30, 2005, 119 Stat. 2922, related to educational outreach program. See section 60306 of Title 51.

PART C—GEORGE E. BROWN, JR. NEAR-EARTH OBJECT SURVEY

§16691. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title III, §321, Dec. 30, 2005, 119 Stat. 2922, which related to the George E. Brown, Jr. Near-Earth Object Survey, was transferred and is set out as a note preceding section 71101 of Title 51, National and Commercial Space Programs.

SUBCHAPTER IV—AERONAUTICS

§16701. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title IV, §401, Dec. 30, 2005, 119 Stat. 2923, defined "institution of higher education". See section 40101 of Title 51, National and Commercial Space Programs.

PART A—GOVERNMENTAL INTEREST IN AERONAUTICS RESEARCH AND DEVELOPMENT

§16711. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title IV, §411, Dec. 30, 2005, 119 Stat. 2923, related to governmental interest in aeronautics research. See section 40102 of Title 51, National and Commercial Space Programs.

§16712. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–69, title II, §2002, Aug. 9, 2007, 121 Stat. 583, which related to aeronautics research and development program, was repealed in part and omitted in part. Subsec. (b) was repealed and reenacted as section 40103 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a), which provided a sense of Congress, was omitted from the Code following the enactment of Title 51.

PART B—HIGH PRIORITY AERONAUTICS RESEARCH AND DEVELOPMENT PROGRAMS

§§16721 to 16727. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16721, Pub. L. 109–155, title IV, §421, Dec. 30, 2005, 119 Stat. 2924, related to long-term fundamental research program in aeronautics. Subsecs. (a) and (b) were reenacted as section 40111 of Title 51, National and Commercial Space Programs.

Section 16722, Pub. L. 109–155, title IV, §422, Dec. 30, 2005, 119 Stat. 2924, related to research and technology programs for environmental aircraft, supersonic transport, rotorcraft and other runway-independent air vehicles, hypersonics, revolutionary aeronautical concepts, fuel cell-powered aircraft,

and Mars aircraft. See sections 40112 and 40701 of Title 51.

Section 16723, Pub. L. 109–155, title IV, §423, Dec. 30, 2005, 119 Stat. 2925, related to Airspace Systems Research program. See section 40113 of Title 51.

Section 16724, Pub. L. 109–155, title IV, §424, Dec. 30, 2005, 119 Stat. 2926, related to Aviation Safety and Security Research program. See section 40114 of Title 51.

Section 16725, Pub. L. 109–155, title IV, §425, Dec. 30, 2005, 119 Stat. 2926, related to aviation weather research. See section 40115 of Title 51.

Section 16726, Pub. L. 109–155, title IV, §426, Dec. 30, 2005, 119 Stat. 2926, related to assessment of wake turbulence research and development program and required report to Congress no later than two years after Dec. 30, 2005.

Section 16727, Pub. L. 109–155, title IV, §427, Dec. 30, 2005, 119 Stat. 2926; Pub. L. 110–422, title III, §308, Oct. 15, 2008, 122 Stat. 4788, related to university-based Centers for Research on Aviation Training. See section 40116 of Title 51.

PART C—SCHOLARSHIPS

§16741. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title IV, §431, Dec. 30, 2005, 119 Stat. 2927, related to NASA aeronautics scholarships. See section 40131 of Title 51, National and Commercial Space Programs.

PART D—DATA REQUESTS

§16751. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title IV, §441, Dec. 30, 2005, 119 Stat. 2927, related to aviation data requests. See section 40141 of Title 51, National and Commercial Space Programs.

SUBCHAPTER V—HUMAN SPACE FLIGHT

§16761. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title V, §501, Dec. 30, 2005, 119 Stat. 2927; Pub. L. 110–422, title VI, §611(a), Oct. 15, 2008, 122 Stat. 4796, which related to Space Shuttle follow-on, was repealed in part and omitted in part. Subsecs. (a) and (b) were repealed and reenacted as section 70501 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (c), requiring Administrator's report to congressional committees on lack of human space flight system to replace the Space Shuttle not later than 90 days after Oct. 15, 2008, was omitted from the Code following the enactment of Title 51.

§16762. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title V, §502, Dec. 30, 2005, 119 Stat. 2928, which related to transition from Space Shuttle program to Crew Exploration Vehicle, Crew Launch Vehicle, and heavy-lift launch vehicle, was transferred and is set out as a note under section 70501 of Title 51, National and Commercial Space Programs.

§§16763 to 16765. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16763, Pub. L. 109–155, title V, §503, Dec. 30, 2005, 119 Stat. 2929, related to requirements for exploration programs. See section 70502 of Title 51, National and Commercial Space Programs.

Section 16764, Pub. L. 109–155, title V, §504, Dec. 30, 2005, 119 Stat. 2929, related to ground-based analog capabilities. See section 70503 of Title 51.

Section 16765, Pub. L. 109–155, title V, §505, Dec. 30, 2005, 119 Stat. 2929, related to International Space Station completion. See section 70904 of Title 51.

§§16766, 16767. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section 16766, Pub. L. 109–155, title V, §506, Dec. 30, 2005, 119 Stat. 2930, which related to International Space Station research, was repealed in part and omitted in part. Pars. (1) and (2) were repealed and reenacted as section 70903 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Par. (3), which required Administrator's report to congressional committees, not later than 90 days after Dec. 30, 2005, regarding research plan for utilization and proposed final configuration of the International Space Station, was omitted from the Code following the enactment of Title 51.

Section 16767, Pub. L. 109–155, title V, §507, Dec. 30, 2005, 119 Stat. 2930, which related to national laboratory designation, was repealed in part and omitted in part. Subsecs. (a), (b), and (d) were repealed and reenacted as subsecs. (b), (c), and (a), respectively, of section 70905 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (c), which required Administrator's report to congressional committees regarding operation plan for national laboratory (United States segment of the International Space Station) not later than one year after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51.

SUBCHAPTER VI—OTHER PROGRAM AREAS

PART A—SPACE AND FLIGHT SUPPORT

§16781. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title VI, §601, Dec. 30, 2005, 119 Stat. 2931, related to decreasing the risks associated with orbital debris. See section 31501 of Title 51, National and Commercial Space Programs.

§16782. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title VI, §602, Dec. 30, 2005, 119 Stat. 2931, which related to secondary payload capability, was transferred and is set out as a note under section 70102 of Title 51, National and Commercial Space Programs.

PART B—EDUCATION

§§16791, 16792. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16791, Pub. L. 109–155, title VI, §612, Dec. 30, 2005, 119 Stat. 2932, related to program to expand distance learning in rural underserved areas. See section 40905 of Title 51, National and Commercial Space Programs.

Section 16792, Pub. L. 109–155, title VI, §613, Dec. 30, 2005, 119 Stat. 2932, related to Charles "Pete" Conrad Astronomy Awards. See section 30902 of Title 51.

§16793. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title VI, §614, Dec. 30, 2005, 119 Stat. 2933, which related to review of precollege education programs and required results be transmitted to congressional committees not later than 18 months after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

§§16794, 16795. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16794, Pub. L. 109–155, title VI, §615, Dec. 30, 2005, 119 Stat. 2934, related to equal access to NASA's education programs. See section 40906 of Title 51, National and Commercial Space Programs.

Section 16795, Pub. L. 109–155, title VI, §616, Dec. 30, 2005, 119 Stat. 2934, related to grants and cooperative agreements to enhance museum and planetarium programs. See section 40907 of Title 51.

§16796. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title VI, §617, Dec. 30, 2005, 119 Stat. 2934, which required review of legal status of Motivating Undergraduates in Science and Technology (MUST) program, was transferred and is set out as a note preceding section 40901 of Title 51, National and Commercial Space Programs.

§16797. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title VI, §618, Dec. 30, 2005, 119 Stat. 2934, related to continuation of the Space Grant Program, the Experimental Program to Stimulate Competitive Research, and the NASA Explorer School program. See section 40908 of Title 51, National and Commercial Space Programs.

§16798. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title VI, §619, Dec. 30, 2005, 119 Stat. 2935, which related to implementation of previous recommendations, was repealed in part and omitted in part. Subsec. (b) was repealed and reenacted as section 40909 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a), requiring Administrator's report to Congressional committees regarding implementation of Government Accountability Office Report No. 04–639 not later than 180 days after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51.

PART C—TECHNOLOGY TRANSFER

§16811. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 109–155, title VI, §621, Dec. 30, 2005, 119 Stat. 2935, related to commercial technology transfer program. See section 50116 of Title 51, National and Commercial Space Programs.

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

PART A—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

§§16821 to 16823. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16821, Pub. L. 109–155, title VII, §707, Dec. 30, 2005, 119 Stat. 2937, related to small business contracting. See section 30306 of Title 51, National and Commercial Space Programs.

Section 16822, Pub. L. 109–155, title VII, §708, Dec. 30, 2005, 119 Stat. 2938, related to NASA healthcare program. See section 31301 of Title 51.

Section 16823, Pub. L. 109–155, title VII, §709, Dec. 30, 2005, 119 Stat. 2938, related to offshore performance of contracts for the procurement of goods and services. See section 30704 of Title 51.

§16824. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title VII, §710, Dec. 30, 2005, 119 Stat. 2938, which required review of NASA's enhanced use leasing pilot program to be transmitted to congressional committees not later than one year after Dec. 30, 2005, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

PART B—NATIONAL SCIENCE FOUNDATION

§16831. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 109–155, title VII, §721, Dec. 30, 2005, 119 Stat. 2938, which related to collection of data on specific fields of study, was transferred to section 1886a of this title following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

§16832. Omitted

Section, Pub. L. 109–155, title VII, §722, Dec. 30, 2005, 119 Stat. 2939, which related to National Science Foundation major research equipment and facilities and required review of facilities and development plan to be transmitted to congressional committees not later than June 30, 2006, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

SUBCHAPTER VIII—HUMAN SPACE FLIGHT INDEPENDENT INVESTIGATION COMMISSION

§§16841 to 16850. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 16841, Pub. L. 109–155, title VIII, §821, Dec. 30, 2005, 119 Stat. 2941, related to definitions. See section 70701 of Title 51, National and Commercial Space Programs.

Section 16842, Pub. L. 109–155, title VIII, §822, Dec. 30, 2005, 119 Stat. 2941, related to establishment of Commission. See section 70702 of Title 51.

Section 16843, Pub. L. 109–155, title VIII, §823, Dec. 30, 2005, 119 Stat. 2941, related to tasks of the Commission. See section 70703 of Title 51.

Section 16844, Pub. L. 109–155, title VIII, §824, Dec. 30, 2005, 119 Stat. 2942, related to composition of Commission. See section 70704 of Title 51.

Section 16845, Pub. L. 109–155, title VIII, §825, Dec. 30, 2005, 119 Stat. 2942, related to powers of Commission. See section 70705 of Title 51.

Section 16846, Pub. L. 109–155, title VIII, §826, Dec. 30, 2005, 119 Stat. 2943, related to public meetings, information, and hearings. See section 70706 of Title 51.

Section 16847, Pub. L. 109–155, title VIII, §827, Dec. 30, 2005, 119 Stat. 2943, related to staff of Commission. See section 70707 of Title 51.

Section 16848, Pub. L. 109–155, title VIII, §828, Dec. 30, 2005, 119 Stat. 2944, related to compensation and travel expenses. See section 70708 of Title 51.

Section 16849, Pub. L. 109–155, title VIII, §829, Dec. 30, 2005, 119 Stat. 2944, related to security clearances for Commission members and staff. See section 70709 of Title 51.

Section 16850, Pub. L. 109–155, title VIII, §830, Dec. 30, 2005, 119 Stat. 2944, related to reporting requirements and termination. See section 70710 of Title 51.

CHAPTER 151—CHILD PROTECTION AND SAFETY

SUBCHAPTER I—SEX OFFENDER REGISTRATION AND NOTIFICATION

Sec.
16901,

SUBCHAPTER I—SEX OFFENDER REGISTRATION AND NOTIFICATION

§16901. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16901 was editorially reclassified as section 20901 of Title 34, Crime Control and Law Enforcement.

§16902. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16902 was editorially reclassified as section 20902 of Title 34, Crime Control and Law Enforcement.

PART A—SEX OFFENDER REGISTRATION AND NOTIFICATION

§16911. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16911 was editorially reclassified as section 20911 of Title 34, Crime Control and Law Enforcement.

§16912. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16912 was editorially reclassified as section 20912 of Title 34, Crime Control and Law Enforcement.

§16913. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16913 was editorially reclassified as section 20913 of Title 34, Crime Control and Law Enforcement.

§16914. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16914 was editorially reclassified as section 20914 of Title 34, Crime Control and Law Enforcement.

§16915. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16915 was editorially reclassified as section 20915 of Title 34, Crime Control and Law Enforcement.

§16915a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16915a was editorially reclassified as section 20916 of Title 34, Crime Control and Law Enforcement.

§16915b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16915b was editorially reclassified as section 20917 of Title 34, Crime Control and Law Enforcement.

§16916. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16916 was editorially reclassified as section 20918 of Title 34, Crime Control and Law Enforcement.

§16917. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16917 was editorially reclassified as section 20919 of Title 34, Crime Control and Law Enforcement.

§16918. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16918 was editorially reclassified as section 20920 of Title 34, Crime Control and Law Enforcement.

§16919. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16919 was editorially reclassified as section 20921 of Title 34, Crime Control and Law Enforcement.

§16920. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16920 was editorially reclassified as section 20922 of Title 34, Crime Control and Law Enforcement.

§16921. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16921 was editorially reclassified as section 20923 of Title 34, Crime Control and Law Enforcement.

§16922. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16922 was editorially reclassified as section 20924 of Title 34, Crime Control and Law Enforcement.

§16923. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16923 was editorially reclassified as section 20925 of Title 34, Crime Control and Law Enforcement.

§16924. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16924 was editorially reclassified as section 20926 of Title 34, Crime Control and Law Enforcement.

§16925. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16925 was editorially reclassified as section 20927 of Title 34, Crime Control and Law Enforcement.

§16926. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16926 was editorially reclassified as section 20928 of Title 34, Crime Control and Law Enforcement.

§16927. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16927 was editorially reclassified as section 20929 of Title 34, Crime Control and Law Enforcement.

§16928. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16928 was editorially reclassified as section 20930 of Title 34, Crime Control and Law Enforcement.

§16928a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16928a was editorially reclassified as section 20931 of Title 34, Crime Control and Law Enforcement.

§16929. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16929 was editorially reclassified as section 20932 of Title 34, Crime Control and Law Enforcement.

PART A–1—Advanced Notification of Traveling Sex Offenders

§16935. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935 was editorially reclassified as section 21501 of Title 34, Crime Control and Law Enforcement.

§16935a. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935a was editorially reclassified as section 21502 of Title 34, Crime Control and Law Enforcement.

§16935b. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935b was editorially reclassified as section 21503 of Title 34, Crime Control and Law Enforcement.

§16935c. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935c was editorially reclassified as section 21504 of Title 34, Crime Control and Law Enforcement.

§16935d. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935d was editorially reclassified as section 21505 of Title 34, Crime Control and Law Enforcement.

§16935e. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935e was editorially reclassified as section 21506 of Title 34, Crime Control and Law Enforcement.

§16935f. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935f was editorially reclassified as section 21507 of Title 34, Crime Control and Law Enforcement.

§16935g. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935g was editorially reclassified as section 21508 of Title 34, Crime Control and Law Enforcement.

§16935h. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935h was editorially reclassified as section 21509 of Title 34, Crime Control and Law Enforcement.

§16935i. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16935i was editorially reclassified as section 21510 of Title 34, Crime Control and Law Enforcement.

PART B—IMPROVING FEDERAL CRIMINAL LAW ENFORCEMENT TO ENSURE SEX OFFENDER COMPLIANCE WITH REGISTRATION AND NOTIFICATION REQUIREMENTS AND PROTECTION OF CHILDREN FROM VIOLENT PREDATORS

§16941. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16941 was editorially reclassified as section 20941 of Title 34, Crime Control and Law Enforcement.

§16942. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16942 was editorially reclassified as section 20942 of Title 34, Crime Control and Law Enforcement.

§16943. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16943 was editorially reclassified as section 20943 of Title 34, Crime Control and Law Enforcement.

§16944. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16944 was editorially reclassified as section 20944 of Title 34, Crime Control and Law Enforcement.

§16945. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16945 was editorially reclassified as section 20945 of Title 34, Crime Control and Law Enforcement.

PART C—ACCESS TO INFORMATION AND RESOURCES NEEDED TO ENSURE THAT CHILDREN ARE NOT ATTACKED OR ABUSED

§16961. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16961 was editorially reclassified as section 20961 of Title 34, Crime Control and Law Enforcement.

§16962. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16962 was editorially reclassified as section 20962 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—CIVIL COMMITMENT OF DANGEROUS SEX OFFENDERS

§16971. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16971 was editorially reclassified as section 20971 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER III—GRANTS AND OTHER PROVISIONS

§16981. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16981 was editorially reclassified as section 20981 of Title 34, Crime Control and Law Enforcement.

§16982. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16982 was editorially reclassified as section 20982 of Title 34, Crime Control and Law Enforcement.

§16983. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16983 was editorially reclassified as section 20983 of Title 34, Crime Control and Law Enforcement.

§16984. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16984 was editorially reclassified as section 20984 of Title 34, Crime Control and Law Enforcement.

§16985. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16985 was editorially reclassified as section 20985 of Title 34, Crime Control and Law Enforcement.

§16986. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16986 was editorially reclassified as section 20986 of Title 34, Crime Control and Law Enforcement.

§16987. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16987 was editorially reclassified as section 20987 of Title 34, Crime Control and Law Enforcement.

§16988. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16988 was editorially reclassified as section 20988 of Title 34, Crime Control and Law Enforcement.

§16989. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16989 was editorially reclassified as section 20989 of Title 34, Crime Control and Law Enforcement.

§16990. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16990 was editorially reclassified as section 20990 of Title 34, Crime Control and Law Enforcement.

§16991. Transferred

EDITORIAL NOTES

CODIFICATION

Section 16991 was editorially reclassified as section 20991 of Title 34, Crime Control and Law Enforcement.

CHAPTER 152—ENERGY INDEPENDENCE AND SECURITY

Sec.

§17001. Definitions

In this Act:

(1) Department

The term "Department" means the Department of Energy.

(2) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001(a) of title 20.

(3) Secretary

The term "Secretary" means the Secretary of Energy.

(Pub. L. 110–140, §2, Dec. 19, 2007, 121 Stat. 1498.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1492, known as the Energy Independence and Security Act of 2007, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116–260, div. Z, §101(a), Dec. 27, 2020, 134 Stat. 2418, provided that: "This division [see Tables for classification] may be cited as the 'Energy Act of 2020'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–11, §1(a), Apr. 30, 2015, 129 Stat. 182, provided that: "This Act [enacting sections 17062, 17063, 17084, and 17085 of this title, amending sections 6295, 6302 to 6304, and 17091 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Energy Efficiency Improvement Act of 2015'."

Pub. L. 114–11, title I, §101, Apr. 30, 2015, 129 Stat. 182, provided that: "This title [enacting sections 17062, 17084, and 17085 of this title] may be cited as the 'Better Buildings Act of 2015'."

SHORT TITLE

Pub. L. 110–140, §1(a), Dec. 19, 2007, 121 Stat. 1492, provided that: "This Act [see Tables for classification] may be cited as the 'Energy Independence and Security Act of 2007'."

Pub. L. 110–140, title VI, §601, Dec. 19, 2007, 121 Stat. 1674, provided that: "This subtitle [subtitle A (§§601–607) of title VI of Pub. L. 110–140, enacting part A (§17171 et seq.) of subchapter V of this chapter] may be cited as the 'Solar Energy Research and Advancement Act of 2007'."

Pub. L. 110–140, title VI, §611, Dec. 19, 2007, 121 Stat. 1678, provided that: "This subtitle [subtitle B (§§611–625) of title VI of Pub. L. 110–140, enacting part B (§17191 et seq.) of subchapter V of this chapter] may be cited as the 'Advanced Geothermal Energy Research and Development Act of 2007'."

Pub. L. 110–140, title VI, §631, Dec. 19, 2007, 121 Stat. 1686, which provided that subtitle C (§§631–636) of title VI of Pub. L. 110–140, enacting former part C (§17211 et seq.) of subchapter V of this chapter, could be cited as the "Marine and Hydrokinetic Renewable Energy Research and Development Act", was omitted from the Code in the general amendment of subtitle C by Pub. L. 116–260.

Pub. L. 110–140, title VII, §701, Dec. 19, 2007, 121 Stat. 1704, provided that: "This subtitle [subtitle A (§§701–708) of title VII of Pub. L. 110–140, enacting part A (§17251 et seq.) of subchapter VI of this chapter and amending section 16293 of this title] may be cited as the 'Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007'."

§17002. Relationship to other law

Except to the extent expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act supersedes, limits the authority provided or responsibility conferred by, or authorizes any violation of any provision of law (including a regulation), including any energy or environmental law or regulation.

(Pub. L. 110–140, §3, Dec. 19, 2007, 121 Stat. 1498.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1492, known as the Energy Independence and Security Act of 2007, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 17001 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER I—IMPROVED VEHICLE TECHNOLOGY

§17011. Transportation electrification

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Battery

The term "battery" means an electrochemical energy storage system powered directly by electrical current.

(3) Electric transportation technology

The term "electric transportation technology" means—

(A) technology used in vehicles that use an electric motor for all or part of the motive power of the vehicles, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles, or rail transportation; or

(B) equipment relating to transportation or mobile sources of air pollution that use an electric motor to replace an internal combustion engine for all or part of the work of the equipment, including—

(i) corded electric equipment linked to transportation or mobile sources of air pollution; and

(ii) electrification technologies at airports, ports, truck stops, and material-handling facilities.

(4) Nonroad vehicle

The term "nonroad vehicle" means a vehicle—

(A) powered—

(i) by a nonroad engine, as that term is defined in section 7550 of this title; or

(ii) fully or partially by an electric motor powered by a fuel cell, a battery, or an off-board source of electricity; and

(B) that is not a motor vehicle or a vehicle used solely for competition.

(5) Plug-in electric drive vehicle

The term "plug-in electric drive vehicle" means a vehicle that—

(A) draws motive power from a battery with a capacity of at least 4 kilowatt-hours;

(B) can be recharged from an external source of electricity for motive power; and

(C) is a light-, medium-, or heavy-duty motor vehicle or nonroad vehicle (as those terms are defined in section 7550 of this title).

(6) Qualified electric transportation project

The term "qualified electric transportation project" means an electric transportation technology project that would significantly reduce emissions of criteria pollutants, greenhouse gas emissions, and petroleum, including—

(A) shipside or shoreside electrification for vessels;

(B) truck-stop electrification;

(C) electric truck refrigeration units;

(D) battery-powered auxiliary power units for trucks;

(E) electric airport ground support equipment;

(F) electric material and cargo handling equipment;

(G) electric or dual-mode electric rail;

(H) any distribution upgrades needed to supply electricity to the project; and

(I) any ancillary infrastructure, including panel upgrades, battery chargers, in-situ transformers, and trenching.

(b) Plug-in electric drive vehicle program

(1) Establishment

The Secretary shall establish a competitive program to provide grants on a cost-shared basis to State governments, local governments, metropolitan transportation authorities, air pollution control districts, private or nonprofit entities, or combinations of those governments, authorities, districts, and entities, to carry out one or more projects to encourage the use of plug-in electric drive vehicles or other emerging electric vehicle technologies, as determined by the Secretary.

(2) Administration

The Secretary shall, in consultation with the Secretary of Transportation and the Administrator, establish requirements for applications for grants under this section, including reporting of data to be summarized for dissemination to grantees and the public, including safety, vehicle, and

component performance, and vehicle and component life cycle costs.

(3) Priority

In making awards under this subsection, the Secretary shall—

(A) give priority consideration to applications that—

(i) encourage early widespread use of vehicles described in paragraph (1); and

(ii) are likely to make a significant contribution to the advancement of the production of the vehicles in the United States; and

(B) ensure, to the maximum extent practicable, that the program established under this subsection includes a variety of applications, manufacturers, and end-uses.

(4) Reporting

The Secretary shall require a grant recipient under this subsection to submit to the Secretary, on an annual basis, data relating to safety, vehicle performance, life cycle costs, and emissions of vehicles demonstrated under the grant, including emissions of greenhouse gases.

(5) Cost sharing

Section 16352 of this title shall apply to a grant made under this subsection.

(6) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $90,000,000 for each of fiscal years 2008 through 2012, of which not less than 1/3 of the total amount appropriated shall be available each fiscal year to make grants to local and municipal governments.

(c) Near-term transportation sector electrification program

(1) In general

Not later than 1 year after December 19, 2007, the Secretary, in consultation with the Secretary of Transportation and the Administrator, shall establish a program to provide grants for the conduct of qualified electric transportation projects.

(2) Priority

In providing grants under this subsection, the Secretary shall give priority to large-scale projects and large-scale aggregators of projects.

(3) Cost sharing

Section 16352 of this title shall apply to a grant made under this subsection.

(4) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $95,000,000 for each of fiscal years 2008 through 2013.

(d) Education program

(1) In general

The Secretary shall develop a nationwide electric drive transportation technology education program under which the Secretary shall provide—

(A) teaching materials to secondary schools and high schools; and

(B) assistance for programs relating to electric drive system and component engineering to institutions of higher education.

(2) Electric vehicle competition

The program established under paragraph (1) shall include a plug-in hybrid electric vehicle competition for institutions of higher education, which shall be known as the "Dr. Andrew Frank Plug-In Electric Vehicle Competition".

(3) Engineers

In carrying out the program established under paragraph (1), the Secretary shall provide

financial assistance to institutions of higher education to create new, or support existing, degree programs to ensure the availability of trained electrical and mechanical engineers with the skills necessary for the advancement of—

(A) plug-in electric drive vehicles; and

(B) other forms of electric drive transportation technology vehicles.

(4) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(Pub. L. 110–140, title I, §131, Dec. 19, 2007, 121 Stat. 1508.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17012. Advanced battery loan guarantee program

(a) Establishment of program

The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the manufacture of advanced vehicle batteries and battery systems that are developed and produced in the United States, including advanced lithium ion batteries and hybrid electrical system and component manufacturers and software designers.

(b) Requirements

The Secretary may provide a loan guarantee under subsection (a) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (a);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(c) Criteria

In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility.

(d) Maturity

A loan guaranteed under subsection (a) shall have a maturity of not more than 20 years.

(e) Terms and conditions

The loan agreement for a loan guaranteed under subsection (a) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(f) Assurance of repayment

The Secretary shall require that an applicant for a loan guarantee under subsection (a) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(g) Guarantee fee

The recipient of a loan guarantee under subsection (a) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(h) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(i) Reports

Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

(j) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(k) Termination of authority

The authority of the Secretary to issue a loan guarantee under subsection (a) terminates on the date that is 10 years after December 19, 2007.

(Pub. L. 110–140, title I, §135, Dec. 19, 2007, 121 Stat. 1513.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17013. Advanced technology vehicles manufacturing incentive program

(a) Definitions

In this section:

(1) Advanced technology vehicle

The term "advanced technology vehicle" means—

(A) an ultra efficient vehicle or a light duty vehicle that meets—

(i) the Bin 5 Tier II emission standard established in regulations issued by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)), or a lower-numbered Bin emission standard;

(ii) any new emission standard in effect for fine particulate matter prescribed by the Administrator under that Act (42 U.S.C. 7401 et seq.); and

(iii) at least 125 percent of the average base year combined fuel economy for vehicles with substantially similar attributes;

(B) a medium duty vehicle or a heavy duty vehicle that exceeds 125 percent of the greenhouse gas emissions and fuel efficiency standards established by the final rule of the Environmental Protection Agency entitled "Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2" (81 Fed. Reg. 73478 (October 25, 2016));

(C) a train or locomotive;

(D) a maritime vessel;

(E) an aircraft; and

(F) hyperloop technology.

(2) Combined fuel economy

The term "combined fuel economy" means—

(A) the combined city/highway miles per gallon values, as reported in accordance with section 32904 of title 49; and

(B) in the case of an electric drive vehicle with the ability to recharge from an off-board source, the reported mileage, as determined in a manner consistent with the Society of Automotive Engineers recommended practice for that configuration or a similar practice recommended by the Secretary.

(3) Engineering integration costs

The term "engineering integration costs" includes the cost of engineering tasks relating to—

(A) incorporating qualifying components into the design of advanced technology vehicles; and

(B) designing tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced technology vehicles.

(4) Qualifying components

The term "qualifying components" means components that the Secretary determines to be—

(A) designed for advanced technology vehicles; and

(B) installed for the purpose of meeting the performance requirements of advanced technology vehicles.

(5) Ultra efficient vehicle

The term "ultra efficient vehicle" means a fully closed compartment vehicle designed to carry at least 2 adult passengers that achieves—

(A) at least 75 miles per gallon while operating on gasoline or diesel fuel;

(B) at least 75 miles per gallon equivalent while operating as a hybrid electric-gasoline or electric-diesel vehicle; or

(C) at least 75 miles per gallon equivalent while operating as a fully electric vehicle.

(b) Advanced vehicles manufacturing facility

The Secretary shall provide facility funding awards under this section to automobile manufacturers, ultra efficient vehicle manufacturers, advanced technology vehicle manufacturers, and component suppliers to pay not more than 30 percent of the cost of—

(1) reequipping, expanding, or establishing a manufacturing facility in the United States to produce—

(A) qualifying advanced technology vehicles;

(B) qualifying components; or

(C) ultra efficient vehicles; and

(2) engineering integration performed in the United States of qualifying vehicles, ultra efficient vehicles, and qualifying components.

(c) Period of availability

An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on December 19, 2007, and ending on December 30, 2020.

(d) Direct loan program

(1) In general

Not later than 1 year after December 19, 2007, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of

activities described in subsection (b). The loans shall be made through the Federal Financing Bank, with the full faith and credit of the United States Government on the principal and interest. The full credit subsidy shall be paid by the Secretary using appropriated funds.

(2) Application

An applicant for a loan under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a loan under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40.

(3) Selection of eligible projects

(A) In general

The Secretary shall select eligible projects to receive loans under this subsection if the Secretary determines that—

(i) the loan recipient—

(I) has a reasonable prospect of repaying the principal and interest on the loan;

(II) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(III) has met such other criteria as may be established and published by the Secretary; and

(ii) the amount of the loan (when combined with amounts available to the loan recipient from other sources) will be sufficient to carry out the project.

(B) Reasonable prospect of repayment

The Secretary shall base a determination of whether there is a reasonable prospect of repayment of the principal and interest on a loan under subparagraph (A)(i)(I) on a comprehensive evaluation of whether the loan recipient has a reasonable prospect of repaying the principal and interest, including, as applicable, an evaluation of—

(i) the strength of the contractual terms of the eligible project (if commercially reasonably available);

(ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary;

(iii) cash sweeps and other structure enhancements;

(iv) the projected financial strength of the loan recipient—

(I) at the time of loan close; and

(II) throughout the loan term after the project is completed;

(v) the financial strength of the investors and strategic partners of the loan recipient, if applicable; and

(vi) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary.

(4) Rates, terms, and repayment of loans

A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the

cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and [1]

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary;

(D) shall be made by the Federal Financing Bank; and

(E) shall be subject to the condition that the loan is not subordinate to other financing.

(5) Conflicts of interest

For each eligible project selected to receive a loan under this subsection, the Secretary shall certify that political influence did not impact the selection of the eligible project.

(e) Improvement

Not later than 60 days after September 30, 2008, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section. Such interim final rule shall require that, in order for an automobile manufacturer to be eligible for an award or loan under this section during a particular year, the adjusted average fuel economy of the manufacturer for light duty vehicles produced by the manufacturer during the most recent year for which data are available shall be not less than the average fuel economy for all light duty vehicles of the manufacturer for model year 2005. In order to determine fuel economy baselines for eligibility of a new manufacturer or a manufacturer that has not produced previously produced equivalent vehicles, the Secretary may substitute industry averages.

(f) Fees

Administrative costs shall be no more than $100,000 or 10 basis point [2] of the loan.

(g) Priority

The Secretary shall, in making awards or loans to those manufacturers that have existing facilities, give priority to those facilities that are oldest or have been in existence for at least 20 years or are utilized primarily for the manufacture of ultra efficient vehicles. Such facilities can currently be sitting idle.

(h) Set aside for small advanced technology vehicle manufacturers and component suppliers

(1) Definition of covered firm

In this subsection, the term "covered firm" means a firm that—

(A) employs less than 500 individuals; and

(B) manufactures ultra efficient vehicles, advanced technology vehicles, or components of advanced technology vehicles.

(2) Set aside

Of the amount of funds that are used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(i) Appointment and pay of personnel

(1) The Secretary may use direct hiring authority pursuant to section 3304(a)(3) of title 5 to appoint such professional and administrative personnel as the Secretary deems necessary to the discharge of the Secretary's functions under this section.

(2) The rate of pay for a person appointed pursuant to paragraph (1) shall not exceed the maximum rate payable for GS-15 of the General Schedule under chapter 53 such [3] title 5.

(3) The Secretary may retain such consultants as the Secretary deems necessary to the discharge of the functions required by this section, pursuant to section 1901 of title 41.

(j) Coordination

In carrying out this section, the Secretary shall coordinate with relevant vehicle, bioenergy, and hydrogen and fuel cell demonstration project activities supported by the Department.

(k) Outreach

In carrying out this section, the Secretary shall—

(1) provide assistance with the completion of applications for awards or loans under this section; and

(2) conduct outreach, including through conferences and online programs, to disseminate information on awards and loans under this section to potential applicants.

(l) Prohibition on use of appropriated funds

Amounts appropriated to the Secretary before November 15, 2021, shall not be available to the Secretary to provide awards under subsection (b) or loans under subsection (d) for the costs of activities that were not eligible for those awards or loans on the day before that date.

(m) Report

Not later than 2 years after November 15, 2021, and every 3 years thereafter, the Secretary shall submit to Congress a report on the status of projects supported by a loan under this section, including—

(1) a list of projects receiving a loan under this section, including the loan amount and construction status of each project;

(2) the status of the loan repayment for each project, including future repayment projections;

(3) data regarding the number of direct and indirect jobs retained, restored, or created by financed projects;

(4) the number of new projects projected to receive a loan under this section in the next 2 years, including the projected aggregate loan amount over the next 2 years;

(5) evaluation of ongoing compliance with the assurances and commitments, and of the predictions, made by applicants pursuant to paragraphs (2) and (3) of subsection (d);

(6) the total number of applications received by the Department each year; and

(7) any other metrics the Secretary determines appropriate.

(Pub. L. 110–140, title I, §136, Dec. 19, 2007, 121 Stat. 1514; Pub. L. 110–329, div. A, §129(c), Sept. 30, 2008, 122 Stat. 3578; Pub. L. 111–85, title III, §312(a), Oct. 28, 2009, 123 Stat. 2874; Pub. L. 117–58, div. D, title IV, §40401(b), Nov. 15, 2021, 135 Stat. 1034.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(1)(B), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (d)(2)(B), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (j)(3), "section 1901 of title 41" substituted for "section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 117–58, §40401(b)(1), substituted "means—" for "means", inserted subpar. (A) designation before "an ultra", redesignated former subpars. (A) to (C) as cls. (i) to (iii) of subpar. (A), respectively, and added subpars. (B) to (F).

Subsec. (b). Pub. L. 117–58, §40401(b)(3)(A), substituted "ultra efficient vehicle manufacturers, advanced technology vehicle manufacturers, and component suppliers" for "ultra efficient vehicle manufacturers, and component suppliers" in introductory provisions.

Subsec. (d)(3). Pub. L. 117–58, §40401(b)(2)(A), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: "The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

"(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

"(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

"(C) has met such other criteria as may be established and published by the Secretary."

Subsec. (d)(4)(E). Pub. L. 117–58, §40401(b)(2)(B), added subpar. (E).

Subsec. (d)(5). Pub. L. 117–58, §40401(b)(4), added par. (5).

Subsec. (h). Pub. L. 117–58, §40401(b)(3)(B)(i), substituted "advanced technology vehicle" for "automobile" in heading.

Subsec. (h)(1)(B). Pub. L. 117–58, §40401(b)(3)(B)(ii), substituted "advanced technology vehicles, or components of advanced technology vehicles" for "automobiles, or components of automobiles".

Subsecs. (i) to (m). Pub. L. 117–58, §40401(b)(3)(C)–(E), added subsecs. (j) to (m), redesignated former subsec. (j) as (i), and struck out former subsec. (i). Prior to amendment, text of subsec. (i) read as follows: "There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012."

2009—Subsec. (a)(1). Pub. L. 111–85, §312(a)(1)(A), inserted "an ultra efficient vehicle or" after "means" in introductory provisions.

Subsec. (a)(5). Pub. L. 111–85, §312(a)(1)(B), added par. (5).

Subsec. (b). Pub. L. 111–85, §312(a)(2)(A), inserted ", ultra efficient vehicle manufacturers," after "automobile manufacturers" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 111–85, §312(a)(2)(B), added subpar. (C).

Subsec. (b)(2). Pub. L. 111–85, §312(a)(2)(C), inserted ", ultra efficient vehicles," after "qualifying vehicles".

Subsec. (g). Pub. L. 111–85, §312(a)(3), inserted "or are utilized primarily for the manufacture of ultra efficient vehicles" after "20 years".

Subsec. (h)(1)(B). Pub. L. 111–85, §312(a)(4), substituted "ultra efficient vehicles, automobiles," for "automobiles".

2008—Subsec. (d)(1). Pub. L. 110–329, §129(c)(1), inserted at end "The loans shall be made through the Federal Financing Bank, with the full faith and credit of the United States Government on the principal and interest. The full credit subsidy shall be paid by the Secretary using appropriated funds."

Subsec. (e). Pub. L. 110–329, §129(c)(2), substituted "Not later than 60 days after September 30, 2008, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary deems necessary to administer this section and any loans made by the Secretary pursuant to this section. Such interim final rule shall require that," for "The Secretary shall issue regulations that require that,".

Subsec. (j). Pub. L. 110–329, §129(c)(3), added subsec. (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

RECONSIDERATION OF PRIOR APPLICATIONS

Pub. L. 111–85, title III, §312(b), Oct. 28, 2009, 123 Stat. 2875, provided that: "The Secretary of Energy shall reconsider applications for assistance under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) that were—

"(1) timely filed under that section before January 1, 2009;

"(2) rejected on the basis that the vehicles to which the proposal related were not advanced technology vehicles; and

"(3) related to ultra efficient vehicles."

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

[2] *So in original. Probably should be "points".*

[3] *So in original. Probably should be "of such".*

§17014. Research and development into integrating electric vehicles onto the electric grid

(a) In general

The Secretary shall establish a research, development, and demonstration program to advance the integration of electric vehicles, including plug-in hybrid electric vehicles, onto the electric grid.

(b) Vehicles-to-grid integration assessment report

Not later than 1 year after December 27, 2020, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the results of a study that examines the research, development, and demonstration opportunities, challenges, and standards needed for integrating electric vehicles onto the electric grid.

(1) Report requirements

The report shall include—

(A) an evaluation of the use of electric vehicles to maintain the reliability of the electric grid, including—

(i) the use of electric vehicles for demand response, load shaping, emergency power, and frequency regulation; and

(ii) the potential for the reuse of spent electric vehicle batteries for stationary grid storage;

(B) the impact of grid integration on electric vehicles, including—

(i) the impact of bi-directional electricity flow on battery degradation; and

(ii) the implications of the use of electric vehicles for grid services on original equipment manufacturer warranties;

(C) the impacts to the electric grid of increased penetration of electric vehicles, including—

(i) the distribution grid infrastructure needed to support an increase in charging capacity;

(ii) strategies for integrating electric vehicles onto the distribution grid while limiting infrastructure upgrades;

(iii) the changes in electricity demand over a 24-hour cycle due to electric vehicle charging behavior;

(iv) the load increases expected from electrifying the transportation sector;

(v) the potential for customer incentives and other managed charging stations strategies to shift charging off-peak;

(vi) the technology needed to achieve bi-directional power flow on the distribution grid; and

(vii) the implementation of smart charging techniques;

(D) research on the standards needed to integrate electric vehicles with the grid, including communications systems, protocols, and charging stations, in collaboration with the National Institute for Standards and Technology;

(E) the cybersecurity challenges and needs associated with electrifying the transportation sector; and

(F) an assessment of the feasibility of adopting technologies developed under the program

established under subsection (a) at Department facilities.

(2) Recommendations

As part of the Vehicles-to-Grid Integration Assessment Report, the Secretary shall develop a 10-year roadmap to guide the research, development, and demonstration program to integrate electric vehicles onto the electric grid.

(3) Consultation

In developing this report, the Secretary shall consult with relevant stakeholders, including—

(A) electric vehicle manufacturers;
(B) electric utilities;
(C) public utility commissions;
(D) vehicle battery manufacturers;
(E) electric vehicle supply equipment manufacturers;
(F) charging infrastructure manufacturers;
(G) the National Laboratories; and
(H) other Federal agencies, as the Secretary determines appropriate.

(4) Updates

The Secretary shall update the report required under this section every 3 years for the duration of the program under section [1] (a) and shall submit the updated report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) Program implementation

In carrying out the research, development, demonstration, and commercial application aims of section,[2] the Secretary shall—

(1) implement the recommendations set forth in the report in subsection (b); and
(2) coordinate across all relevant program offices at the Department to achieve the goals established in this section, including the Office of Electricity.

(d) Testing capabilities

The Secretary shall coordinate with the National Laboratories to develop testing capabilities for the evaluation, rapid prototyping, and optimization of technologies enabling integration of electric vehicles onto the electric grid.

(Pub. L. 110–140, title I, §137, as added Pub. L. 116–260, div. Z, title VIII, §8004(c), Dec. 27, 2020, 134 Stat. 2584.)

[1] So in original. Probably should be "subsection".

[2] So in original. Probably should be "of this section,".

SUBCHAPTER II—ENERGY SECURITY THROUGH INCREASED PRODUCTION OF BIOFUELS

PART A—RENEWABLE FUEL STANDARD

§17021. Biomass-based diesel and biodiesel labeling

(a) In general

Each retail diesel fuel pump shall be labeled in a manner that informs consumers of the percent of biomass-based diesel or biodiesel that is contained in the biomass-based diesel blend or biodiesel blend that is offered for sale, as determined by the Federal Trade Commission.

(b) Labeling requirements

Not later than 180 days after December 19, 2007, the Federal Trade Commission shall promulgate biodiesel labeling requirements as follows:

(1) Biomass-based diesel blends or biodiesel blends that contain less than or equal to 5 percent biomass-based diesel or biodiesel by volume and that meet ASTM D975 diesel specifications shall not require any additional labels.

(2) Biomass-based diesel blends or biodiesel blends that contain more than 5 percent biomass-based diesel or biodiesel by volume but not more than 20 percent by volume shall be labeled "contains biomass-based diesel or biodiesel in quantities between 5 percent and 20 percent".

(3) Biomass-based diesel or biodiesel blends that contain more than 20 percent biomass based or biodiesel by volume shall be labeled "contains more than 20 percent biomass-based diesel or biodiesel".

(c) Definitions

In this section:

(1) ASTM

The term "ASTM" means the American Society of Testing and Materials.

(2) Biomass-based diesel

The term "biomass-based diesel" means biodiesel as defined in section 13220(f) of this title.

(3) Biodiesel

The term "biodiesel" means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet—

(A) the registration requirements for fuels and fuel additives under this section; and

(B) the requirements of ASTM standard D6751.

(4) Biomass-based diesel and biodiesel blends

The terms "biomass-based diesel blend" and "biodiesel blend" means a blend of "biomass-based diesel" or "biodiesel" fuel that is blended with petroleum-based diesel fuel.

(Pub. L. 110–140, title II, §205, Dec. 19, 2007, 121 Stat. 1529.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17022. Grants for production of advanced biofuels

(a) In general

The Secretary of Energy shall establish a grant program to encourage the production of advanced biofuels.

(b) Requirements and priority

In making grants under this section, the Secretary—

(1) shall make awards to the proposals for advanced biofuels with the greatest reduction in lifecycle greenhouse gas emissions compared to the comparable motor vehicle fuel lifecycle

emissions during calendar year 2005; and

(2) shall not make an award to a project that does not achieve at least an 80 percent reduction in such lifecycle greenhouse gas emissions.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section $500,000,000 for the period of fiscal years 2008 through 2015, except that the amount authorized to be appropriated to carry out this section not appropriated as of October 2, 2013, shall be reduced by $6,000,000.

(Pub. L. 110–140, title II, §207, Dec. 19, 2007, 121 Stat. 1531; Pub. L. 113–40, §10(f), Oct. 2, 2013, 127 Stat. 546.)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (c). Pub. L. 113–40 inserted ", except that the amount authorized to be appropriated to carry out this section not appropriated as of October 2, 2013, shall be reduced by $6,000,000" before period at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART B—BIOFUELS RESEARCH AND DEVELOPMENT

§17031. Biodiesel

(a) Biodiesel study

Not later than 180 days after December 19, 2007, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall submit to Congress a report on any research and development challenges inherent in increasing the proportion of diesel fuel sold in the United States that is biodiesel.

(b) Material for the establishment of standards

The Director of the National Institute of Standards and Technology, in consultation with the Secretary, shall make publicly available the physical property data and characterization of biodiesel and other biofuels as appropriate.

(Pub. L. 110–140, title II, §221, Dec. 19, 2007, 121 Stat. 1533.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17032. Grants for biofuel production research and development in certain States

(a) In general

The Secretary shall provide grants to eligible entities for research, development, demonstration, and commercial application of biofuel production technologies in States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol, as determined by the Secretary.

(b) Eligibility

To be eligible to receive a grant under this section, an entity shall—

(1)(A) be an institution of higher education (as defined in section 15801 of this title), including tribally controlled colleges or universities, located in a State described in subsection (a); or

(B) be a consortium including at least 1 such institution of higher education and industry, State agencies, Indian tribal agencies, National Laboratories, or local government agencies located in the State; and

(2) have proven experience and capabilities with relevant technologies.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2010.

(Pub. L. 110–140, title II, §223, Dec. 19, 2007, 121 Stat. 1533.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17033. Biofuels and biorefinery information center

(a) In general

The Secretary, in cooperation with the Secretary of Agriculture, shall establish a biofuels and biorefinery information center to make available to interested parties information on—

(1) renewable fuel feedstocks, including the varieties of fuel capable of being produced from various feedstocks;

(2) biorefinery processing techniques related to various renewable fuel feedstocks;

(3) the distribution, blending, storage, and retail dispensing infrastructure necessary for the transport and use of renewable fuels;

(4) Federal and State laws and incentives related to renewable fuel production and use;

(5) renewable fuel research and development advancements;

(6) renewable fuel development and biorefinery processes and technologies;

(7) renewable fuel resources, including information on programs and incentives for renewable fuels;

(8) renewable fuel producers;

(9) renewable fuel users; and

(10) potential renewable fuel users.

(b) Administration

In administering the biofuels and biorefinery information center, the Secretary shall—

(1) continually update information provided by the center;

(2) make information available relating to processes and technologies for renewable fuel production;

(3) make information available to interested parties on the process for establishing a biorefinery; and

(4) make information and assistance provided by the center available through a toll-free telephone number and website.

(c) Coordination and nonduplication

To the maximum extent practicable, the Secretary shall ensure that the activities under this section are coordinated with, and do not duplicate the efforts of, centers at other government agencies.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 110–140, title II, §229, Dec. 19, 2007, 121 Stat. 1535.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17034. Cellulosic ethanol and biofuels research

(a) Definition of eligible entity

In this section, the term "eligible entity" means—

(1) an 1890 Institution (as defined in section 7601 of title 7);

(2) a part B institution (as defined in section 1061 of title 20) (commonly referred to as "Historically Black Colleges and Universities");

(3) a tribal college or university (as defined in section 1059c(b) of title 20); or

(4) a Hispanic-serving institution (as defined in section 1101a(a) of title 20).

(b) Grants

The Secretary shall make cellulosic ethanol and biofuels research and development grants to 10 eligible entities selected by the Secretary to receive a grant under this section through a peer-reviewed competitive process.

(c) Collaboration

An eligible entity that is selected to receive a grant under subsection (b) shall collaborate with 1 of the Bioenergy Research Centers of the Office of Science of the Department.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to make grants described in subsection (b) $50,000,000 for fiscal year 2008, to remain available until expended.

(Pub. L. 110–140, title II, §230, Dec. 19, 2007, 121 Stat. 1536.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17035. University based research and development grant program

(a) Establishment

The Secretary shall establish a competitive grant program, in a geographically diverse manner, for projects submitted for consideration by institutions of higher education to conduct research and development of renewable energy technologies. Each grant made shall not exceed $2,000,000.

(b) Eligibility

Priority shall be given to institutions of higher education with—

(1) established programs of research in renewable energy;
(2) locations that are low income or outside of an urbanized area;
(3) a joint venture with an Indian tribe; and
(4) proximity to trees dying of disease or insect infestation as a source of woody biomass.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary $25,000,000 for carrying out this section.

(d) Definitions

In this section:

(1) Indian tribe

The term "Indian tribe" has the meaning as defined in section 15823(c) of this title.

(2) Renewable energy

The term "renewable energy" has the meaning as defined in section 16181 of this title.

(3) Urbanized area

The term "urbanized area" has the meaning as defined by the U.S. Bureau of the Census.

(Pub. L. 110–140, title II, §234, Dec. 19, 2007, 121 Stat. 1538.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART C—BIOFUELS INFRASTRUCTURE

§17051. Renewable fuel dispenser requirements

(a) Market penetration reports

The Secretary, in consultation with the Secretary of Transportation, shall determine and report to Congress annually on the market penetration for flexible-fuel vehicles in use within geographic regions to be established by the Secretary.

(b) Dispenser feasibility study

Not later than 24 months after December 19, 2007, the Secretary, in consultation with the Department of Transportation, shall report to the Congress on the feasibility of requiring motor fuel retailers to install E–85 compatible dispensers and related systems at retail fuel facilities in regions where flexible-fuel vehicle market penetration has reached 15 percent of motor vehicles. In conducting such study, the Secretary shall consider and report on the following factors:

(1) The commercial availability of E–85 fuel and the number of competing E–85 wholesale suppliers in a given region.

(2) The level of financial assistance provided on an annual basis by the Federal Government, State governments, and nonprofit entities for the installation of E–85 compatible infrastructure.

(3) The number of retailers whose retail locations are unable to support more than 2 underground storage tank dispensers.

(4) The expense incurred by retailers in the installation and sale of E–85 compatible dispensers and related systems and any potential effects on the price of motor vehicle fuel.

(Pub. L. 110–140, title II, §242, Dec. 19, 2007, 121 Stat. 1540.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17052. Renewable fuel infrastructure grants

(a) Definition of renewable fuel blend

For purposes of this section, the term "renewable fuel blend" means a gasoline blend that contains not less than 11 percent, and not more than 85 percent, renewable fuel or diesel fuel that contains at least 10 percent renewable fuel.

(b) Infrastructure development grants

(1) Establishment

The Secretary shall establish a program for making grants for providing assistance to retail and wholesale motor fuel dealers or other entities for the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure to be used exclusively to store and dispense renewable fuel blends.

(2) Selection criteria

Not later than 12 months after December 19, 2007, the Secretary shall establish criteria for evaluating applications for grants under this subsection that will maximize the availability and use of renewable fuel blends, and that will ensure that renewable fuel blends are available across the country. Such criteria shall provide for—

(A) consideration of the public demand for each renewable fuel blend in a particular geographic area based on State registration records showing the number of flexible-fuel vehicles;

(B) consideration of the opportunity to create or expand corridors of renewable fuel blend stations along interstate or State highways;

(C) consideration of the experience of each applicant with previous, similar projects;

(D) consideration of population, number of flexible-fuel vehicles, number of retail fuel outlets, and saturation of flexible-fuel vehicles; and

(E) priority consideration to applications that—

(i) are most likely to maximize displacement of petroleum consumption, measured as a total quantity and a percentage;

(ii) are best able to incorporate existing infrastructure while maximizing, to the extent practicable, the use of renewable fuel blends; and

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subsection is completed.

(3) Limitations

Assistance provided under this subsection shall not exceed—

(A) 33 percent of the estimated cost of the installation, replacement, or conversion of motor fuel storage and dispensing infrastructure; or

(B) $180,000 for a combination of equipment at any one retail outlet location.

(4) Operation of renewable fuel blend stations

The Secretary shall establish rules that set forth requirements for grant recipients under this section that include providing to the public the renewable fuel blends, establishing a marketing plan that informs consumers of the price and availability of the renewable fuel blends, clearly

labeling the dispensers and related equipment, and providing periodic reports on the status of the renewable fuel blend sales, the type and amount of the renewable fuel blends dispensed at each location, and the average price of such fuel.

(5) Notification requirements

Not later than the date on which each renewable fuel blend station begins to offer renewable fuel blends to the public, the grant recipient that used grant funds to construct or upgrade such station shall notify the Secretary of such opening. The Secretary shall add each new renewable fuel blend station to the renewable fuel blend station locator on its Website when it receives notification under this subsection.

(6) Double counting

No person that receives a credit under section 30C of title 26 may receive assistance under this section.

(7) Reservation of funds

The Secretary shall reserve funds appropriated for the renewable fuel blends infrastructure development grant program for technical and marketing assistance described in subsection (c).

(c) Retail technical and marketing assistance

The Secretary shall enter into contracts with entities with demonstrated experience in assisting retail fueling stations in installing refueling systems and marketing renewable fuel blends nationally, for the provision of technical and marketing assistance to recipients of grants under this section. Such assistance shall include—

(1) technical advice for compliance with applicable Federal and State environmental requirements;

(2) help in identifying supply sources and securing long-term contracts; and

(3) provision of public outreach, education, and labeling materials.

(d) Refueling infrastructure corridors

(1) In general

The Secretary shall establish a competitive grant pilot program (referred to in this subsection as the "pilot program"), to be administered through the Vehicle Technology Deployment Program of the Department, to provide not more than 10 geographically-dispersed project grants to State governments, Indian tribal governments, local governments, metropolitan transportation authorities, or partnerships of those entities to carry out 1 or more projects for the purposes described in paragraph (2).

(2) Grant purposes

A grant under this subsection shall be used for the establishment of refueling infrastructure corridors, as designated by the Secretary, for renewable fuel blends, including—

(A) installation of infrastructure and equipment necessary to ensure adequate distribution of renewable fuel blends within the corridor;

(B) installation of infrastructure and equipment necessary to directly support vehicles powered by renewable fuel blends; and

(C) operation and maintenance of infrastructure and equipment installed as part of a project funded by the grant.

(3) Applications

(A) Requirements

(i) In general

Subject to clause (ii), not later than 90 days after December 19, 2007, the Secretary shall issue requirements for use in applying for grants under the pilot program.

(ii) Minimum requirements

At a minimum, the Secretary shall require that an application for a grant under this subsection—

(I) be submitted by—

(aa) the head of a State, tribal, or local government or a metropolitan transportation authority, or any combination of those entities; and

(bb) a registered participant in the Vehicle Technology Deployment Program of the Department; and

(II) include—

(aa) a description of the project proposed in the application, including the ways in which the project meets the requirements of this subsection;

(bb) an estimate of the degree of use of the project, including the estimated size of fleet of vehicles operated with renewable fuels blend available within the geographic region of the corridor, measured as a total quantity and a percentage;

(cc) an estimate of the potential petroleum displaced as a result of the project (measured as a total quantity and a percentage), and a plan to collect and disseminate petroleum displacement and other relevant data relating to the project to be funded under the grant, over the expected life of the project;

(dd) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(ee) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project; and

(ff) a description of which costs of the project will be supported by Federal assistance under this subsection.

(B) Partners

An applicant under subparagraph (A) may carry out a project under the pilot program in partnership with public and private entities.

(4) Selection criteria

In evaluating applications under the pilot program, the Secretary shall—

(A) consider the experience of each applicant with previous, similar projects; and

(B) give priority consideration to applications that—

(i) are most likely to maximize displacement of petroleum consumption, measured as a total quantity and a percentage;

(ii) are best able to incorporate existing infrastructure while maximizing, to the extent practicable, the use of advanced biofuels;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this subsection is completed;

(iv) represent a partnership of public and private entities; and

(v) exceed the minimum requirements of paragraph (3)(A)(ii).

(5) Pilot project requirements

(A) Maximum amount

The Secretary shall provide not more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(B) Cost sharing

The non-Federal share of the cost of any activity relating to renewable fuel blend infrastructure development carried out using funds from a grant under this subsection shall be not less than 20 percent.

(C) Maximum period of grants

The Secretary shall not provide funds to any applicant under the pilot program for more than

2 years.

(D) Deployment and distribution

The Secretary shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of project sites funded by grants under this subsection.

(E) Transfer of information and knowledge

The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(6) Schedule

(A) Initial grants

(i) In general

Not later than 90 days after December 19, 2007, the Secretary shall publish in the Federal Register, Commerce Business Daily, and such other publications as the Secretary considers to be appropriate, a notice and request for applications to carry out projects under the pilot program.

(ii) Deadline

An application described in clause (i) shall be submitted to the Secretary by not later than 180 days after the date of publication of the notice under that clause.

(iii) Initial selection

Not later than 90 days after the date by which applications for grants are due under clause (ii), the Secretary shall select by competitive, peer-reviewed proposal up to 5 applications for projects to be awarded a grant under the pilot program.

(B) Additional grants

(i) In general

Not later than 2 years after December 19, 2007, the Secretary shall publish in the Federal Register, Commerce Business Daily, and such other publications as the Secretary considers to be appropriate, a notice and request for additional applications to carry out projects under the pilot program that incorporate the information and knowledge obtained through the implementation of the first round of projects authorized under the pilot program.

(ii) Deadline

An application described in clause (i) shall be submitted to the Secretary by not later than 180 days after the date of publication of the notice under that clause.

(iii) Initial selection

Not later than 90 days after the date by which applications for grants are due under clause (ii), the Secretary shall select by competitive, peer-reviewed proposal such additional applications for projects to be awarded a grant under the pilot program as the Secretary determines to be appropriate.

(7) Reports to Congress

(A) Initial report

Not later than 60 days after the date on which grants are awarded under this subsection, the Secretary shall submit to Congress a report containing—

(i) an identification of the grant recipients and a description of the projects to be funded under the pilot program;

(ii) an identification of other applicants that submitted applications for the pilot program but to which funding was not provided; and

(iii) a description of the mechanisms used by the Secretary to ensure that the information

and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(B) Evaluation

Not later than 2 years after December 19, 2007, and annually thereafter until the termination of the pilot program, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the petroleum displacement and benefits to the environment derived from the projects included in the pilot program.

(e) Restriction

No grant shall be provided under subsection (b) or (c) to a large, vertically integrated oil company.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $200,000,000 for each of the fiscal years 2008 through 2014.

(Pub. L. 110–140, title II, §244, Dec. 19, 2007, 121 Stat. 1541.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17053. Federal fleet fueling centers

(a) In general

Not later than January 1, 2010, the head of each Federal agency shall install at least 1 renewable fuel pump at each Federal fleet fueling center in the United States under the jurisdiction of the head of the Federal agency.

(b) Report

Not later than October 31 of the first calendar year beginning after December 19, 2007, and each October 31 thereafter, the President shall submit to Congress a report that describes the progress toward complying with subsection (a), including identifying—

(1) the number of Federal fleet fueling centers that contain at least 1 renewable fuel pump; and

(2) the number of Federal fleet fueling centers that do not contain any renewable fuel pumps.

(c) Department of Defense facility

This section shall not apply to a Department of Defense fueling center with a fuel turnover rate of less than 100,000 gallons of fuel per year.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 110–140, title II, §246, Dec. 19, 2007, 121 Stat. 1547.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17054. Biofuels distribution and advanced biofuels infrastructure

(a) In general

The Secretary, in coordination with the Secretary of Transportation and in consultation with the Administrator of the Environmental Protection Agency, shall carry out a program of research, development, and demonstration relating to existing transportation fuel distribution infrastructure and new alternative distribution infrastructure.

(b) Focus

The program described in subsection (a) shall focus on the physical and chemical properties of biofuels and efforts to prevent or mitigate against adverse impacts of those properties in the areas of—

(1) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;
(2) dissolving of storage tank sediments;
(3) clogging of filters;
(4) contamination from water or other adulterants or pollutants;
(5) poor flow properties related to low temperatures;
(6) oxidative and thermal instability in long-term storage and uses;
(7) microbial contamination;
(8) problems associated with electrical conductivity; and
(9) such other areas as the Secretary considers appropriate.

(Pub. L. 110–140, title II, §248, Dec. 19, 2007, 121 Stat. 1548.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER III—ENERGY SAVINGS IN BUILDINGS AND INDUSTRY

§17061. Definitions

In this title: [1]

(1) Administrator

The term "Administrator" means the Administrator of General Services.

(2) Advisory Committee

The term "Advisory Committee" means the Green Building Advisory Committee established under section 484.[1]

(3) Commercial Director

The term "Commercial Director" means the individual appointed to the position established under section 17081 of this title.

(4) Consortium

The term "Consortium" means the High-Performance Green Building Partnership Consortium created in response to section 17092(c)(1) of this title to represent the private sector in a public-private partnership to promote high-performance green buildings and zero-net-energy commercial buildings.

(5) Cost-effective lighting technology

(A) In general

The term "cost-effective lighting technology" means a lighting technology that—

(i) will result in substantial operational cost savings by ensuring an installed consumption of not more than 1 watt per square foot; or

(ii) is contained in a list under—

(I) section 8259b of this title;

(II) Federal acquisition regulation 23–203; and

(III) is at least as energy-conserving as required by other provisions of this Act, including the requirements of this title [1] and title III [1] which shall be applicable to the extent that they would achieve greater energy savings than provided under clause (i) or this clause.[2]

(B) Inclusions

The term "cost-effective lighting technology" includes—

(i) lamps;

(ii) ballasts;

(iii) luminaires;

(iv) lighting controls;

(v) daylighting; and

(vi) early use of other highly cost-effective lighting technologies.

(6) Cost-effective technologies and practices

The term "cost-effective technologies and practices" means a technology or practice that—

(A) will result in substantial operational cost savings by reducing electricity or fossil fuel consumption, water, or other utility costs, including use of geothermal heat pumps;

(B) complies with the provisions of section 8259b of this title and Federal acquisition regulation 23–203; and

(C) is at least as energy and water conserving as required under this title,[1] including sections 431 through 435, and title V,[1] including sections 511 through 525, which shall be applicable to the extent that they are more stringent or require greater energy or water savings than required by this section.

(7) Federal Director

The term "Federal Director" means the individual appointed to the position established under section 17092(a) of this title.

(8) Federal facility

The term "Federal facility" means any building that is constructed, renovated, leased, or purchased in part or in whole for use by the Federal Government.

(9) Operational cost savings

(A) In general

The term "operational cost savings" means a reduction in end-use operational costs through the application of cost-effective technologies and practices or geothermal heat pumps, including a reduction in electricity consumption relative to consumption by the same customer or at the same facility in a given year, as defined in guidelines promulgated by the Administrator pursuant to section 7628(b) of this title, that achieves cost savings sufficient to pay the incremental additional costs of using cost-effective technologies and practices including geothermal heat pumps by not later than the later of the date established under sections 431 through 434,[1] or—

(i) for cost-effective technologies and practices, the date that is 5 years after the date of installation; and

(ii) for geothermal heat pumps, as soon as practical after the date of installation of the applicable geothermal heat pump.

(B) Inclusions

The term "operational cost savings" includes savings achieved at a facility as a result of—

(i) the installation or use of cost-effective technologies and practices; or

(ii) the planting of vegetation that shades the facility and reduces the heating, cooling, or lighting needs of the facility.

(C) Exclusion

The term "operational cost savings" does not include savings from measures that would likely be adopted in the absence of cost-effective technology and practices programs, as determined by the Administrator.

(10) Geothermal heat pump

The term "geothermal heat pump" means any heating or air conditioning technology that—

(A) uses the ground or ground water as a thermal energy source to heat, or as a thermal energy sink to cool, a building; and

(B) meets the requirements of the Energy Star program of the Environmental Protection Agency applicable to geothermal heat pumps on the date of purchase of the technology.

(11) GSA facility

(A) In general

The term "GSA facility" means any building, structure, or facility, in whole or in part (including the associated support systems of the building, structure, or facility) that—

(i) is constructed (including facilities constructed for lease), renovated, or purchased, in whole or in part, by the Administrator for use by the Federal Government; or

(ii) is leased, in whole or in part, by the Administrator for use by the Federal Government—

(I) except as provided in subclause (II), for a term of not less than 5 years; or

(II) for a term of less than 5 years, if the Administrator determines that use of cost-effective technologies and practices would result in the payback of expenses.

(B) Inclusion

The term "GSA facility" includes any group of buildings, structures, or facilities described in subparagraph (A) (including the associated energy-consuming support systems of the buildings, structures, and facilities).

(C) Exemption

The Administrator may exempt from the definition of "GSA facility" under this paragraph a building, structure, or facility that meets the requirements of section 8253(c) of this title.

(12) High-performance building

The term "high-performance building" means a building that integrates and optimizes on a life cycle basis all major high performance attributes, including energy conservation, environment, safety, security, durability, accessibility, cost-benefit, productivity, sustainability, functionality, and operational considerations.

(13) High-performance green building

The term "high-performance green building" means a high-performance building that, during its life-cycle, as compared with similar buildings (as measured by Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey data from the Energy Information Agency)—

(A) reduces energy, water, and material resource use;

(B) improves indoor environmental quality, including reducing indoor pollution, improving thermal comfort, and improving lighting and acoustic environments that affect occupant health and productivity;

(C) reduces negative impacts on the environment throughout the life-cycle of the building,

including air and water pollution and waste generation;

(D) increases the use of environmentally preferable products, including biobased, recycled content, and nontoxic products with lower life-cycle impacts;

(E) increases reuse and recycling opportunities;

(F) integrates systems in the building;

(G) reduces the environmental and energy impacts of transportation through building location and site design that support a full range of transportation choices for users of the building; and

(H) considers indoor and outdoor effects of the building on human health and the environment, including—

(i) improvements in worker productivity;

(ii) the life-cycle impacts of building materials and operations; and

(iii) other factors that the Federal Director or the Commercial Director consider to be appropriate.

(14) Life-cycle

The term "life-cycle", with respect to a high-performance green building, means all stages of the useful life of the building (including components, equipment, systems, and controls of the building) beginning at conception of a high-performance green building project and continuing through site selection, design, construction, landscaping, commissioning, operation, maintenance, renovation, deconstruction or demolition, removal, and recycling of the high-performance green building.

(15) Life-cycle assessment

The term "life-cycle assessment" means a comprehensive system approach for measuring the environmental performance of a product or service over the life of the product or service, beginning at raw materials acquisition and continuing through manufacturing, transportation, installation, use, reuse, and end-of-life waste management.

(16) Life-cycle costing

The term "life-cycle costing", with respect to a high-performance green building, means a technique of economic evaluation that—

(A) sums, over a given study period, the costs of initial investment (less resale value), replacements, operations (including energy use), and maintenance and repair of an investment decision; and

(B) is expressed—

(i) in present value terms, in the case of a study period equivalent to the longest useful life of the building, determined by taking into consideration the typical life of such a building in the area in which the building is to be located; or

(ii) in annual value terms, in the case of any other study period.

(17) Office of Commercial High-Performance Green Buildings

The term "Office of Commercial High-Performance Green Buildings" means the Office of Commercial High-Performance Green Buildings established under section 17081(a) of this title.

(18) Office of Federal High-Performance Green Buildings

The term "Office of Federal High-Performance Green Buildings" means the Office of Federal High-Performance Green Buildings established under section 17092(a) of this title.

(19) Practices

The term "practices" means design, financing, permitting, construction, commissioning, operation and maintenance, and other practices that contribute to achieving zero-net-energy buildings or facilities.

(20) Zero-net-energy commercial building

The term "zero-net-energy commercial building" means a commercial building that is designed, constructed, and operated to—

(A) require a greatly reduced quantity of energy to operate;

(B) meet the balance of energy needs from sources of energy that do not produce greenhouse gases;

(C) therefore result in no net emissions of greenhouse gases; and

(D) be economically viable.

(Pub. L. 110–140, title IV, §401, Dec. 19, 2007, 121 Stat. 1596.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, is title IV of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1596, which enacted this subchapter, part C (§6341 et seq.) of subchapter III of chapter 77 of this title, sections 6371h–1 and 7628 of this title, and subchapter V (§2695 et seq.) of chapter 53 of Title 15, Commerce and Trade, amended sections 6832, 6834, 6862, 6872, 8253, 8254, and 12709 of this title, and enacted provisions set out as notes under sections 6834 and 6872 of this title. For complete classification of title IV to the Code, see Tables.

Section 484, referred to in par. (2), probably should be a reference to section 494 of Pub. L. 110–140, which is classified to section 17123 of this title.

This Act, referred to in par. (5)(A)(ii)(III), is Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1492, known as the Energy Independence and Security Act of 2007, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 17001 of this title and Tables.

Title III, referred to in par. (5)(A)(ii)(III), is title III of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1549, which enacted section 3313 of Title 40, Public Buildings, Property, and Works, amended sections 6291 to 6295, 6297, 6302, 6304, 6311, 6313 to 6316, 15821, and 16191 of this title and sections 3307, 3310, and 3314 to 3316 of Title 40, and enacted provisions set out as notes under sections 6291, 6294, 6295, and 6313 of this title. For complete classification of title III to the Code, see Tables.

Sections 431 through 435, referred to in pars. (6)(C) and 9(A), are sections 431 to 435 of Pub. L. 110–140. Sections 431 to 434 amended sections 6832, 6834, and 8253 of this title and enacted provisions set out as a note under section 6834 of this title. Section 435 enacted section 17091 of this title.

Title V, referred to in par. (6)(C), is title V of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1655, which enacted subchapter IV (§17131 et seq.) of this chapter, part D (§8279) of subchapter III of chapter 91 of this title, and sections 1824, 2162a, and 2169 of Title 2, The Congress, amended sections 6325, 6834, 8256, 8258, 8259b, 8287, and 8287c of this title, section 2162 of Title 2, section 2913 of Title 10, Armed Forces, section 3203 of Title 15, Commerce and Trade, and section 2621 of Title 16, Conservation, and enacted provisions set out as a note under section 8259b of this title. For complete classification of title V to the Code, see Tables.

Sections 511 through 525, referred to in par. (6)(C), are sections 511 to 525 of Pub. L. 110–140, which enacted part A (§17131) of subchapter IV of this chapter and section 17141 of this title, amended sections 6834, 8256, 8258, 8259b, 8287, and 8287c of this title and section 2913 of Title 10, Armed Forces, and enacted provisions set out as a note under section 8259b of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] See References in Text note below.

[2] So in original. Does not fit with cl. (ii) introductory provision.

§17062. Energy efficiency in Federal and other buildings

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of General Services.

(2) Cost-effective energy efficiency measure

The term "cost-effective energy efficiency measure" means any building product, material, equipment, or service, and the installing, implementing, or operating thereof, that provides energy savings in an amount that is not less than the cost of such installing, implementing, or operating.

(3) Cost-effective water efficiency measure

The term "cost-effective water efficiency measure" means any building product, material, equipment, or service, and the installing, implementing, or operating thereof, that provides water savings in an amount that is not less than the cost of such installing, implementing, or operating.

(b) Model provisions, policies, and best practices

(1) In general

Not later than 180 days after April 30, 2015, the Administrator, in consultation with the Secretary of Energy and after providing the public with an opportunity for notice and comment, shall develop model commercial leasing provisions and best practices in accordance with this subsection.

(2) Commercial leasing

(A) In general

The model commercial leasing provisions developed under this subsection shall, at a minimum, align the interests of building owners and tenants with regard to investments in cost-effective energy efficiency measures and cost-effective water efficiency measures to encourage building owners and tenants to collaborate to invest in such measures.

(B) Use of model provisions

The Administrator may use the model commercial leasing provisions developed under this subsection in any standard leasing document that designates a Federal agency (or other client of the Administrator) as a landlord or tenant.

(C) Publication

The Administrator shall periodically publish the model commercial leasing provisions developed under this subsection, along with explanatory materials, to encourage building owners and tenants in the private sector to use such provisions and materials.

(3) Realty services

The Administrator shall develop policies and practices to implement cost-effective energy efficiency measures and cost-effective water efficiency measures for the realty services provided by the Administrator to Federal agencies (or other clients of the Administrator), including periodic training of appropriate Federal employees and contractors on how to identify and evaluate those measures.

(4) State and local assistance

The Administrator, in consultation with the Secretary of Energy, shall make available model commercial leasing provisions and best practices developed under this subsection to State, county, and municipal governments for use in managing owned and leased building space in accordance with the goal of encouraging investment in all cost-effective energy efficiency measures and cost-effective water efficiency measures.

(Pub. L. 114–11, title I, §102, Apr. 30, 2015, 129 Stat. 182.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Better Buildings Act of 2015, and also as part of the Energy Efficiency Improvement Act of 2015, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

§17063. Energy information for commercial buildings

(a) Omitted

(b) Study

(1) In general

Not later than 2 years after April 30, 2015, the Secretary of Energy, in collaboration with the Administrator of the Environmental Protection Agency, shall complete a study—

(A) on the impact of—

(i) State and local performance benchmarking and disclosure policies, and any associated building efficiency policies, for commercial and multifamily buildings; and

(ii) programs and systems in which utilities provide aggregated information regarding whole building energy consumption and usage information to owners of multitenant commercial, residential, and mixed-use buildings;

(B) that identifies best practice policy approaches studied under subparagraph (A) that have resulted in the greatest improvements in building energy efficiency; and

(C) that considers—

(i) compliance rates and the benefits and costs of the policies and programs on building owners, utilities, tenants, and other parties;

(ii) utility practices, programs, and systems that provide aggregated energy consumption information to multitenant building owners, and the impact of public utility commissions and State privacy laws on those practices, programs, and systems;

(iii) exceptions to compliance in existing laws where building owners are not able to gather or access whole building energy information from tenants or utilities;

(iv) the treatment of buildings with—

(I) multiple uses;

(II) uses for which baseline information is not available; and

(III) uses that require high levels of energy intensities, such as data centers, trading floors, and televisions [1] studios;

(v) implementation practices, including disclosure methods and phase-in of compliance;

(vi) the safety and security of benchmarking tools offered by government agencies, and the resiliency of those tools against cyber attacks; and

(vii) international experiences with regard to building benchmarking and disclosure laws and data aggregation for multitenant buildings.

(2) Submission to Congress

At the conclusion of the study, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and Committee on Energy and Natural Resources of the Senate a report on the results of the study.

(c) Creation and maintenance of database

(1) In general

Not later than 18 months after April 30, 2015, and following opportunity for public notice and comment, the Secretary of Energy, in coordination with other relevant agencies, shall maintain, and if necessary create, a database for the purpose of storing and making available public energy-related information on commercial and multifamily buildings, including—

(A) data provided under Federal, State, local, and other laws or programs regarding building

benchmarking and energy information disclosure;

(B) information on buildings that have disclosed energy ratings and certifications; and

(C) energy-related information on buildings provided voluntarily by the owners of the buildings, only in an anonymous form unless the owner provides otherwise.

(2) Complementary programs

The database maintained pursuant to paragraph (1) shall complement and not duplicate the functions of the Environmental Protection Agency's Energy Star Portfolio Manager tool.

(d) Input from stakeholders

The Secretary of Energy shall seek input from stakeholders to maximize the effectiveness of the actions taken under this section.

(e) Report

Not later than 2 years after April 30, 2015, and every 2 years thereafter, the Secretary of Energy shall submit to the Committee on Energy and Commerce of the House of Representatives and Committee on Energy and Natural Resources of the Senate a report on the progress made in complying with this section.

(Pub. L. 114–11, title III, §301, Apr. 30, 2015, 129 Stat. 189.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 301 of Pub. L. 114–11. Subsec. (a) of section 301 of Pub. L. 114–11 amended section 17091 of this title.

Section was enacted as part of the Energy Efficiency Improvement Act of 2015, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

[1] So in original. Probably should be "television".

§17064. Smart building acceleration

(a) Definitions

In this section:

(1) Department

The term "Department" means the Department of Energy.

(2) Program

The term "program" means the Federal Smart Building Program established under subsection (b)(1).

(3) Secretary

The term "Secretary" means the Secretary of Energy.

(4) Smart building

The term "smart building" means a building, or collection of buildings, with an energy system that—

(A) is flexible and automated;

(B) has extensive operational monitoring and communication connectivity, allowing remote monitoring and analysis of all building functions;

(C) takes a systems-based approach in integrating the overall building operations for control of energy generation, consumption, and storage;

(D) communicates with utilities and other third-party commercial entities, if appropriate;

(E) protects the health and safety of occupants and workers; and

(F) incorporates cybersecurity best practices.

(5) Smart building accelerator

The term "smart building accelerator" means an initiative that is designed to demonstrate specific innovative policies and approaches—

(A) with clear goals and a clear timeline; and

(B) that, on successful demonstration, would accelerate investment in energy efficiency.

(b) Federal Smart Building Program

(1) Establishment

Not later than 1 year after December 27, 2020, the Secretary shall, in consultation with the Administrator of General Services, establish a program to be known as the "Federal Smart Building Program"—

(A) to implement smart building technology; and

(B) to demonstrate the costs and benefits of smart buildings.

(2) Selection

(A) In general

The Secretary shall coordinate the selection of not fewer than 1 building from among each of several key Federal agencies, as described in paragraph (4), to compose an appropriately diverse set of smart buildings based on size, type, and geographic location.

(B) Inclusion of commercially operated buildings

In making selections under subparagraph (A), the Secretary may include buildings that are owned by the Federal Government but are commercially operated.

(3) Targets

Not later than 18 months after December 27, 2020, the Secretary shall establish targets for the number of smart buildings to be commissioned and evaluated by key Federal agencies by 3 years and 6 years after December 27, 2020.

(4) Federal agency described

The key Federal agencies referred to paragraph (2)(A) shall include buildings operated by—

(A) the Department of the Army;

(B) the Department of the Navy;

(C) the Department of the Air Force;

(D) the Department;

(E) the Department of the Interior;

(F) the Department of Veterans Affairs; and

(G) the General Services Administration.

(5) Requirement

In implementing the program, the Secretary shall leverage existing financing mechanisms including energy savings performance contracts, utility energy service contracts, and annual appropriations.

(6) Evaluation

Using the guidelines of the Federal Energy Management Program relating to whole-building evaluation, measurement, and verification, the Secretary shall evaluate the costs and benefits of the buildings selected under paragraph (2), including an identification of—

(A) which advanced building technologies—

(i) are most cost-effective; and

(ii) show the most promise for—

(I) increasing building energy savings;

(II) increasing service performance to building occupants;

(III) reducing environmental impacts; and

(IV) establishing cybersecurity; and

(B) any other information the Secretary determines to be appropriate.

(7) Awards

The Secretary may expand awards made under the Federal Energy Management Program and the Better Building Challenge to recognize specific agency achievements in accelerating the adoption of smart building technologies.

(c) Survey of private sector smart buildings

(1) Survey

The Secretary shall conduct a survey of privately owned smart buildings throughout the United States, including commercial buildings, laboratory facilities, hospitals, multifamily residential buildings, and buildings owned by nonprofit organizations and institutions of higher education.

(2) Selection

From among the smart buildings surveyed under paragraph (1), the Secretary shall select not fewer than 1 building each from an appropriate range of building sizes, types, and geographic locations.

(3) Evaluation

Using the guidelines of the Federal Energy Management Program relating to whole-building evaluation, measurement, and verification, the Secretary shall evaluate the costs and benefits of the buildings selected under paragraph (2), including an identification of—

(A) which advanced building technologies and systems—

(i) are most cost-effective; and

(ii) show the most promise for—

(I) increasing building energy savings;

(II) increasing service performance to building occupants;

(III) reducing environmental impacts; and

(IV) establishing cybersecurity; and

(B) any other information the Secretary determines to be appropriate.

(d) Better building challenge

As part of the Better Building Challenge of the Department, the Secretary, in consultation with major private sector property owners, shall develop smart building accelerators to demonstrate innovative policies and approaches that will accelerate the transition to smart buildings in the public, institutional, and commercial buildings sectors.

(e) Omitted

(f) Report

Not later than 2 years after December 27, 2020, and every 2 years thereafter until a total of 3 reports have been made, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives a report on—

(1) the establishment of the Federal Smart Building Program and the evaluation of Federal smart buildings under subsection (b);

(2) the survey and evaluation of private sector smart buildings under subsection (c); and

(3) any recommendations of the Secretary to further accelerate the transition to smart buildings.

(Pub. L. 116–260, div. Z, title I, §1007, Dec. 27, 2020, 134 Stat. 2433.)

CODIFICATION

Section is comprised of section 1007 of Pub. L. 116–260. Subsec. (e) of section 1007 of Pub. L. 160–260 enacted section 17086 of this title.

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

PART A—RESIDENTIAL BUILDING EFFICIENCY

§17071. Energy Code improvements applicable to manufactured housing

(a) Establishment of standards

(1) In general

Not later than 4 years after December 19, 2007, the Secretary shall by regulation establish standards for energy efficiency in manufactured housing.

(2) Notice, comment, and consultation

Standards described in paragraph (1) shall be established after—

(A) notice and an opportunity for comment by manufacturers of manufactured housing and other interested parties; and

(B) consultation with the Secretary of Housing and Urban Development, who may seek further counsel from the Manufactured Housing Consensus Committee.

(b) Requirements

(1) International Energy Conservation Code

The energy conservation standards established under this section shall be based on the most recent version of the International Energy Conservation Code (including supplements), except in cases in which the Secretary finds that the code [1] is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the code [1] on the purchase price of manufactured housing and on total life-cycle construction and operating costs.

(2) Considerations

The energy conservation standards established under this section may—

(A) take into consideration the design and factory construction techniques of manufactured homes;

(B) be based on the climate zones established by the Department of Housing and Urban Development rather than the climate zones under the International Energy Conservation Code; and

(C) provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

(3) Updating

The energy conservation standards established under this section shall be updated not later than—

(A) 1 year after December 19, 2007; and

(B) 1 year after any revision to the International Energy Conservation Code.

(c) Enforcement

Any manufacturer of manufactured housing that violates a provision of the regulations under subsection (a) is liable to the United States for a civil penalty in an amount not exceeding 1 percent of the manufacturer's retail list price of the manufactured housing.

(Pub. L. 110–140, title IV, §413, Dec. 19, 2007, 121 Stat. 1601.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

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

PART B—HIGH-PERFORMANCE COMMERCIAL BUILDINGS

§17081. Commercial high-performance green buildings

(a) Director of Commercial High-Performance Green Buildings

Notwithstanding any other provision of law, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall appoint a Director of Commercial High-Performance Green Buildings to a position in the career-reserved Senior Executive service, with the principal responsibility to—

(1) establish and manage the Office of Commercial High-Performance Green Buildings; and

(2) carry out other duties as required under this part.

(b) Qualifications

The Commercial Director shall be an individual, who by reason of professional background and experience, is specifically qualified to carry out the duties required under this part.

(c) Duties

The Commercial Director shall, with respect to development of high-performance green buildings and zero-energy commercial buildings nationwide—

(1) coordinate the activities of the Office of Commercial High-Performance Green Buildings with the activities of the Office of Federal High-Performance Green Buildings;

(2) develop the legal predicates and agreements for, negotiate, and establish one or more public-private partnerships with the Consortium, members of the Consortium, and other capable parties meeting the qualifications of the Consortium, to further such development;

(3) represent the public and the Department in negotiating and performing in accord with such public-private partnerships;

(4) use appropriated funds in an effective manner to encourage the maximum investment of private funds to achieve such development;

(5) promote research and development of high-performance green buildings, consistent with section 17083 of this title; and

(6) jointly establish with the Federal Director a national high-performance green building clearinghouse in accordance with section 17083(1) of this title, which shall provide high-performance green building information and disseminate research results through—

(A) outreach;

(B) education; and

(C) the provision of technical assistance.

(d) Reporting

The Commercial Director shall report directly to the Assistant Secretary for Energy Efficiency and Renewable Energy, or to other senior officials in a way that facilitates the integrated program of this part for both energy efficiency and renewable energy and both technology development and technology deployment.

(e) Coordination

The Commercial Director shall ensure full coordination of high-performance green building information and activities, including activities under this part, within the Federal Government by

working with the General Services Administration and all relevant agencies, including, at a minimum—

(1) the Environmental Protection Agency;
(2) the Office of the Federal Environmental Executive;
(3) the Office of Federal Procurement Policy;
(4) the Department of Energy, particularly the Federal Energy Management Program;
(5) the Department of Health and Human Services;
(6) the Department of Housing and Urban Development;
(7) the Department of Defense;
(8) the National Institute of Standards and Technology;
(9) the Department of Transportation;
(10) the Office of Science Technology and Policy; and
(11) such nonprofit high-performance green building rating and analysis entities as the Commercial Director determines can offer support, expertise, and review services.

(f) High-Performance Green Building Partnership Consortium

(1) Recognition

Not later than 90 days after December 19, 2007, the Commercial Director shall formally recognize one or more groups that qualify as a high-performance green building partnership consortium.

(2) Representation to qualify

To qualify under this section, any consortium shall include representation from—

(A) the design professions, including national associations of architects and of professional engineers;
(B) the development, construction, financial, and real estate industries;
(C) building owners and operators from the public and private sectors;
(D) academic and research organizations, including at least one national laboratory with extensive commercial building energy expertise;
(E) building code agencies and organizations, including a model energy code-setting organization;
(F) independent high-performance green building associations or councils;
(G) experts in indoor air quality and environmental factors;
(H) experts in intelligent buildings and integrated building information systems;
(I) utility energy efficiency programs;
(J) manufacturers and providers of equipment and techniques used in high-performance green buildings;
(K) public transportation industry experts; and
(L) nongovernmental energy efficiency organizations.

(3) Funding

The Secretary may make payments to the Consortium pursuant to the terms of a public-private partnership for such activities of the Consortium undertaken under such a partnership as described in this part directly to the Consortium or through one or more of its members.

(g) Report

Not later than 2 years after December 19, 2007, and biennially thereafter, the Commercial Director, in consultation with the Consortium, shall submit to Congress a report that—

(1) describes the status of the high-performance green building initiatives under this part and other Federal programs affecting commercial high-performance green buildings in effect as of the date of the report, including—
(A) the extent to which the programs are being carried out in accordance with this part; and
(B) the status of funding requests and appropriations for those programs; and

(2) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives).

(Pub. L. 110–140, title IV, §421, Dec. 19, 2007, 121 Stat. 1602.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

EXECUTIVE DOCUMENTS

CHANGE OF NAME

Office of the Federal Environmental Executive reestablished as the Office of the Chief Sustainability Officer by Ex. Ord. No. 13693, §6, Mar. 19, 2015, 80 F.R. 15877, set out in a note under section 4321 of this title.

§17082. Zero Net Energy Commercial Buildings Initiative

(a) Definitions

In this section:

(1) Consortium

The term "consortium" means a High-Performance Green Building Consortium selected by the Commercial Director.

(2) Initiative

The term "initiative" means the Zero-Net-Energy Commercial Buildings Initiative established under subsection (b)(1).

(3) Zero-net-energy commercial building

The term "zero-net-energy commercial building" means a high-performance commercial building that is designed, constructed, and operated—

(A) to require a greatly reduced quantity of energy to operate;

(B) to meet the balance of energy needs from sources of energy that do not produce greenhouse gases;

(C) in a manner that will result in no net emissions of greenhouse gases; and

(D) to be economically viable.

(b) Establishment

(1) In general

The Commercial Director shall establish an initiative, to be known as the "Zero-Net-Energy Commercial Buildings Initiative"—

(A) to reduce the quantity of energy consumed by commercial buildings located in the United States; and

(B) to achieve the development of zero net energy commercial buildings in the United States.

(2) Consortium

(A) In general

Not later than 180 days after December 19, 2007, the Commercial Director shall competitively select, and enter into an agreement with, a consortium to develop and carry out the initiative.

(B) Agreements

In entering into an agreement with a consortium under subparagraph (A), the Commercial Director shall use the authority described in section 7256(g) of this title, to the maximum extent practicable.

(c) Goal of initiative

The goal of the initiative shall be to develop and disseminate technologies, practices, and policies for the development and establishment of zero net energy commercial buildings for—

(1) any commercial building newly constructed in the United States by 2030;

(2) 50 percent of the commercial building stock of the United States by 2040; and

(3) all commercial buildings in the United States by 2050.

(d) Components

In carrying out the initiative, the Commercial Director, in consultation with the consortium, may—

(1) conduct research and development on building science, design, materials, components, equipment and controls, operation and other practices, integration, energy use measurement, and benchmarking;

(2) conduct pilot programs and demonstration projects to evaluate replicable approaches to achieving energy efficient commercial buildings for a variety of building types in a variety of climate zones;

(3) conduct deployment, dissemination, and technical assistance activities to encourage widespread adoption of technologies, practices, and policies (including demand-response technologies, practices, and policies) to achieve energy efficient commercial buildings;

(4) conduct other research, development, demonstration, and deployment activities necessary to achieve each goal of the initiative, as determined by the Commercial Director, in consultation with the consortium;

(5) develop training materials and courses for building professionals and trades on achieving cost-effective high-performance energy efficient buildings;

(6) develop and disseminate public education materials to share information on the benefits and cost-effectiveness of high-performance energy efficient buildings;

(7) support code-setting organizations and State and local governments in developing minimum performance standards in building codes that recognize the ready availability of many technologies utilized in high-performance energy efficient buildings;

(8) develop strategies for overcoming the split incentives between builders and purchasers, and landlords and tenants, to ensure that energy efficiency and high-performance investments are made that are cost-effective on a lifecycle basis; and

(9) develop improved means of measurement and verification of energy savings and performance for public dissemination.

(e) Cost sharing

In carrying out this section, the Commercial Director shall require cost sharing in accordance with section 16352 of this title.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2008;

(2) $50,000,000 for each of fiscal years 2009 and 2010;

(3) $100,000,000 for each of fiscal years 2011 and 2012; and

(4) $200,000,000 for each of fiscal years 2013 through 2018.

(Pub. L. 110–140, title IV, §422, Dec. 19, 2007, 121 Stat. 1604; Pub. L. 117–58, div. D, title I, §40104(d), Nov. 15, 2021, 135 Stat. 933.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (d)(3). Pub. L. 117–58 inserted "(including demand-response technologies, practices, and policies)" after "policies".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17083. Public outreach

The Commercial Director and Federal Director, in coordination with the Consortium, shall carry out public outreach to inform individuals and entities of the information and services available governmentwide by—

(1) establishing and maintaining a national high-performance green building clearinghouse, including on the Internet, that—

(A) identifies existing similar efforts and coordinates activities of common interest; and

(B) provides information relating to high-performance green buildings, including hyperlinks to Internet sites that describe the activities, information, and resources of—

(i) the Federal Government;

(ii) State and local governments;

(iii) the private sector (including nongovernmental and nonprofit entities and organizations); and

(iv) international organizations;

(2) identifying and recommending educational resources for implementing high-performance green building practices, including security and emergency benefits and practices;

(3) providing access to technical assistance, tools, and resources for constructing high-performance green buildings, particularly tools to conduct life-cycle costing and life-cycle assessment;

(4) providing information on application processes for certifying a high-performance green building, including certification and commissioning;

(5) providing to the public, through the Commercial Director, technical and research information or other forms of assistance or advice that would be useful in planning and constructing high-performance green buildings;

(6) using such additional methods as are determined by the Commercial Director to be appropriate to conduct public outreach;

(7) surveying existing research and studies relating to high-performance green buildings; and

(8) coordinating activities of common interest.

(Pub. L. 110–140, title IV, §423, Dec. 19, 2007, 121 Stat. 1606.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17084. Separate spaces with high-performance energy efficiency measures

(a) Definitions

In this section:

(1) High-performance energy efficiency measure

The term "high-performance energy efficiency measure" means a technology, product, or practice that will result in substantial operational cost savings by reducing energy consumption and utility costs.

(2) Separate spaces

The term "separate spaces" means areas within a commercial building that are leased or otherwise occupied by a tenant or other occupant for a period of time pursuant to the terms of a written agreement.

(b) Study

(1) In general

Not later than 1 year after April 30, 2015, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall complete a study on the feasibility of—

(A) significantly improving energy efficiency in commercial buildings through the design and construction, by owners and tenants, of separate spaces with high-performance energy efficiency measures; and

(B) encouraging owners and tenants to implement high-performance energy efficiency measures in separate spaces.

(2) Scope

The study shall, at a minimum, include—

(A) descriptions of—

(i) high-performance energy efficiency measures that should be considered as part of the initial design and construction of separate spaces;

(ii) processes that owners, tenants, architects, and engineers may replicate when designing and constructing separate spaces with high-performance energy efficiency measures;

(iii) policies and best practices to achieve reductions in energy intensities for lighting, plug loads, heating, cooling, cooking, laundry, and other systems to satisfy the needs of the commercial building tenant;

(iv) return on investment and payback analyses of the incremental cost and projected energy savings of the proposed set of high-performance energy efficiency measures, including consideration of available incentives;

(v) models and simulation methods that predict the quantity of energy used by separate spaces with high-performance energy efficiency measures and that compare that predicted quantity to the quantity of energy used by separate spaces without high-performance energy efficiency measures but that otherwise comply with applicable building code requirements;

(vi) measurement and verification platforms demonstrating actual energy use of high-performance energy efficiency measures installed in separate spaces, and whether such measures generate the savings intended in the initial design and construction of the separate spaces;

(vii) best practices that encourage an integrated approach to designing and constructing separate spaces to perform at optimum energy efficiency in conjunction with the central systems of a commercial building; and

(viii) any impact on employment resulting from the design and construction of separate spaces with high-performance energy efficiency measures; and

(B) case studies reporting economic and energy savings returns in the design and construction of separate spaces with high-performance energy efficiency measures.

(3) Public participation

Not later than 90 days after April 30, 2015, the Secretary shall publish a notice in the Federal Register requesting public comments regarding effective methods, measures, and practices for the

design and construction of separate spaces with high-performance energy efficiency measures.

(4) Publication

The Secretary shall publish the study on the website of the Department of Energy.

(Pub. L. 110–140, title IV, §424, as added Pub. L. 114–11, title I, §103(a), Apr. 30, 2015, 129 Stat. 183.)

§17085. Tenant Star program

(a) Definitions

In this section:

(1) High-performance energy efficiency measure

The term "high-performance energy efficiency measure" has the meaning given the term in section 17084 of this title.

(2) Separate spaces

The term "separate spaces" has the meaning given the term in section 17084 of this title.

(b) Tenant Star

The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall develop a voluntary program within the Energy Star program established by section 6294a of this title, which may be known as "Tenant Star", to promote energy efficiency in separate spaces leased by tenants or otherwise occupied within commercial buildings.

(c) Expanding survey data

The Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall—

(1) collect, through each Commercial Buildings Energy Consumption Survey of the Energy Information Administration that is conducted after April 30, 2015, data on—

(A) categories of building occupancy that are known to consume significant quantities of energy, such as occupancy by data centers, trading floors, and restaurants; and

(B) other aspects of the property, building operation, or building occupancy determined by the Administrator of the Energy Information Administration, in consultation with the Administrator of the Environmental Protection Agency, to be relevant in lowering energy consumption;

(2) with respect to the first Commercial Buildings Energy Consumption Survey conducted after April 30, 2015, to the extent full compliance with the requirements of paragraph (1) is not feasible, conduct activities to develop the capability to collect such data and begin to collect such data; and

(3) make data collected under paragraphs (1) and (2) available to the public in aggregated form and provide such data, and any associated results, to the Administrator of the Environmental Protection Agency for use in accordance with subsection (d).

(d) Recognition of owners and tenants

(1) Occupancy-based recognition

Not later than 1 year after the date on which sufficient data is received pursuant to subsection (c), the Administrator of the Environmental Protection Agency shall, following an opportunity for public notice and comment—

(A) in a manner similar to the Energy Star rating system for commercial buildings, develop policies and procedures to recognize tenants in commercial buildings that voluntarily achieve high levels of energy efficiency in separate spaces;

(B) establish building occupancy categories eligible for Tenant Star recognition based on the data collected under subsection (c) and any other appropriate data sources; and

(C) consider other forms of recognition for commercial building tenants or other occupants that lower energy consumption in separate spaces.

(2) Design- and construction-based recognition

After the study required by section 17084(b) of this title is completed, the Administrator of the Environmental Protection Agency, in consultation with the Secretary and following an opportunity for public notice and comment, may develop a voluntary program to recognize commercial building owners and tenants that use high-performance energy efficiency measures in the design and construction of separate spaces.

(Pub. L. 110–140, title IV, §425, as added Pub. L. 114–11, title I, §104(a), Apr. 30, 2015, 129 Stat. 185.)

§17086. Advanced integration of buildings onto the electric grid

(a) In general

The Secretary shall establish a program of research, development, and demonstration to enable components of commercial and residential buildings to serve as dynamic energy loads on and resources for the electric grid. The program shall focus on—

(1) developing low-cost, low power, wireless sensors to—

(A) monitor building energy load;

(B) forecast building energy need; and

(C) enable building-level energy control;

(2) developing data management capabilities and standard communication protocols to further interoperability at the building and grid-level;

(3) developing advanced building-level energy management of components through integration of smart technologies, control systems, and data processing, to enable energy efficiency and savings;

(4) optimizing energy consumption at the building level to enable grid stability and resilience;

(5) improving visualization of behind the meter equipment and technologies to provide better insight into the energy needs and energy forecasts of individual buildings;

(6) reducing the cost of key components to accelerate the adoption of smart building technologies;

(7) protecting against cybersecurity threats and addressing security vulnerabilities of building systems or equipment; and

(8) other areas determined appropriate by the Secretary.

(b) Considerations

In carrying out the program under subsection (a), the Secretary shall—

(1) work with utility partners, building owners, technology vendors, and building developers to test and validate technologies and encourage the commercial application of these technologies by building owners; and

(2) consider the specific challenges of enabling greater interaction between components of—

(A) small- and medium-sized buildings and the electric grid; and

(B) residential and commercial buildings and the electric grid.

(c) Buildings-to-grid integration report

Not later than 1 year after December 27, 2020, the Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the results of a study that examines the research, development, and demonstration opportunities, challenges, and standards needed to enable components of commercial and residential buildings to serve as dynamic energy loads on and resources for the electric grid.

(1) Report requirements

The report shall include—

(A) an assessment of the technologies needed to enable building components as dynamic loads on and resources for the electric grid, including how such technologies can be—

(i) incorporated into new commercial and residential buildings; and

(ii) retrofitted in older buildings;

(B) guidelines for the design of new buildings and building components to enable modern grid interactivity and improve energy efficiency;

(C) an assessment of barriers to the adoption by building owners of advanced technologies enabling greater integration of building components onto the electric grid; and

(D) an assessment of the feasibility of adopting technologies developed under subsection (a) at Department facilities.

(2) Recommendations

As part of the report, the Secretary shall develop a 10-year roadmap to guide the research, development, and demonstration program to enable components of commercial and residential buildings to serve as dynamic energy loads on and resources for the electric grid.

(3) Updates

The Secretary shall update the report required under this section every 3 years for the duration of the program under subsection (a) and shall submit the updated report to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(d) Program implementation

In carrying out this section, the Secretary shall—

(1) implement the recommendations from the report in subsection (c); and

(2) coordinate across all relevant program offices at the Department to achieve the goals established in this section, including the Office of Electricity.

(Pub. L. 110–140, title IV, §426, as added Pub. L. 116–260, div. Z, title I, §1007(e)(1), Dec. 27, 2020, 134 Stat. 2435.)

PART C—HIGH-PERFORMANCE FEDERAL BUILDINGS

§17091. Leasing

(a) In general

Except as provided in subsection (b), effective beginning on the date that is 3 years after December 19, 2007, no Federal agency shall enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year.

(b) Exception

(1) Application

This subsection applies if—

(A) no space is available in a building described in subsection (a) that meets the functional requirements of an agency, including locational needs;

(B) the agency proposes to remain in a building that the agency has occupied previously;

(C) the agency proposes to lease a building of historical, architectural, or cultural significance (as defined in section 3306(a)(4) of title 40) or space in such a building; or

(D) the lease is for not more than 10,000 gross square feet of space.

(2) Buildings without Energy Star label

If one of the conditions described in paragraph (1) is met, the agency may enter into a contract to lease space in a building that has not earned the Energy Star label in the most recent year if the lease contract includes provisions requiring that, prior to occupancy or, in the case of a contract described in paragraph (1)(B), not later than 1 year after signing the contract, the following requirements are met:

(A) The space is renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

(B)(i) Subject to clause (ii), the space is benchmarked under a nationally recognized, online, free benchmarking program, with public disclosure, unless the space is a space for which owners cannot access whole building utility consumption data, including spaces—

(I) that are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and

(II) for which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner.

(ii) A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph.

(c) Revision of Federal Acquisition Regulation

(1) In general

Not later than 3 years after December 19, 2007, the Federal Acquisition Regulation described in section 1121(b) and (c)(1) of title 41 shall be revised to require Federal officers and employees to comply with this section in leasing buildings.

(2) Consultation

The members of the Federal Acquisition Regulatory Council established under section 1302(a) of title 41 shall consult with the Federal Director and the Commercial Director before promulgating regulations to carry out this subsection.

(Pub. L. 110–140, title IV, §435, Dec. 19, 2007, 121 Stat. 1615; Pub. L. 114–11, title III, §301(a), Apr. 30, 2015, 129 Stat. 189.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c)(1), "section 1121(b) and (c)(1) of title 41" substituted for "section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c)(2), "section 1302(a) of title 41" substituted for "section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2015—Subsec. (b)(2). Pub. L. 114–11 substituted "paragraph (1) is met" for "paragraph (2) is met" and "signing the contract, the following requirements are met:" for "signing the contract, the space will be renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems." and added subpars. (A) and (B).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17092. High-performance green Federal buildings

(a) Establishment of Office

Not later than 60 days after December 19, 2007, the Administrator shall establish within the General Services Administration an Office of Federal High-Performance Green Buildings, and appoint an individual to serve as Federal Director in, a position in the career-reserved Senior Executive service, to—

(1) establish and manage the Office of Federal High-Performance Green Buildings; and

(2) carry out other duties as required under this part.

(b) Compensation

The compensation of the Federal Director shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

(c) Duties

The Federal Director shall—

(1) coordinate the activities of the Office of Federal High-Performance Green Buildings with the activities of the Office of Commercial High-Performance Green Buildings, and the Secretary, in accordance with section 6834(a)(3)(D) of this title;

(2) ensure full coordination of high-performance green building information and activities within the General Services Administration and all relevant agencies, including, at a minimum—

(A) the Environmental Protection Agency;

(B) the Office of the Federal Environmental Executive;

(C) the Office of Federal Procurement Policy;

(D) the Department of Energy;

(E) the Department of Health and Human Services;

(F) the Department of Defense;

(G) the Department of Transportation;

(H) the National Institute of Standards and Technology; and

(I) the Office of Science and Technology Policy;

(3) establish a senior-level Federal Green Building Advisory Committee under section 474,[1] which shall provide advice and recommendations in accordance with that section and subsection (d);

(4) identify and every 5 years reassess improved or higher rating standards recommended by the Advisory Committee;

(5) ensure full coordination, dissemination of information regarding, and promotion of the results of research and development information relating to Federal high-performance green building initiatives;

(6) identify and develop Federal high-performance green building standards for all types of Federal facilities, consistent with the requirements of this part and section 6834(a)(3)(D) of this title;

(7) establish green practices that can be used throughout the life of a Federal facility;

(8) review and analyze current Federal budget practices and life-cycle costing issues, and make recommendations to Congress, in accordance with subsection (d); and

(9) identify opportunities to demonstrate innovative and emerging green building technologies and concepts.

(d) Additional duties

The Federal Director, in consultation with the Commercial Director and the Advisory Committee,

and consistent with the requirements of section 6834(a)(3)(D) of this title shall—

(1) identify, review, and analyze current budget and contracting practices that affect achievement of high-performance green buildings, including the identification of barriers to high-performance green building life-cycle costing and budgetary issues;

(2) develop guidance and conduct training sessions with budget specialists and contracting personnel from Federal agencies and budget examiners to apply life-cycle cost criteria to actual projects;

(3) identify tools to aid life-cycle cost decisionmaking; and

(4) explore the feasibility of incorporating the benefits of high-performance green buildings, such as security benefits, into a cost-budget analysis to aid in life-cycle costing for budget and decisionmaking processes.

(e) Incentives

Within 90 days after December 19, 2007, the Federal Director shall identify incentives to encourage the expedited use of high-performance green buildings and related technology in the operations of the Federal Government, in accordance with the requirements of section 6834(a)(3)(D) of this title, including through—

(1) the provision of recognition awards; and

(2) the maximum feasible retention of financial savings in the annual budgets of Federal agencies for use in reinvesting in future high-performance green building initiatives.

(f) Report

Not later than 2 years after December 19, 2007, and biennially thereafter, the Federal Director, in consultation with the Secretary, shall submit to Congress a report that—

(1) describes the status of compliance with this part, the requirements of section 6834(a)(3)(D) of this title, and other Federal high-performance green building initiatives in effect as of the date of the report, including—

(A) the extent to which the programs are being carried out in accordance with this part and the requirements of section 6834(a)(3)(D) of this title; and

(B) the status of funding requests and appropriations for those programs;

(2) identifies within the planning, budgeting, and construction process all types of Federal facility procedures that may affect the certification of new and existing Federal facilities as high-performance green buildings under the provisions of section 6834(a)(3)(D) of this title and the criteria established in subsection (h);

(3) identifies inconsistencies, as reported to the Advisory Committee, in Federal law with respect to product acquisition guidelines and high-performance product guidelines;

(4) recommends language for uniform standards for use by Federal agencies in environmentally responsible acquisition;

(5) in coordination with the Office of Management and Budget, reviews the budget process for capital programs with respect to alternatives for—

(A) restructuring of budgets to require the use of complete energy and environmental cost accounting;

(B) using operations expenditures in budget-related decisions while simultaneously incorporating productivity and health measures (as those measures can be quantified by the Office of Federal High-Performance Green Buildings, with the assistance of universities and national laboratories);

(C) streamlining measures for permitting Federal agencies to retain all identified savings accrued as a result of the use of life-cycle costing for future high-performance green building initiatives; and

(D) identifying short-term and long-term cost savings that accrue from high-performance green buildings, including those relating to health and productivity;

(6) identifies green, self-sustaining technologies to address the operational needs of Federal

facilities in times of national security emergencies, natural disasters, or other dire emergencies;

(7) summarizes and highlights development, at the State and local level, of high-performance green building initiatives, including executive orders, policies, or laws adopted promoting high-performance green building (including the status of implementation of those initiatives); and

(8) includes, for the 2-year period covered by the report, recommendations to address each of the matters, and a plan for implementation of each recommendation, described in paragraphs (1) through (7).

(g) Implementation

The Office of Federal High-Performance Green Buildings shall carry out each plan for implementation of recommendations under subsection (f)(8).

(h) Identification of certification system

(1) In general

For the purpose of this section, not later than 60 days after December 19, 2007, the Federal Director shall identify and shall provide to the Secretary pursuant to section 6834(a)(3)(D) of this title, a certification system that the Director determines to be the most likely to encourage a comprehensive and environmentally-sound approach to certification of green buildings.

(2) Basis

The system identified under paragraph (1) shall be based on—

(A) a study completed every 5 years and provided to the Secretary pursuant to section 6834(a)(3)(D) of this title, which shall be carried out by the Federal Director to compare and evaluate standards;

(B) the ability and availability of assessors and auditors to independently verify the criteria and measurement of metrics at the scale necessary to implement this part;

(C) the ability of the applicable standard-setting organization to collect and reflect public comment;

(D) the ability of the standard to be developed and revised through a consensus-based process;

(E) an evaluation of the robustness of the criteria for a high-performance green building, which shall give credit for promoting—

(i) efficient and sustainable use of water, energy, and other natural resources;

(ii) use of renewable energy sources;

(iii) improved indoor environmental quality through enhanced indoor air quality, thermal comfort, acoustics, day lighting, pollutant source control, and use of low-emission materials and building system controls;

(iv) reduced impacts from transportation through building location and site design that promote access by public transportation; and

(v) such other criteria as the Federal Director determines to be appropriate; and

(F) national recognition within the building industry.

(Pub. L. 110–140, title IV, §436, Dec. 19, 2007, 121 Stat. 1616.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsecs. (a)(2), (c)(6), (f)(1) and (h)(2)(B), was in the original "this subtitle", meaning subtitle C (§§431–441) of title IV of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1607, which enacted this part, amended sections 6832, 6834, 8253, and 8254 of this title, and enacted provisions set out as a note under section 6834 of this title. For complete classification of subtitle C to the Code, see Tables.

Section 474, referred to in subsec. (c)(3), probably means section 494 of Pub. L. 110–140, which is classified to section 17123 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

EXECUTIVE DOCUMENTS

CHANGE OF NAME

Office of the Federal Environmental Executive reestablished as the Office of the Chief Sustainability Officer by Ex. Ord. No. 13693, §6, Mar. 19, 2015, 80 F.R. 15877, set out in a note under section 4321 of this title.

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

§17093. Federal green building performance

(a) In general

Not later than October 31 of each of the 2 fiscal years following the fiscal year in which this Act is enacted, and at such times thereafter as the Comptroller General of the United States determines to be appropriate, the Comptroller General of the United States shall, with respect to the fiscal years that have passed since the preceding report—

(1) conduct an audit of the implementation of this part, section 6834(a)(3)(D) of this title, and section 17091 of this title; and

(2) submit to the Federal Director, the Advisory Committee, the Administrator, and Congress a report describing the results of the audit.

(b) Contents

An audit under subsection (a) shall include a review, with respect to the period covered by the report under subsection (a)(2), of—

(1) budget, life-cycle costing, and contracting issues, using best practices identified by the Comptroller General of the United States and heads of other agencies in accordance with section 17092(d) of this title;

(2) the level of coordination among the Federal Director, the Office of Management and Budget, the Department of Energy, and relevant agencies;

(3) the performance of the Federal Director and other agencies in carrying out the implementation plan;

(4) the design stage of high-performance green building measures;

(5) high-performance building data that were collected and reported to the Office; and

(6) such other matters as the Comptroller General of the United States determines to be appropriate.

(c) Environmental Stewardship Scorecard

The Federal Director shall consult with the Advisory Committee to enhance, and assist in the implementation of, the Office of Management and Budget government efficiency reports and scorecards under section 17144 of this title and the Environmental Stewardship Scorecard announced at the White House summit on Federal sustainable buildings in January 2006, to measure the implementation by each Federal agency of sustainable design and green building initiatives.

(Pub. L. 110–140, title IV, §437, Dec. 19, 2007, 121 Stat. 1619.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 110–140, which was approved Dec. 19, 2007.

This part, referred to in subsec. (a)(1), was in the original "this subtitle", meaning subtitle C (§§431–441) of title IV of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1607, which enacted this part, amended sections 6832, 6834, 8253, and 8254 of this title, and enacted provisions set out as a note under section 6834 of this title. For complete classification of subtitle C to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17094. Storm water runoff requirements for Federal development projects

The sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow.

(Pub. L. 110–140, title IV, §438, Dec. 19, 2007, 121 Stat. 1620.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17095. Cost-effective technology acceleration program

(a) Definition of Administrator

In this section, the term "Administrator" means the Administrator of General Services.

(b) Establishment

(1) In general

The Administrator shall establish a program to accelerate the use of more cost-effective technologies and practices at GSA facilities.

(2) Requirements

The program established under this subsection shall—

(A) ensure centralized responsibility for the coordination of cost reduction-related recommendations, practices, and activities of all relevant Federal agencies;

(B) provide technical assistance and operational guidance to applicable tenants to achieve the goal identified in subsection (c)(2)(B)(ii);

(C) establish methods to track the success of Federal departments and agencies with respect to that goal; and

(D) be fully coordinated with and no less stringent nor less energy-conserving or water-conserving than required by other provisions of this Act and other applicable law, including sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections.

(c) Accelerated use of technologies

(1) Review

(A) In general

As part of the program under this section, not later than 90 days after December 19, 2007, the Administrator shall conduct a review of—

(i) current use of cost-effective lighting technologies and geothermal heat pumps in GSA facilities; and

(ii) the availability to managers of GSA facilities of cost-effective lighting technologies and geothermal heat pumps.

(B) Requirements

The review under subparagraph (A) shall—

(i) examine the use of cost-effective lighting technologies, geothermal heat pumps, and other cost-effective technologies and practices by Federal agencies in GSA facilities; and

(ii) as prepared in consultation with the Administrator of the Environmental Protection Agency, identify cost-effective lighting technology and geothermal heat pump technology standards that could be used for all types of GSA facilities.

(2) Replacement

(A) In general

As part of the program under this section, not later than 180 days after December 19, 2007, the Administrator shall establish, using available appropriations and programs implementing sections 432 and 525 [1] (and amendments made by those sections), a cost-effective lighting technology and geothermal heat pump technology acceleration program to achieve maximum feasible replacement of existing lighting, heating, cooling [2] technologies with cost-effective lighting technologies and geothermal heat pump technologies in each GSA facility. Such program shall fully comply with the requirements of sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 [1] and amendments made by those sections and any other provisions of law, which shall be applicable to the extent that they are more stringent or would achieve greater energy savings than required by this section.

(B) Acceleration plan timetable

(i) In general

To implement the program established under subparagraph (A), not later than 1 year after December 19, 2007, the Administrator shall establish a timetable of actions to comply with the requirements of this section and sections 431 through 435, whichever achieves greater energy savings most expeditiously, including milestones for specific activities needed to replace existing lighting, heating, cooling [2] technologies with cost-effective lighting technologies and geothermal heat pump technologies, to the maximum extent feasible (including at the maximum rate feasible), at each GSA facility.

(ii) Goal

The goal of the timetable under clause (i) shall be to complete, using available appropriations and programs implementing sections 431 through 435 [1] (and amendments made by those sections), maximum feasible replacement of existing lighting, heating, and cooling technologies with cost-effective lighting technologies and geothermal heat pump technologies consistent with the requirements of this section and sections 431 through 435,[1] whichever achieves greater energy savings most expeditiously. Notwithstanding any provision of this section, such program shall fully comply with the requirements of the Act [3] including sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525 and amendments made by those sections and other provisions of law, which shall be applicable to the extent that they are more stringent or would achieve greater energy or water savings than required by this section.

(d) GSA facility technologies and practices

(1) In general

Not later than 180 days after December 19, 2007, and annually thereafter, the Administrator shall—

(A) ensure that a manager responsible for implementing section 432 [1] and for accelerating the use of cost-effective technologies and practices is designated for each GSA facility; and

(B) submit to Congress a plan to comply with section 432,[1] this section, and other applicable provisions of this Act and applicable law with respect to energy and water conservation at GSA facilities.

(2) Measures

The plan shall implement measures required by such other provisions of law in accordance with those provisions, and shall implement the measures required by this section to the maximum extent feasible (including at the maximum rate feasible) using available appropriations and programs implementing sections 431 through 435 and 525 [1] (and amendments made by those sections), by not later than the date that is 5 years after December 19, 2007.

(3) Contents of plan

The plan shall—

(A) with respect to cost-effective technologies and practices—

(i) identify the specific activities needed to comply with sections 431 through 435; [1]

(ii) identify the specific activities needed to achieve at least a 20-percent reduction in operational costs through the application of cost-effective technologies and practices from 2003 levels at GSA facilities by not later than 5 years after December 19, 2007;

(iii) describe activities required and carried out to estimate the funds necessary to achieve the reduction described in clauses (i) and (ii);

(B) include an estimate of the funds necessary to carry out this section;

(C) describe the status of the implementation of cost-effective technologies and practices at GSA facilities, including—

(i) the extent to which programs, including the program established under subsection (b), are being carried out in accordance with this part; and

(ii) the status of funding requests and appropriations for those programs;

(D) identify within the planning, budgeting, and construction processes, all types of GSA facility-related procedures that inhibit new and existing GSA facilities from implementing cost-effective technologies;

(E) recommend language for uniform standards for use by Federal agencies in implementing cost-effective technologies and practices;

(F) in coordination with the Office of Management and Budget, review the budget process for capital programs with respect to alternatives for—

(i) implementing measures that will assure that Federal agencies retain all identified savings accrued as a result of the use of cost-effective technologies, consistent with section 8253(a)(1) of this title, and other applicable law; and

(ii) identifying short- and long-term cost savings that accrue from the use of cost-effective technologies and practices;

(G) with respect to cost-effective technologies and practices, achieve substantial operational cost savings through the application of the technologies; and

(H) include recommendations to address each of the matters, and a plan for implementation of each recommendation, described in subparagraphs (A) through (G).

(4) Administration

Notwithstanding any provision of this section, the program required under this section shall fully comply with the requirements of sections 321 through 324, 431 through 438, 461, 511

through 518, and 523 through 525 [1] and amendments made by those sections, which shall be applicable to the extent that they are more stringent or would achieve greater energy or water savings than required by this section.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

(Pub. L. 110–140, title IV, §439, Dec. 19, 2007, 121 Stat. 1620.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(2)(D), (c)(2)(B)(ii), and (d)(1)(B), is Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1492, known as the Energy Independence and Security Act of 2007, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 17001 of this title and Tables.

Sections 321 through 324, 431 through 438, 461, 511 through 518, and 523 through 525, referred to in subsecs. (b)(2)(D), (c)(2)(A), (B)(ii), and (d)(4), are sections 321 to 324, 431 to 438, 461, 511 to 518, and 523 to 525, respectively, of Pub. L. 110–140, which enacted sections 17091 to 17094 of this title, part A (§17131) of subchapter IV of this chapter, subchapter V (§2695 et seq.) of chapter 53 of Title 15, Commerce and Trade, and section 3313 of Title 40, Public Buildings, Property, and Works, amended sections 6291 to 6294, 6295, 6297, 6302, 6304, 6832, 6834, 8253, 8256, 8258, 8259b, 8287, and 8287c of this title, section 2913 of Title 10, Armed Forces, and sections 3307, 3310, and 3314 to 3316 of Title 40, and enacted provisions set out as notes under sections 6294, 6295, 6834, and 8259b of this title.

Sections 432 and 525, referred to in subsec. (c)(2)(A), are sections 432 and 525 of Pub. L. 110–140, which amended sections 8253 and 8259b of this title and enacted provisions set out as a note under section 8259b of this title.

Sections 431 through 435, referred to in subsecs. (c)(2)(B) and (d)(2), (3)(A)(i), are sections 431 to 435 of Pub. L. 110–140, which enacted section 17091 of this title, amended sections 6832, 6834, and 8253 of this title, and enacted provisions set out as a note under section 6834 of this title.

Section 432, referred to in subsec. (d)(1), is section 432 of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1607, which amended section 8253 of this title.

Section 525, referred to in subsec. (d)(2), is section 525 of Pub. L. 110–140, December 19, 2007, 121 Stat. 1663, which amended section 8259b of this title and enacted provisions set out as a note under section 8259b of this title.

This part, referred to in subsec. (d)(3)(C)(i), was in the original "this subtitle", meaning subtitle C (§§431–441) of title IV of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1607, which enacted this part, amended sections 6832, 6834, 8253, and 8254 of this title, and enacted provisions set out as a note under section 6834 of this title. For complete classification of subtitle C to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] See References in Text note below.

[2] So in original. Probably should be "and cooling".

[3] So in original. Probably should be "this Act".

§17096. Authorization of appropriations

There is authorized to be appropriated to carry out sections 434 through 439 and 482 [1] $4,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

(Pub. L. 110–140, title IV, §440, Dec. 19, 2007, 121 Stat. 1623.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 434 through 439, referred to in text, are sections 434 to 439 of Pub. L. 110–140, which enacted sections 17091 to 17095 of this title and amended section 8253 of this title. Section 482 is unidentifiable because Pub. L. 110–140 does not contain a section 482.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] See References in Text note below.

PART D—INDUSTRIAL ENERGY EFFICIENCY

§17111. Future of industry program

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) an energy-intensive industry;

(B) a national trade association representing an energy-intensive industry; or

(C) a person acting on behalf of 1 or more energy-intensive industries or sectors, as determined by the Secretary.

(2) Energy-intensive industry

The term "energy-intensive industry" means an industry that uses significant quantities of energy as part of its primary economic activities, including—

(A) information technology, including data centers containing electrical equipment used in processing, storing, and transmitting digital information;

(B) consumer product manufacturing;

(C) food processing;

(D) materials manufacturers, including—

(i) aluminum;

(ii) chemicals;

(iii) forest and paper products;

(iv) metal casting;

(v) glass;

(vi) petroleum refining;

(vii) mining; and

(viii) steel;

(E) water and wastewater treatment facilities, including systems that treat municipal,

industrial, and agricultural waste; and

(F) other energy-intensive industries, as determined by the Secretary.

(3) Feedstock

The term "feedstock" means the raw material supplied for use in manufacturing, chemical, and biological processes.

(4) Partnership

The term "partnership" means an energy efficiency partnership established under subsection (c)(1)(A).

(5) Program

The term "program" means the energy-intensive industries program established under subsection (b).

(b) Establishment of program

The Secretary shall establish a program under which the Secretary, in cooperation with energy-intensive industries and national industry trade associations representing the energy-intensive industries, shall support, research, develop, and promote the use of new materials processes, technologies, and techniques to optimize energy efficiency and the economic competitiveness of the United States' industrial and commercial sectors.

(c) Partnerships

(1) In general

As part of the program, the Secretary shall establish energy efficiency partnerships between the Secretary and eligible entities to conduct research on, develop, and demonstrate new processes, technologies, and operating practices and techniques to significantly improve the energy efficiency of equipment and processes used by energy-intensive industries, including the conduct of activities to—

(A) increase the energy efficiency of industrial processes and facilities;

(B) research, develop, and demonstrate advanced technologies capable of energy intensity reductions and increased environmental performance; and

(C) promote the use of the processes, technologies, and techniques described in subparagraphs (A) and (B).

(2) Eligible activities

Partnership activities eligible for funding under this subsection include—

(A) feedstock and recycling research, development, and demonstration activities to identify and promote—

(i) opportunities for meeting industry feedstock requirements with more energy efficient and flexible sources of feedstock or energy supply;

(ii) strategies to develop and deploy technologies that improve the quality and quantity of feedstocks recovered from process and waste streams; and

(iii) other methods using recycling, reuse, and improved industrial materials;

(B) research to develop and demonstrate technologies and processes that utilize alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

(C) research to achieve energy efficiency in steam, power, control system, and process heat technologies, and in other manufacturing processes; and

(D) industrial and commercial energy efficiency and sustainability assessments to—

(i) assist individual industrial and commercial sectors in developing tools, techniques, and methodologies to assess—

(I) the unique processes and facilities of the sectors;

(II) the energy utilization requirements of the sectors; and

(III) the application of new, more energy efficient technologies; and

(ii) conduct energy savings assessments;

(E) the incorporation of technologies and innovations that would significantly improve the energy efficiency and utilization of energy-intensive commercial applications; and

(F) any other activities that the Secretary determines to be appropriate.

(3) Proposals

(A) In general

To be eligible for funding under this subsection, a partnership shall submit to the Secretary a proposal that describes the proposed research, development, or demonstration activity to be conducted by the partnership.

(B) Review

After reviewing the scientific, technical, and commercial merit of a proposals [1] submitted under subparagraph (A), the Secretary shall approve or disapprove the proposal.

(C) Competitive awards

The provision of funding under this subsection shall be on a competitive basis.

(4) Cost-sharing requirement

In carrying out this section, the Secretary shall require cost sharing in accordance with section 16352 of this title.

(d) Grants

The Secretary may award competitive grants for innovative technology research, development and demonstrations to universities, individual inventors, and small companies, based on energy savings potential, commercial viability, and technical merit.

(e) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the Secretary to carry out this section—

(A) $184,000,000 for fiscal year 2008;

(B) $190,000,000 for fiscal year 2009;

(C) $196,000,000 for fiscal year 2010;

(D) $202,000,000 for fiscal year 2011;

(E) $208,000,000 for fiscal year 2012; and

(F) such sums as are necessary for fiscal year 2013 and each fiscal year thereafter.

(2) Partnership activities

Of the amounts made available under paragraph (1), not less than 50 percent shall be used to pay the Federal share of partnership activities under subsection (c).

(3) Coordination and nonduplication

The Secretary shall coordinate efforts under this section with other programs of the Department and other Federal agencies to avoid duplication of effort.

(Pub. L. 110–140, title IV, §452, Dec. 19, 2007, 121 Stat. 1634; Pub. L. 117–58, div. D, title V, §40521(a)(1), Nov. 15, 2021, 135 Stat. 1062.)

EDITORIAL NOTES

AMENDMENTS

2021—Pub. L. 117–58, §40521(a)(1)(A), substituted "Future of industry program" for "Energy-intensive industries program" in section catchline.

Subsec. (a)(2)(E), (F). Pub. L. 117–58, §40521(a)(1)(B), added subpar. (E) and redesignated former subpar.

(E) as (F).

Subsecs. (e), (f). Pub. L. 117–58, §40521(a)(1)(C), (D), redesignated subsec. (f) as (e) and struck out former subsec. (e) which related to institution of higher education-based industrial research and assessment centers.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] *So in original.*

§17112. Energy efficiency for data center buildings

(a) Definitions

In this section:

(1) Data center

The term "data center" means any facility that primarily contains electronic equipment used to process, store, and transmit digital information, which may be—

(A) a free-standing structure; or

(B) a facility within a larger structure, that uses environmental control equipment to maintain the proper conditions for the operation of electronic equipment.

(2) Data center operator

The term "data center operator" means any person or government entity that builds or operates a data center or purchases data center services, equipment, and facilities.

(b) Voluntary national information program

(1) In general

Not later than 90 days after December 19, 2007, the Secretary and the Administrator of the Environmental Protection Agency shall, after consulting with information technology industry and other interested parties, initiate a voluntary national information program for those types of data centers and data center equipment and facilities that are widely used and for which there is a potential for significant data center energy savings as a result of the program.

(2) Requirements

The program described in paragraph (1) shall—

(A) address data center efficiency holistically, reflecting the total energy consumption of data centers as whole systems, including both equipment and facilities;

(B) consider prior work and studies undertaken in this area, including by the Environmental Protection Agency and the Department of Energy;

(C) consistent with the objectives described in paragraph (1), determine the type of data center and data center equipment and facilities to be covered under the program;

(D) produce specifications, measurements, best practices, and benchmarks that will enable data center operators to make more informed decisions about the energy efficiency and costs of data centers, and that take into account—

(i) the performance and use of servers, data storage devices, and other information technology equipment;

(ii) the efficiency of heating, ventilation, and air conditioning, cooling, and power conditioning systems, provided that no modification shall be required of a standard then in effect under the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) for any covered heating, ventilation, air-conditioning, cooling or power-conditioning product;

(iii) energy savings from the adoption of software and data management techniques; and
(iv) other factors proposed by the stakeholders described in subsection (c);

(E) allow for creation of separate specifications, measurements, and benchmarks based on data center size and function, as well as other appropriate characteristics;

(F) advance the design and implementation of efficiency technologies to the maximum extent economically practical;

(G) provide to data center operators in the private sector and the Federal Government information about best practices and purchasing decisions that reduce the energy consumption of data centers; and

(H) publish the information described in subparagraph (G), which may be disseminated through catalogs, trade publications, the Internet, or other mechanisms, that will allow data center operators to assess the energy consumption and potential cost savings of alternative data centers and data center equipment and facilities.

(c) Stakeholder involvement

(1) In general

The Secretary and the Administrator shall carry out subsection (b) in collaboration with the information technology industry and other key stakeholders, with the goal of producing results that accurately reflect the most relevant and useful information.

(2) Considerations

In carrying out the collaboration described in paragraph (1), the Secretary and the Administrator shall pay particular attention to organizations that—

(A) have members with expertise in energy efficiency and in the development, operation, and functionality of data centers, information technology equipment, and software, including representatives of hardware manufacturers, data center operators, and facility managers;

(B) obtain and address input from the National Laboratories (as that term is defined in section 15801) of this title, or any institution of higher education, research institution, industry association, company, or public interest group with applicable expertise;

(C) follow—

(i) commonly accepted procedures for the development of specifications; and
(ii) accredited standards development processes; or

(D) have a mission to promote energy efficiency for data centers and information technology.

(d) Measurements and specifications

The Secretary and the Administrator shall consider and assess the adequacy of the specifications, measurements, best practices, and benchmarks described in subsection (b) for use by the Federal Energy Management Program, the Energy Star Program, and other efficiency programs of the Department of Energy or the Environmental Protection Agency.

(e) Study

(1) Definition of report

In this subsection, the term "report" means the report of the Lawrence Berkeley National Laboratory entitled "United States Data Center Energy Usage Report" and dated June 2016, which was prepared as an update to the "Report to Congress on Server and Data Center Energy Efficiency", published on August 2, 2007, pursuant to section 1 of Public Law 109–431 (120 Stat. 2920).

(2) Study

Not later than 4 years after December 27, 2020, the Secretary, in collaboration with the Administrator, shall make available to the public an update to the report that provides—

(A) a comparison and gap analysis of the estimates and projections contained in the report

with new data regarding the period from 2015 through 2019;

(B) an analysis considering the impact of information technologies, including virtualization and cloud computing, in the public and private sectors;

(C) an evaluation of the impact of the combination of cloud platforms, mobile devices, social media, and big data on data center energy usage;

(D) an evaluation of water usage in data centers and recommendations for reductions in that water usage; and

(E) updated projections and recommendations for best practices through fiscal year 2025.

(f) Data center energy practitioner program

(1) In general

The Secretary, in collaboration with key stakeholders and the Director of the Office of Management and Budget, shall maintain a data center energy practitioner program that provides for the certification of energy practitioners qualified to evaluate the energy usage and efficiency opportunities in federally owned and operated data centers.

(2) Evaluations

Each Federal agency shall consider having the data centers of the agency evaluated once every 4 years by energy practitioners certified pursuant to the program, whenever practicable using certified practitioners employed by the agency.

(g) Open data initiative

(1) In general

The Secretary, in collaboration with key stakeholders and the Director of the Office of Management and Budget, shall establish an open data initiative relating to energy usage at federally owned and operated data centers, with the purpose of making the data available and accessible in a manner that encourages further data center innovation, optimization, and consolidation.

(2) Consideration

In establishing the initiative under paragraph (1), the Secretary shall consider using the online Data Center Maturity Model.

(h) International specifications and metrics

The Secretary, in collaboration with key stakeholders, shall actively participate in efforts to harmonize global specifications and metrics for data center energy and water efficiency.

(i) Data center utilization metric

The Secretary, in collaboration with key stakeholders, shall facilitate in the development of an efficiency metric that measures the energy efficiency of a data center (including equipment and facilities).

(j) Protection of proprietary information

The Secretary and the Administrator shall not disclose any proprietary information or trade secrets provided by any individual or company for the purposes of carrying out this section or the programs and initiatives established under this section.

(Pub. L. 110–140, title IV, §453, Dec. 19, 2007, 121 Stat. 1637; Pub. L. 116–260, div. Z, title I, §1003, Dec. 27, 2020, 134 Stat. 2426.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (b)(2)(D)(ii), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871, which is classified principally to chapter 77 (§6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Section 1 of Public Law 109–431 (120 Stat. 2920), referred to in subsec. (e)(1), is section 1 of Pub. L. 109–431, Dec. 20, 2006, 120 Stat. 2920, which is not classified to the Code.

AMENDMENTS

2020—Subsec. (b)(2)(D)(iv). Pub. L. 116–260, §1003(1)(A), substituted "proposed by the stakeholders" for "determined by the organization".

Subsec. (b)(3). Pub. L. 116–260, §1003(1)(B), struck out par. (3). Text read as follows: "The program described in paragraph (1) shall be developed in consultation with and coordinated by the organization described in subsection (c) according to commonly accepted procedures for the development of specifications, measurements, and benchmarks."

Subsecs. (c) to (j). Pub. L. 116–260, §1003(2), added subsecs. (c) to (j) and struck out former subsecs. (c) to (g) which related to consultation with a data center efficiency organization to coordinate the voluntary national information program, including the requirements of such coordination, measurements and specifications, monitoring, alternate systems, and protection of propriety information.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17113. Industrial emissions reduction technology development program

(a) Definitions

In this section:

(1) Director

The term "Director" means the Director of the Office of Science and Technology Policy.

(2) Eligible entity

The term "eligible entity" means—

(A) a scientist or other individual with knowledge and expertise in emissions reduction;

(B) an institution of higher education;

(C) a nongovernmental organization;

(D) a National Laboratory;

(E) a private entity; and

(F) a partnership or consortium of 2 or more entities described in subparagraphs (B) through (E).

(3) Emissions reduction

(A) In general

The term "emissions reduction" means the reduction, to the maximum extent practicable, of net nonwater greenhouse gas emissions to the atmosphere by energy services and industrial processes.

(B) Exclusion

The term "emissions reduction" does not include the elimination of carbon embodied in the principal products of industrial manufacturing.

(4) Program

The term "program" means the program established under subsection (b)(1).

(5) Critical material or mineral

The term "critical material or mineral" means a material or mineral that serves an essential function in the manufacturing of a product and has a high risk of a supply disruption, such that a shortage of such a material or mineral would have significant consequences for United States

economic or national security.

(b) Industrial emissions reduction technology development program

(1) In general

Not later than 1 year after December 27, 2020, the Secretary, in consultation with the Director, the heads of relevant Federal agencies, National Laboratories, industry, and institutions of higher education, shall establish a crosscutting industrial emissions reduction technology development program of research, development, demonstration, and commercial application to advance innovative technologies that—

(A) increase the technological and economic competitiveness of industry and manufacturing in the United States;

(B) increase the viability and competitiveness of United States industrial technology exports; and

(C) achieve emissions reduction in nonpower industrial sectors.

(2) Coordination

In carrying out the program, the Secretary shall—

(A) coordinate with each relevant office in the Department and any other Federal agency;

(B) coordinate and collaborate with the Industrial Technology Innovation Advisory Committee established under section 17115 of this title; and

(C) coordinate and seek to avoid duplication with the Future of Industry [1] program established under section 17111 of this title.

(3) Leverage of existing resources

In carrying out the program, the Secretary shall leverage, to the maximum extent practicable—

(A) existing resources and programs of the Department and other relevant Federal agencies; and

(B) public-private partnerships.

(c) Focus areas

The program shall focus on—

(1) industrial production processes, including technologies and processes that—

(A) achieve emissions reduction in high emissions industrial materials production processes, including production processes for iron, steel, steel mill products, aluminum, cement, concrete, glass, pulp, paper, and industrial ceramics;

(B) achieve emissions reduction in medium- and high-temperature heat generation, including—

(i) through electrification of heating processes;

(ii) through renewable heat generation technology;

(iii) through combined heat and power; and

(iv) by switching to alternative fuels, including hydrogen and nuclear energy;

(C) achieve emissions reduction in chemical production processes, including by incorporating, if appropriate and practicable, principles, practices, and methodologies of sustainable chemistry and engineering;

(D) leverage smart manufacturing technologies and principles, digital manufacturing technologies, and advanced data analytics to develop advanced technologies and practices in information, automation, monitoring, computation, sensing, modeling, and networking to—

(i) model and simulate manufacturing production lines;

(ii) monitor and communicate production line status;

(iii) manage and optimize energy productivity and cost throughout production; and

(iv) model, simulate, and optimize the energy efficiency of manufacturing processes;

(E) leverage the principles of sustainable manufacturing to minimize the potential negative

environmental impacts of manufacturing while conserving energy and resources, including—

(i) by designing products that enable reuse, refurbishment, remanufacturing, and recycling;

(ii) by minimizing waste from industrial processes, including through the reuse of waste as other resources in other industrial processes for mutual benefit; and

(iii) by increasing resource efficiency; and

(F) increase the energy efficiency of industrial processes;

(2) alternative materials that produce fewer emissions during production and result in fewer emissions during use, including—

(A) high-performance lightweight materials; and

(B) substitutions for critical materials and minerals;

(3) development of net-zero emissions liquid and gaseous fuels;

(4) emissions reduction in shipping, aviation, and long distance transportation;

(5) carbon capture technologies for industrial processes;

(6) other technologies that achieve net-zero emissions in nonpower industrial sectors, as determined by the Secretary, in consultation with the Director; and

(7) high-performance computing to develop advanced materials and manufacturing processes contributing to the focus areas described in paragraphs (1) through (6), including—

(A) modeling, simulation, and optimization of the design of energy efficient and sustainable products; and

(B) the use of digital prototyping and additive manufacturing to enhance product design.

(8) incorporation of sustainable chemistry and engineering principles, practices, and methodologies, as the Secretary determines appropriate; and

(9) other research or technology areas identified in the Strategic Plan authorized in section 17114 of this title.

(d) Grants, contracts, cooperative agreements, and demonstration projects

(1) Grants

In carrying out the program, the Secretary shall award grants on a competitive basis to eligible entities for projects that the Secretary determines would best achieve the goals of the program.

(2) Contracts and cooperative agreements

In carrying out the program, the Secretary may enter into contracts and cooperative agreements with eligible entities and Federal agencies for projects that the Secretary determines would further the purposes of the program.

(3) Demonstration projects

In supporting technologies developed under this section, the Secretary shall fund demonstration projects that test and validate technologies described in subsection (c).

(4) Application

An entity seeking funding or a contract or agreement under this subsection shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(5) Cost sharing

In awarding funds under this section, the Secretary shall require cost sharing in accordance with section 16352 of this title.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the demonstration projects authorized in subsection (d)(3)—

(1) $20,000,000 for fiscal year 2021;
(2) $80,000,000 for fiscal year 2022;
(3) $100,000,000 for fiscal year 2023;
(4) $150,000,000 for fiscal year 2024; and
(5) $150,000,000 for fiscal year 2025.

(f) Coordination

The Secretary shall carry out the activities authorized in this section in accordance with section 18631 of this title.

(Pub. L. 110–140, title IV, §454, as added Pub. L. 116–260, div. Z, title VI, §6003(a), Dec. 27, 2020, 134 Stat. 2553; amended Pub. L. 117–58, div. D, title V, §40521(a)(2), Nov. 15, 2021, 135 Stat. 1062.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(2)(C). Pub. L. 117–58 substituted "Future of Industry" for "energy-intensive industries".

STATUTORY NOTES AND RELATED SUBSIDIARIES

PURPOSE

Pub. L. 116–260, div. Z, title VI, §6001, Dec. 27, 2020, 134 Stat. 2552, provided that: "The purpose of this title [enacting this section and sections 17114 to 17115a of this title and amending section 6351 of this title] and the amendments made by this title is to encourage the development and evaluation of innovative technologies aimed at increasing—

"(1) the technological and economic competitiveness of industry and manufacturing in the United States; and

"(2) the emissions reduction of nonpower industrial sectors."

[1] *So in original.*

§17114. Industrial Technology Innovation Advisory Committee

(a) Definitions

In this section:

(1) Committee

The term "Committee" means the Industrial Technology Innovation Advisory Committee established under subsection (b).

(2) Director

The term "Director" means the Director of the Office of Science and Technology Policy.

(3) Emissions reduction

The term "emissions reduction" has the meaning given the term in section 17113(a) of this title.

(4) Program

The term "program" means the industrial emissions reduction technology development program established under section 17113(b)(1) of this title.

(b) Establishment

Not later than 180 days after December 27, 2020, the Secretary, in consultation with the Director, shall establish an advisory committee, to be known as the "Industrial Technology Innovation Advisory Committee".

(c) Membership

(1) Appointment

The Committee shall be comprised of not fewer than 16 members and not more than 20 members, who shall be appointed by the Secretary, in consultation with the Director.

(2) Representation

Members appointed pursuant to paragraph (1) shall include—

(A) not less than 1 representative of each relevant Federal agency, as determined by the Secretary;

(B) the Chair of the Secretary of Energy Advisory Board, if that position is filled;

(C) not less than 2 representatives of labor groups;

(D) not less than 3 representatives of the research community, which shall include academia and National Laboratories;

(E) not less than 2 representatives of nongovernmental organizations;

(F) [1] not less than 6 representatives of small- and large-scale industry, the collective expertise of which shall cover every focus area described in section 17113(c) of this title; and [2]

(F) [1] not less than 1 representative of a State government; and

(G) any other individuals the Secretary, in coordination with the Director, determines to be necessary to ensure that the Committee is comprised of a diverse group of representatives of industry, academia, independent researchers, and public and private entities.

(3) Chair

The Secretary shall designate a member of the Committee to serve as Chair.

(d) Duties

(1) In general

The Committee shall—

(A) in consultation with the Secretary and the Director, propose missions and goals for the program, which shall be consistent with the purposes of the program described in section 17113(b)(1) of this title; and

(B) advise the Secretary with respect to the program—

(i) by identifying and evaluating any technologies being developed by the private sector relating to the focus areas described in section 17113(c) of this title;

(ii) by identifying technology gaps in the private sector or other Federal agencies in those focus areas, and making recommendations to address those gaps;

(iii) by surveying and analyzing factors that prevent the adoption of emissions reduction technologies by the private sector; and

(iv) by recommending technology screening criteria for technology developed under the program to encourage adoption of the technology by the private sector; and

(C) develop the strategic plan described in paragraph (2).

(2) Strategic plan

(A) Purpose

The purpose of the strategic plan developed under paragraph (1)(C) is to set forth a plan for achieving the goals of the program established in section 17113(b)(1) of this title, including for the focus areas described in section 17113(c) of this title.

(B) Contents

The strategic plan developed under paragraph (1)(C) shall—

(i) specify near-term and long-term qualitative and quantitative objectives relating to each focus area described in section 17113(c) of this title, including research, development, demonstration, and commercial application objectives;

(ii) leverage existing roadmaps relevant to the program in section 17113(b)(1) of this title and the focus areas in section 17113(c) of this title;

(iii) specify the anticipated timeframe for achieving the objectives specified under clause (i);

(iv) include plans for developing emissions reduction technologies that are globally cost-competitive, including, as applicable, in developing economies;

(v) identify the appropriate role for investment by the Federal Government, in coordination with the private sector, to achieve the objectives specified under clause (i);

(vi) identify the public and private costs of achieving the objectives specified under clause (i); and

(vii) estimate the economic and employment impact in the United States of achieving those objectives.

(e) Meetings

(1) Frequency

The Committee shall meet not less frequently than 2 times per year, at the call of the Chair.

(2) Initial meeting

Not later than 30 days after the date on which the members are appointed under subsection (b), the Committee shall hold its first meeting.

(f) Committee report

(1) In general

Not later than 2 years after December 27, 2020, and not less frequently than once every 3 years thereafter, the Committee shall submit to the Secretary a report on the progress of achieving the purposes of the program.

(2) Contents

The report under paragraph (1) shall include—

(A) a description of any technology innovation opportunities identified by the Committee;

(B) a description of any technology gaps identified by the Committee under subsection (d)(1)(B)(ii);

(C) recommendations for improving technology screening criteria and management of the program;

(D) an evaluation of the progress of the program and the research, development, and demonstration activities funded under the program;

(E) any recommended changes to the focus areas of the program described in section 17113(c) of this title;

(F) a description of the manner in which the Committee has carried out the duties described in subsection (d)(1) and any relevant findings as a result of carrying out those duties;

(G) if necessary, an update to the strategic plan developed by the Committee under subsection (d)(1)(C);

(H) the progress made in achieving the goals set out in that strategic plan;

(I) a review of the management, coordination, and industry utility of the program;

(J) an assessment of the extent to which progress has been made under the program in developing commercial, cost-competitive technologies in each focus area described in section 17113(c) of this title; and

(K) an assessment of the effectiveness of the program in coordinating efforts within the Department and with other Federal agencies to achieve the purposes of the program.

(g) Report to Congress

Not later than 60 days after receiving a report from the Committee under subsection (f), the Secretary shall submit a copy of that report to the Committees on Appropriations and Science, Space, and Technology of the House of Representatives, the Committees on Appropriations and Energy and

Natural Resources of the Senate, and any other relevant Committee of Congress.

(h) Applicability of Federal Advisory Committee Act

Except as otherwise provided in this section, the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(Pub. L. 110–140, title IV, §455, as added Pub. L. 116–260, div. Z, title VI, §6004(a), Dec. 27, 2020, 134 Stat. 2556.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

[1] *So in original. There are two subpars. (F).*

[2] *So in original. The word "and" probably should not appear.*

§17115. Technical assistance program to implement industrial emissions reduction

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a State;
(B) a unit of local government;
(C) a territory or possession of the United States;
(D) a relevant State or local office, including an energy office;
(E) a tribal organization (as defined in section 3765 of title 38);
(F) an institution of higher education; and [1]
(G) a private entity; and
(H) a trade association or technical society.

(2) Emissions reduction

The term "emissions reduction" has the meaning given the term in section 17113(a) of this title.

(3) Program

The term "program" means the program established under subsection (b).

(b) Establishment

Not later than 1 year after December 27, 2020, the Secretary shall establish a program to provide technical assistance to eligible entities to promote the commercial application of emission reduction technologies developed through the program established in section 17113(b) of this title.

(c) Applications

(1) In general

An eligible entity desiring technical assistance under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) Application process

The Secretary shall seek applications for technical assistance under the program on a periodic basis, but not less frequently than once every 12 months.

(3) Factors for consideration

In selecting eligible entities for technical assistance under the program, the Secretary shall, to the maximum extent practicable—

(A) give priority to—

(i) activities carried out with technical assistance under the program that have the greatest potential for achieving emissions reduction in nonpower industrial sectors;

(ii) activities carried out in a State in which there are active or inactive industrial facilities that may be used or retrofitted to carry out activities under the focus areas described in section 17113(c) of this title; and

(iii) activities carried out in an economically distressed area (as described in section 3161(a) of this title); and

(B) ensure that—

(i) there is geographic diversity among the eligible entities selected; and

(ii) the activities carried out with technical assistance under the program reflect a majority of the focus areas described in section 17113(c) of this title.

(Pub. L. 110–140, title IV, §456, as added Pub. L. 116–260, div. Z, title VI, §6005(a), Dec. 27, 2020, 134 Stat. 2559.)

[1] *So in original.*

§17115a. Development of national smart manufacturing plan

(a) In general

Not later than 3 years after December 27, 2020, the Secretary of Energy (in this section referred to as the "Secretary"), in consultation with the National Academies, shall develop and complete a national plan for smart manufacturing technology development and deployment to improve the productivity and energy efficiency of the manufacturing sector of the United States.

(b) Content

(1) In general

The plan developed under subsection (a) shall identify areas in which agency actions by the Secretary and other heads of relevant Federal agencies would—

(A) facilitate quicker development, deployment, and adoption of smart manufacturing technologies and processes;

(B) result in greater energy efficiency and lower environmental impacts for all American manufacturers; and

(C) enhance competitiveness and strengthen the manufacturing sectors of the United States.

(2) Inclusions

Agency actions identified under paragraph (1) shall include—

(A) an assessment of previous and current actions of the Department relating to smart manufacturing;

(B) the establishment of voluntary interconnection protocols and performance standards;

(C) the use of smart manufacturing to improve energy efficiency and reduce emissions in supply chains across multiple companies;

(D) actions to increase cybersecurity in smart manufacturing infrastructure;

(E) deployment of existing research results;

(F) the leveraging of existing high-performance computing infrastructure; and

(G) consideration of the impact of smart manufacturing on existing manufacturing jobs and future manufacturing jobs.

(c) Biennial revisions

Not later than 2 years after the date on which the Secretary completes the plan under subsection (a), and not less frequently than once every 2 years thereafter, the Secretary shall revise the plan to account for advancements in information and communication technology and manufacturing needs.

(d) Report

Annually until the completion of the plan under subsection (a), the Secretary shall submit to Congress a report on the progress made in developing the plan.

(e) Definition

In this section, the term "smart manufacturing" means advanced technologies in information, automation, monitoring, computation, sensing, modeling, artificial intelligence, analytics, and networking that—

(1) digitally—

(A) simulate manufacturing production lines;

(B) operate computer-controlled manufacturing equipment;

(C) monitor and communicate production line status; and

(D) manage and optimize energy productivity and cost throughout production;

(2) model, simulate, and optimize the energy efficiency of a factory building;

(3) monitor and optimize building energy performance;

(4) model, simulate, and optimize the design of energy efficient and sustainable products, including the use of digital prototyping and additive manufacturing to enhance product design;

(5) connect manufactured products in networks to monitor and optimize the performance of the networks, including automated network operations; and

(6) digitally connect the supply chain network.

(Pub. L. 116–260, div. Z, title VI, §6006, Dec. 27, 2020, 134 Stat. 2560.)

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

§17116. Industrial research and assessment centers

(a) Definitions

In this section:

(1) Covered project

The term "covered project" means a project—

(A) that has been recommended in an energy assessment described in paragraph (2)(A) conducted for an eligible entity; and

(B) with respect to which the plant site of that eligible entity—

(i) improves—

(I) energy efficiency;

(II) material efficiency;

(III) cybersecurity; or

(IV) productivity; or

(ii) reduces—

(I) waste production;

(II) greenhouse gas emissions; or

(III) nongreenhouse gas pollution.

(2) Eligible entity

The term "eligible entity" means a small- or medium-sized manufacturer that has had an energy

assessment completed by—

(A) an industrial research and assessment center;

(B) a Department of Energy Combined Heat and Power Technical Assistance Partnership jointly with an industrial research and assessment center; or

(C) a third-party assessor that provides an assessment equivalent to an assessment described in subparagraph (A) or (B), as determined by the Secretary.

(3) Energy service provider

The term "energy service provider" means—

(A) any business providing technology or services to improve the energy efficiency, water efficiency, power factor, or load management of a manufacturing site or other industrial process in an energy-intensive industry (as defined in section 17111(a) of this title); and

(B) any utility operating under a utility energy service project.

(4) Industrial research and assessment center

The term "industrial research and assessment center" means—

(A) an institution of higher education-based industrial research and assessment center that is funded by the Secretary under subsection (b); and

(B) an industrial research and assessment center at a trade school, community college, or union training program that is funded by the Secretary under subsection (f).

(5) Program

The term "Program" means the program for implementation grants established under subsection (i)(1).

(6) Small- or medium-sized manufacturer

The term "small- or medium-sized manufacturer" means a manufacturing firm—

(A) the gross annual sales of which are less than $100,000,000;

(B) that has fewer than 500 employees at the plant site of the manufacturing firm; and

(C) the annual energy bills of which total more than $100,000 but less than $3,500,000.

(b) Institution of higher education-based industrial research and assessment centers

(1) In general

The Secretary shall provide funding to institution of higher education-based industrial research and assessment centers.

(2) Purpose

The purpose of each institution of higher education-based industrial research and assessment center shall be—

(A) to provide in-depth assessments of small- and medium-sized manufacturer plant sites to evaluate the facilities, services, and manufacturing operations of the plant sites;

(B) to identify opportunities for optimizing energy efficiency and environmental performance, including implementation of—

(i) smart manufacturing;

(ii) energy management systems;

(iii) sustainable manufacturing;

(iv) information technology advancements for supply chain analysis, logistics, system monitoring, industrial and manufacturing processes, and other purposes; and

(v) waste management systems;

(C) to promote applications of emerging concepts and technologies in small- and medium-sized manufacturers (including water and wastewater treatment facilities and federally owned manufacturing facilities);

(D) to promote research and development for the use of alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

(E) to coordinate with appropriate Federal and State research offices;

(F) to provide a clearinghouse for industrial process and energy efficiency technical assistance resources; and

(G) to coordinate with State-accredited technical training centers and community colleges, while ensuring appropriate services to all regions of the United States.

(c) Coordination

To increase the value and capabilities of the industrial research and assessment centers, the centers shall—

(1) coordinate with Manufacturing Extension Partnership Centers of the National Institute of Standards and Technology;

(2) coordinate with the Federal Energy Management Program and the Building Technologies Office of the Department of Energy to provide building assessment services to manufacturers;

(3) increase partnerships with the National Laboratories of the Department of Energy to leverage the expertise, technologies, and research and development capabilities of the National Laboratories for national industrial and manufacturing needs;

(4) increase partnerships with energy service providers and technology providers to leverage private sector expertise and accelerate deployment of new and existing technologies and processes for energy efficiency, power factor, and load management;

(5) identify opportunities for reducing greenhouse gas emissions and other air emissions; and

(6) promote sustainable manufacturing practices for small- and medium-sized manufacturers.

(d) Outreach

The Secretary shall provide funding for—

(1) outreach activities by the industrial research and assessment centers to inform small- and medium-sized manufacturers of the information, technologies, and services available; and

(2) coordination activities by each industrial research and assessment center to leverage efforts with—

(A) Federal, State, and Tribal efforts;

(B) the efforts of utilities and energy service providers;

(C) the efforts of regional energy efficiency organizations; and

(D) the efforts of other industrial research and assessment centers.

(e) Centers of Excellence

(1) Establishment

The Secretary shall establish a Center of Excellence at not more than 5 of the highest-performing industrial research and assessment centers, as determined by the Secretary.

(2) Duties

A Center of Excellence shall coordinate with and advise the industrial research and assessment centers located in the region of the Center of Excellence, including—

(A) by mentoring new directors and staff of the industrial research and assessment centers with respect to—

(i) the availability of resources; and

(ii) best practices for carrying out assessments, including through the participation of the staff of the Center of Excellence in assessments carried out by new industrial research and assessment centers;

(B) by providing training to staff and students at the industrial research and assessment centers on new technologies, practices, and tools to expand the scope and impact of the assessments carried out by the centers;

(C) by assisting the industrial research and assessment centers with specialized technical opportunities, including by providing a clearinghouse of available expertise and tools to assist the centers and clients of the centers in assessing and implementing those opportunities;

(D) by identifying and coordinating with regional, State, local, Tribal, and utility energy efficiency programs for the purpose of facilitating efforts by industrial research and assessment centers to connect industrial facilities receiving assessments from those centers with regional, State, local, and utility energy efficiency programs that could aid the industrial facilities in implementing any recommendations resulting from the assessments;

(E) by facilitating coordination between the industrial research and assessment centers and other Federal programs described in paragraphs (1) through (3) of subsection (c); and

(F) by coordinating the outreach activities of the industrial research and assessment centers under subsection (d)(1).

(3) Funding

For each fiscal year, out of any amounts made available to carry out this section under subsection (j), the Secretary shall use not less than $500,000 to support each Center of Excellence.

(f) Expansion of industrial research and assessment centers

(1) In general

The Secretary shall provide funding to establish additional industrial research and assessment centers at trade schools, community colleges, and union training programs.

(2) Purpose

(A) In general

Subject to subparagraph (B), to the maximum extent practicable, an industrial research and assessment center established under paragraph (1) shall have the same purpose as an institution of higher education-based industrial research center that is funded by the Secretary under subsection (b)(1).

(B) Consideration of capabilities

In evaluating or establishing the purpose of an industrial research and assessment center established under paragraph (1), the Secretary shall take into consideration the varying capabilities of trade schools, community colleges, and union training programs.

(g) Workforce training

(1) Internships

The Secretary shall pay the Federal share of associated internship programs under which students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers.

(2) Apprenticeships

The Secretary shall pay the Federal share of associated apprenticeship programs under which—

(A) students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers; and

(B) employees of facilities that have received an assessment from an industrial research and assessment center work with or for an industrial research and assessment center to gain knowledge on engineering practices and processes to improve productivity and energy savings.

(3) Federal share

The Federal share of the cost of carrying out internship programs described in paragraph (1) and apprenticeship programs described in paragraph (2) shall be 50 percent.

(h) Small business loans

The Administrator of the Small Business Administration shall, to the maximum extent practicable, expedite consideration of applications from eligible small business concerns for loans under the Small Business Act (15 U.S.C. 631 et seq.) to implement recommendations developed by the industrial research and assessment centers.

(i) Implementation grants

(1) In general

The Secretary shall establish a program under which the Secretary shall provide grants to eligible entities to implement covered projects.

(2) Application

An eligible entity seeking a grant under the Program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a demonstration of need for financial assistance to implement the proposed covered project.

(3) Priority

In awarding grants under the Program, the Secretary shall give priority to eligible entities that—

(A) have had an energy assessment completed by an industrial research and assessment center; and

(B) propose to carry out a covered project with a greater potential for—

(i) energy efficiency gains; or

(ii) greenhouse gas emissions reductions.

(4) Grant amount

(A) Maximum amount

The amount of a grant provided to an eligible entity under the Program shall not exceed $300,000.

(B) Federal share

A grant awarded under the Program for a covered project shall be in an amount that is not more than 50 percent of the cost of the covered project.

(C) Supplement

A grant received by an eligible entity under the Program shall supplement, not supplant, any private or State funds available to the eligible entity to carry out the covered project.

(j) Authorization of appropriations

There are authorized to be appropriated to the Secretary for the period of fiscal years 2022 through 2026—

(1) $150,000,000 to carry out subsections (a) through (h); and

(2) $400,000,000 to carry out subsection (i).

(Pub. L. 110–140, title IV, §457, as added Pub. L. 117–58, div. D, title V, §40521(b), Nov. 15, 2021, 135 Stat. 1062.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (h), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

PART E—GENERAL PROVISIONS

§17121. Demonstration project

(a) In general

The Federal Director and the Commercial Director shall establish guidelines to implement a demonstration project to contribute to the research goals of the Office of Commercial High-Performance Green Buildings and the Office of Federal High-Performance Green Buildings.

(b) Projects

In accordance with guidelines established by the Federal Director and the Commercial Director under subsection (a) and the duties of the Federal Director and the Commercial Director described in this title,[1] the Federal Director or the Commercial Director shall carry out—

(1) for each of fiscal years 2009 through 2014, 1 demonstration project per year of green features in a Federal building selected by the Federal Director in accordance with relevant agencies and described in subsection (c)(1), that—

(A) provides for instrumentation, monitoring, and data collection related to the green features, for study of the impact of the features on overall energy use and operational costs, and for the evaluation of the information obtained through the conduct of projects and activities under this title; [1] and

(B) achieves the highest rating offered by the high performance green building system identified pursuant to section 17092(h) of this title;

(2) no fewer than 4 demonstration projects at 4 universities, that, as competitively selected by the Commercial Director in accordance with subsection (c)(2), have—

(A) appropriate research resources and relevant projects to meet the goals of the demonstration project established by the Office of Commercial High-Performance Green Buildings; and

(B) the ability—

(i) to serve as a model for high-performance green building initiatives, including research and education [2] by achieving the highest rating offered by the high performance green building system identified pursuant to section 17092(h) of this title;

(ii) to identify the most effective ways to use high-performance green building and landscape technologies to engage and educate undergraduate and graduate students;

(iii) to effectively implement a high-performance green building education program for students and occupants;

(iv) to demonstrate the effectiveness of various high-performance technologies, including their impacts on energy use and operational costs, in each of the 4 climatic regions of the United States described in subsection (c)(2)(B); and

(v) to explore quantifiable and nonquantifiable beneficial impacts on public health and employee and student performance;

(3) demonstration projects to evaluate replicable approaches of achieving high performance in actual building operation in various types of commercial buildings in various climates; and

(4) deployment activities to disseminate information on and encourage widespread adoption of technologies, practices, and policies to achieve zero-net-energy commercial buildings or low energy use and effective monitoring of energy use in commercial buildings.

(c) Criteria

(1) Federal facilities

With respect to the existing or proposed Federal facility at which a demonstration project under this section is conducted, the Federal facility shall—

(A) be an appropriate model for a project relating to—

(i) the effectiveness of high-performance technologies;

(ii) analysis of materials, components, systems, and emergency operations in the building, and the impact of those materials, components, and systems, including the impact on the health of building occupants;

(iii) life-cycle costing and life-cycle assessment of building materials and systems; and

(iv) location and design that promote access to the Federal facility through walking, biking, and mass transit; and

(B) possess sufficient technological and organizational adaptability.

(2) Universities

With respect to the 4 universities at which a demonstration project under this section is conducted—

(A) the universities should be selected, after careful review of all applications received containing the required information, as determined by the Commercial Director, based on—

(i) successful and established public-private research and development partnerships;

(ii) demonstrated capabilities to construct or renovate buildings that meet high indoor environmental quality standards;

(iii) organizational flexibility;

(iv) technological adaptability;

(v) the demonstrated capacity of at least 1 university to replicate lessons learned among nearby or sister universities, preferably by participation in groups or consortia that promote sustainability;

(vi) the demonstrated capacity of at least 1 university to have officially-adopted, institution-wide "high-performance green building" guidelines for all campus building projects; and

(vii) the demonstrated capacity of at least 1 university to have been recognized by similar institutions as a national leader in sustainability education and curriculum for students of the university; and

(B) each university shall be located in a different climatic region of the United States, each of which regions shall have, as determined by the Office of Commercial High-Performance Green Buildings—

(i) a hot, dry climate;

(ii) a hot, humid climate;

(iii) a cold climate; or

(iv) a temperate climate (including a climate with cold winters and humid summers).

(d) Applications

To receive a grant under subsection (b), an eligible applicant shall submit to the Federal Director or the Commercial Director an application at such time, in such manner, and containing such information as the Director may require, including a written assurance that all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary of Labor shall, with respect to the labor standards described in this subsection, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40.

(e) Report

Not later than 1 year after December 19, 2007, and annually thereafter through September 30, 2014—

(1) the Federal Director and the Commercial Director shall submit to the Secretary a report that describes the status of the demonstration projects; and

(2) each University at which a demonstration project under this section is conducted shall submit to the Secretary a report that describes the status of the demonstration projects under this section.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out the demonstration project described in section [3] (b)(1), $10,000,000 for the period of fiscal years 2008 through 2012, and to carry out the demonstration project described in section [3] (b)(2), $10,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended.

(Pub. L. 110–140, title IV, §491, Dec. 19, 2007, 121 Stat. 1649.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (b), is title IV of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1596, which enacted this subchapter, part C (§6341 et seq.) of subchapter III of chapter 77 of this title, sections 6371h–1 and 7628 of this title, and subchapter V (§2695 et seq.) of chapter 53 of Title 15, Commerce and Trade, amended sections 6832, 6834, 6862, 6872, 8253, 8254, and 12709 of this title, and enacted provisions set out as notes under sections 6834 and 6872 of this title. For complete classification of title IV to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (d), is set out in the Appendix to Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] See References in Text note below.

[2] So in original. A comma probably should appear.

[3] So in original. Probably should be "subsection".

§17122. Research and development

(a) Establishment

The Federal Director and the Commercial Director, jointly and in coordination with the Advisory Committee, shall—

(1)(A) survey existing research and studies relating to high-performance green buildings; and

(B) coordinate activities of common interest;

(2) develop and recommend a high-performance green building research plan that—

(A) identifies information and research needs, including the relationships between human health, occupant productivity, safety, security, and accessibility and each of—

(i) emissions from materials and products in the building;

(ii) natural day lighting;

(iii) ventilation choices and technologies;

(iv) heating, cooling, and system control choices and technologies;

(v) moisture control and mold;

(vi) maintenance, cleaning, and pest control activities;

(vii) acoustics;

(viii) access to public transportation; and

(ix) other issues relating to the health, comfort, productivity, and performance of occupants of the building;

(B) promotes the development and dissemination of high-performance green building

measurement tools that, at a minimum, may be used—

(i) to monitor and assess the life-cycle performance of facilities (including demonstration projects) built as high-performance green buildings; and

(ii) to perform life-cycle assessments; and

(C) identifies and tests new and emerging technologies for high-performance green buildings;

(3) assist the budget and life-cycle costing functions of the Directors' Offices under section 17092(d) of this title;

(4) study and identify potential benefits of green buildings relating to security, natural disaster, and emergency needs of the Federal Government; and

(5) support other research initiatives determined by the Directors' Offices.

(b) Indoor air quality

The Federal Director, in consultation with the Administrator of the Environmental Protection Agency and the Advisory Committee, shall develop and carry out a comprehensive indoor air quality program for all Federal facilities to ensure the safety of Federal workers and facility occupants—

(1) during new construction and renovation of facilities; and

(2) in existing facilities.

(Pub. L. 110–140, title IV, §492, Dec. 19, 2007, 121 Stat. 1651.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17123. Green Building Advisory Committee

(a) Establishment

Not later than 180 days after December 19, 2007, the Federal Director, in coordination with the Commercial Director, shall establish an advisory committee, to be known as the "Green Building Advisory Committee".

(b) Membership

(1) In general

The Committee shall be composed of representatives of, at a minimum—

(A) each agency referred to in section 17081(e) of this title; and

(B) other relevant agencies and entities, as determined by the Federal Director, including at least 1 representative of each of—

(i) State and local governmental green building programs;

(ii) independent green building associations or councils;

(iii) building experts, including architects, material suppliers, and construction contractors;

(iv) security advisors focusing on national security needs, natural disasters, and other dire emergency situations;

(v) public transportation industry experts; and

(vi) environmental health experts, including those with experience in children's health.

(2) Non-Federal members

The total number of non-Federal members on the Committee at any time shall not exceed 15.

(c) Meetings

The Federal Director shall establish a regular schedule of meetings for the Committee.

(d) Duties

The Committee shall provide advice and expertise for use by the Federal Director in carrying out the duties under this part, including such recommendations relating to Federal activities carried out under sections 434 through 436 [1] as are agreed to by a majority of the members of the Committee.

(e) FACA exemption

The Committee shall not be subject to section 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 110–140, title IV, §494, Dec. 19, 2007, 121 Stat. 1654.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (d), was in the original "this subtitle", meaning subtitle H (§§491–495) of title IV of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1649, which enacted this part and section 7628 of this title. For complete classification of subtitle H to the Code, see Tables.

Sections 434 through 436, referred to in subsec. (d), are sections 434 to 436 of Pub. L. 110–140, which enacted sections 17091 and 17092 of this title and amended section 8253 of this title.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (e), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

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

§17124. Advisory Committee on Energy Efficiency Finance

(a) Establishment

The Secretary, acting through the Assistant Secretary of Energy for Energy Efficiency and Renewable Energy, shall establish an Advisory Committee on Energy Efficiency Finance to provide advice and recommendations to the Department on energy efficiency finance and investment issues, options, ideas, and trends, and to assist the energy community in identifying practical ways of lowering costs and increasing investments in energy efficiency technologies.

(b) Membership

The advisory committee established under this section shall have a balanced membership that shall include members with expertise in—

(1) availability of seed capital;
(2) availability of venture capital;
(3) availability of other sources of private equity;
(4) investment banking with respect to corporate finance;
(5) investment banking with respect to mergers and acquisitions;
(6) equity capital markets;
(7) debt capital markets;
(8) research analysis;
(9) sales and trading;
(10) commercial lending; and
(11) residential lending.

(c) Termination

The Advisory Committee on Energy Efficiency Finance shall terminate on the date that is 10 years after December 19, 2007.

(d) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to the Secretary for carrying out this section.

(Pub. L. 110–140, title IV, §495, Dec. 19, 2007, 121 Stat. 1654.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER IV—ENERGY SAVINGS IN GOVERNMENT AND PUBLIC INSTITUTIONS

PART A—ENERGY SAVINGS PERFORMANCE CONTRACTING

§17131. Training Federal contracting officers to negotiate energy efficiency contracts

(a) Program

The Secretary shall create and administer in the Federal Energy Management Program a training program to educate Federal contract negotiation and contract management personnel so that the contract officers are prepared to—

(1) negotiate energy savings performance contracts;

(2) conclude effective and timely contracts for energy efficiency services with all companies offering energy efficiency services; and

(3) review Federal contracts for all products and services for the potential energy efficiency opportunities and implications of the contracts.

(b) Schedule

Not later than 1 year after December 19, 2007, the Secretary shall plan, staff, announce, and begin training under the Federal Energy Management Program.

(c) Personnel to be trained

Personnel appropriate to receive training under the Federal Energy Management Program shall be selected by and sent for the training from—

(1) the Department of Defense;

(2) the Department of Veterans Affairs;

(3) the Department;

(4) the General Services Administration;

(5) the Department of Housing and Urban Development;

(6) the United States Postal Service; and

(7) all other Federal agencies and departments that enter contracts for buildings, building services, electricity and electricity services, natural gas and natural gas services, heating and air conditioning services, building fuel purchases, and other types of procurement or service contracts

determined by the Secretary, in carrying out the Federal Energy Management Program, to offer the potential for energy savings and greenhouse gas emission reductions if negotiated with taking into account those goals.

(d) Trainers

Training under the Federal Energy Management Program may be conducted by—

(1) attorneys or contract officers with experience in negotiating and managing contracts described in subsection (c)(7) from any agency, except that the Secretary shall reimburse the related salaries and expenses of the attorneys or contract officers from amounts made available for carrying out this section to the extent the attorneys or contract officers are not employees of the Department; and

(2) private experts hired by the Secretary for the purposes of this section, except that the Secretary may not hire experts who are simultaneously employed by any company under contract to provide energy efficiency services to the Federal Government.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this section $750,000 for each of fiscal years 2008 through 2012.

(Pub. L. 110–140, title V, §517, Dec. 19, 2007, 121 Stat. 1659.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART B—ENERGY EFFICIENCY IN FEDERAL AGENCIES

§17141. Prohibition on incandescent lamps by Coast Guard

(a) Prohibition

Except as provided by subsection (b), on and after January 1, 2009, a general service incandescent lamp shall not be purchased or installed in a Coast Guard facility by or on behalf of the Coast Guard.

(b) Exception

A general service incandescent lamp may be purchased, installed, and used in a Coast Guard facility whenever the application of a general service incandescent lamp is—

(1) necessary due to purpose or design, including medical, security, and industrial applications;

(2) reasonable due to the architectural or historical value of a light fixture installed before January 1, 2009; or

(3) the Commandant of the Coast Guard determines that operational requirements necessitate the use of a general service incandescent lamp.

(c) Limitation

In this section, the term "facility" does not include a vessel or aircraft of the Coast Guard.

(Pub. L. 110–140, title V, §522, Dec. 19, 2007, 121 Stat. 1662.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out

as a note under section 1824 of Title 2, The Congress.

§17142. Procurement and acquisition of alternative fuels

No Federal agency shall enter into a contract for procurement of an alternative or synthetic fuel, including a fuel produced from nonconventional petroleum sources, for any mobility-related use, other than for research or testing, unless the contract specifies that the lifecycle greenhouse gas emissions associated with the production and combustion of the fuel supplied under the contract must, on an ongoing basis, be less than or equal to such emissions from the equivalent conventional fuel produced from conventional petroleum sources.

(Pub. L. 110–140, title V, §526, Dec. 19, 2007, 121 Stat. 1663.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

WAIVER AUTHORITY FOR ALTERNATIVE FUEL PROCUREMENT REQUIREMENT

Pub. L. 114–328, div. A, title III, §312, Dec. 23, 2016, 130 Stat. 2073, provided that:

"(a) IN GENERAL.—The Secretary of Defense may waive the requirement under section 526 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17142) if the Secretary determines it is in the national security interest of the United States.

"(b) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 15 days after exercising the waiver authority under subsection (a)."

§17143. Government efficiency status reports

(a) In general

Each Federal agency subject to any of the requirements of this title [1] or the amendments made by this title [1] shall compile and submit to the Director of the Office of Management and Budget an annual Government efficiency status report on—

(1) compliance by the agency with each of the requirements of this title [1] and the amendments made by this title; [1]

(2) the status of the implementation by the agency of initiatives to improve energy efficiency, reduce energy costs, and reduce emissions of greenhouse gases; and

(3) savings to the taxpayers of the United States resulting from mandated improvements under this title [1] and the amendments made by this title.[1]

(b) Submission

The report shall be submitted—

(1) to the Director at such time as the Director requires;

(2) in electronic, not paper, format; and

(3) consistent with related reporting requirements.

(Pub. L. 110–140, title V, §527, Dec. 19, 2007, 121 Stat. 1663.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (a), is title V of Pub. L. 110–140, which enacted this subchapter, part D (§8279) of subchapter III of chapter 91 of this title, and sections 1824, 2162a, and 2169 of Title 2, The

Congress, amended sections 6325, 6834, 8256, 8258, 8259b, 8287, and 8287c of this title, section 2162 of Title 2, section 2913 of Title 10, Armed Forces, section 3203 of Title 15, Commerce and Trade, and section 2621 of Title 16, Conservation, and enacted provisions set out as a note under section 8259b of this title. For complete classification of title V to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

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

§17144. OMB Government efficiency reports and scorecards

(a) Reports

Not later than April 1 of each year, the Director of the Office of Management and Budget shall submit an annual Government efficiency report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate, which shall contain—

(1) a summary of the information reported by agencies under section 17143 of this title;

(2) an evaluation of the overall progress of the Federal Government toward achieving the goals of this title [1] and the amendments made by this title; [1] and

(3) recommendations for additional actions necessary to meet the goals of this title [1] and the amendments made by this title.[1]

(b) Scorecards

The Director of the Office of Management and Budget shall include in any annual energy scorecard the Director is otherwise required to submit a description of the compliance of each agency with the requirements of this title [1] and the amendments made by this title.[1]

(Pub. L. 110–140, title V, §528, Dec. 19, 2007, 121 Stat. 1664.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, is title V of Pub. L. 110–140, which enacted this subchapter, part D (§8279) of subchapter III of chapter 91 of this title, and sections 1824, 2162a, and 2169 of Title 2, The Congress, amended sections 6325, 6834, 8256, 8258, 8259b, 8287, and 8287c of this title, section 2162 of Title 2, section 2913 of Title 10, Armed Forces, section 3203 of Title 15, Commerce and Trade, and section 2621 of Title 16, Conservation, and enacted provisions set out as a note under section 8259b of this title. For complete classification of title V to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

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

PART C—ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANTS

§17151. Definitions

In this part:

(1) Eligible entity

The term "eligible entity" means—

(A) a State;

(B) an eligible unit of local government; and

(C) an Indian tribe.

(2) Eligible unit of local government

The term "eligible unit of local government" means—

(A) an eligible unit of local government-alternative 1; and

(B) an eligible unit of local government-alternative 2.

(3)(A) Eligible unit of local government-alternative 1

The term "eligible unit of local government-alternative 1" means—

(i) a city with a population—

(I) of at least 35,000; or

(II) that causes the city to be 1 of the 10 highest-populated cities of the State in which the city is located; and

(ii) a county with a population—

(I) of at least 200,000; or

(II) that causes the county to be 1 of the 10 highest-populated counties of the State in which the county is located.

(B) Eligible unit of local government-alternative 2

The term "eligible unit of local government-alternative 2" means—

(i) a city with a population of at least 50,000; or

(ii) a county with a population of at least 200,000.

(4) Indian tribe

The term "Indian tribe" has the meaning given the term in section 5304 of title 25.

(5) Program

The term "program" means the Energy Efficiency and Conservation Block Grant Program established under section 17152(a) of this title.

(6) State

The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(Pub. L. 110–140, title V, §541, Dec. 19, 2007, 121 Stat. 1667.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17152. Energy Efficiency and Conservation Block Grant Program

(a) Establishment

The Secretary shall establish a program, to be known as the "Energy Efficiency and Conservation Block Grant Program", under which the Secretary shall provide grants to eligible entities in accordance with this part.

(b) Purpose

The purpose of the program shall be to assist eligible entities in implementing strategies—

(1) to reduce fossil fuel emissions created as a result of activities within the jurisdictions of eligible entities in a manner that—

(A) is environmentally sustainable; and

(B) to the maximum extent practicable, maximizes benefits for local and regional communities;

(2) to reduce the total energy use of the eligible entities; and

(3) to improve energy efficiency in—

(A) the transportation sector;

(B) the building sector; and

(C) other appropriate sectors.

(Pub. L. 110–140, title V, §542, Dec. 19, 2007, 121 Stat. 1668.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17153. Allocation of funds

(a) In general

Of amounts made available to provide grants under this part for each fiscal year, the Secretary shall allocate—

(1) 34 percent to eligible units of local government—alternative 1, in accordance with subsection (b);

(2) 34 percent to eligible units of local government—alternative 2, in accordance with subsection (b);

(3) 28 percent to States in accordance with subsection (c);

(4) 2 percent to Indian tribes in accordance with subsection (d); and

(5) 2 percent for competitive grants under section 17156 of this title.

(b) Eligible units of local government

Of amounts available for distribution to eligible units of local government under subsection (a)(1) or (2), the Secretary shall provide grants to eligible units of local government under this section based on a formula established by the Secretary according to—

(1) the populations served by the eligible units of local government, according to the latest available decennial census; and

(2) the daytime populations of the eligible units of local government and other similar factors

(such as square footage of commercial, office, and industrial space), as determined by the Secretary.

(c) States

Of amounts available for distribution to States under subsection (a)(2), the Secretary shall provide—

(1) not less than 1.25 percent to each State; and

(2) the remainder among the States, based on a formula to be established by the Secretary that takes into account—

(A) the population of each State; and

(B) any other criteria that the Secretary determines to be appropriate.

(d) Indian tribes

Of amounts available for distribution to Indian tribes under subsection (a)(3), the Secretary shall establish a formula for allocation of the amounts to Indian tribes, taking into account any factors that the Secretary determines to be appropriate.

(e) Publication of allocation formulas

Not later than 90 days before the beginning of each fiscal year for which grants are provided under this part, the Secretary shall publish in the Federal Register the formulas for allocation established under this section.

(f) State and local advisory committee

The Secretary shall establish a State and local advisory committee to advise the Secretary regarding administration, implementation, and evaluation of the program.

(Pub. L. 110–140, title V, §543, Dec. 19, 2007, 121 Stat. 1668; Pub. L. 111–5, div. A, title IV, §404(a), (b), Feb. 17, 2009, 123 Stat. 143.)

EDITORIAL NOTES

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–5, §404(a)(2), added par. (1) and struck out former par. (1) which read as follows: "68 percent to eligible units of local government in accordance with subsection (b);".

Subsec. (a)(2) to (5). Pub. L. 111–5, §404(a), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (b). Pub. L. 111–5, §404(b), substituted "subsection (a)(1) or (2)" for "subsection (a)(1)" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17154. Use of funds

An eligible entity may use a grant received under this part to carry out activities to achieve the purposes of the program, including—

(1) development and implementation of an energy efficiency and conservation strategy under section 17155(b) of this title;

(2) retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—

(A) formulation of energy efficiency, energy conservation, and energy usage goals;

(B) identification of strategies to achieve those goals—

(i) through efforts to increase energy efficiency and reduce energy consumption; and
(ii) by encouraging behavioral changes among the population served by the eligible entity;

(C) development of methods to measure progress in achieving the goals;
(D) development and publication of annual reports to the population served by the eligible entity describing—
(i) the strategies and goals; and
(ii) the progress made in achieving the strategies and goals during the preceding calendar year; and

(E) other services to assist in the implementation of the energy efficiency and conservation strategy;

(3) conducting residential and commercial building energy audits;
(4) establishment of financial incentive programs for energy efficiency improvements;
(5) the provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;
(6) development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including—
(A) design and operation of the programs;
(B) identifying the most effective methods for achieving maximum participation and efficiency rates;
(C) public education;
(D) measurement and verification protocols; and
(E) identification of energy efficient technologies;

(7) development and implementation of programs to conserve energy used in transportation, including—
(A) use of flex time by employers;
(B) satellite work centers;
(C) development and promotion of zoning guidelines or requirements that promote energy efficient development;
(D) development of infrastructure, such as bike lanes and pathways and pedestrian walkways;
(E) synchronization of traffic signals; and
(F) other measures that increase energy efficiency and decrease energy consumption;

(8) development and implementation of building codes and inspection services to promote building energy efficiency;
(9) application and implementation of energy distribution technologies that significantly increase energy efficiency, including—
(A) distributed resources; and
(B) district heating and cooling systems;

(10) activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;
(11) the purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills or similar sources;
(12) replacement of traffic signals and street lighting with energy efficient lighting technologies, including—
(A) light emitting diodes; and
(B) any other technology of equal or greater energy efficiency;

(13) development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including—

(A) solar energy;

(B) wind energy;

(C) fuel cells; and

(D) biomass;

(14) programs for financing energy efficiency, renewable energy, and zero-emission transportation (and associated infrastructure), capital investments, projects, and programs, which may include loan programs and performance contracting programs, for leveraging of additional public and private sector funds, and programs that allow rebates, grants, or other incentives for the purchase and installation of energy efficiency, renewable energy, and zero-emission transportation (and associated infrastructure) measures; and

(15) any other appropriate activity, as determined by the Secretary, in consultation with—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Transportation; and

(C) the Secretary of Housing and Urban Development.

(Pub. L. 110–140, title V, §544, Dec. 19, 2007, 121 Stat. 1669; Pub. L. 117–58, div. D, title V, §40552(a), Nov. 15, 2021, 135 Stat. 1076.)

EDITORIAL NOTES

AMENDMENTS

2021—Pars. (14), (15). Pub. L. 117–58 added par. (14) and redesignated former par. (14) as (15).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17155. Requirements for eligible entities

(a) Construction requirement

(1) In general

To be eligible to receive a grant under the program, each eligible applicant shall submit to the Secretary a written assurance that all laborers and mechanics employed by any contractor or subcontractor of the eligible entity during any construction, alteration, or repair activity funded, in whole or in part, by the grant shall be paid wages at rates not less than the prevailing wages for similar construction activities in the locality, as determined by the Secretary of Labor, in accordance with sections 3141 through 3144, 3146, and 3147 of title 40.

(2) Secretary of Labor

With respect to the labor standards referred to in paragraph (1), the Secretary of Labor shall have the authority and functions described in—

(A) Reorganization Plan Numbered 14 of 1950 (5 U.S.C. 903 note); [1] and

(B) section 3145 of title 40.

(b) Eligible units of local government and Indian tribes

(1) Proposed strategy

(A) In general

Not later than 1 year after the date on which an eligible unit of local government or Indian tribe receives a grant under this part, the eligible unit of local government or Indian tribe shall submit to the Secretary a proposed energy efficiency and conservation strategy in accordance with this paragraph.

(B) Inclusions

The proposed strategy under subparagraph (A) shall include—

(i) a description of the goals of the eligible unit of local government or Indian tribe, in accordance with the purposes of this part, for increased energy efficiency and conservation in the jurisdiction of the eligible unit of local government or Indian tribe; and

(ii) a plan for the use of the grant to assist the eligible unit of local government or Indian tribe in achieving those goals, in accordance with section 17154 of this title.

(C) Requirements for eligible units of local government

In developing the strategy under subparagraph (A), an eligible unit of local government shall—

(i) take into account any plans for the use of funds by adjacent eligible units of local governments that receive grants under the program; and

(ii) coordinate and share information with the State in which the eligible unit of local government is located regarding activities carried out using the grant to maximize the energy efficiency and conservation benefits under this part.

(2) Approval by Secretary

(A) In general

The Secretary shall approve or disapprove a proposed strategy under paragraph (1) by not later than 120 days after the date of submission of the proposed strategy.

(B) Disapproval

If the Secretary disapproves a proposed strategy under subparagraph (A)—

(i) the Secretary shall provide to the eligible unit of local government or Indian tribe the reasons for the disapproval; and

(ii) the eligible unit of local government or Indian tribe may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) Requirement

The Secretary shall not provide to an eligible unit of local government or Indian tribe any grant under the program until a proposed strategy of the eligible unit of local government or Indian tribe is approved by the Secretary under this paragraph.

(3) Limitations on use of funds

Of amounts provided to an eligible unit of local government or Indian tribe under the program, an eligible unit of local government or Indian tribe may use—

(A) for administrative expenses, excluding the cost of meeting the reporting requirements of this part, an amount equal to the greater of—

(i) 10 percent; and [2]

(ii) $75,000;

(B) for the establishment of revolving loan funds, an amount equal to the greater of—

(i) 20 percent; and [2]

(ii) $250,000; and

(C) for the provision of subgrants to nongovernmental organizations for the purpose of assisting in the implementation of the energy efficiency and conservation strategy of the eligible

unit of local government or Indian tribe, an amount equal to the greater of—

(i) 20 percent; and [2]

(ii) $250,000.

(4) Annual report

Not later than 2 years after the date on which funds are initially provided to an eligible unit of local government or Indian tribe under the program, and annually thereafter, the eligible unit of local government or Indian tribe shall submit to the Secretary a report describing—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the eligible unit of local government or Indian tribe; and

(B) as practicable, an assessment of energy efficiency gains within the jurisdiction of the eligible unit of local government or Indian tribe.

(c) States

(1) Distribution of funds

(A) In general

A State that receives a grant under the program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the State that are not eligible units of local government.

(B) Deadline

The State shall provide the subgrants required under subparagraph (A) by not later than 180 days after the date on which the Secretary approves a proposed energy efficiency and conservation strategy of the State under paragraph (3).

(2) Revision of conservation plan; proposed strategy

Not later than 120 days after December 19, 2007, each State shall—

(A) modify the State energy conservation plan of the State under section 6322 of this title to establish additional goals for increased energy efficiency and conservation in the State; and

(B) submit to the Secretary a proposed energy efficiency and conservation strategy that—

(i) establishes a process for providing subgrants as required under paragraph (1); and

(ii) includes a plan of the State for the use of funds received under the program to assist the State in achieving the goals established under subparagraph (A), in accordance with sections 17152(b) and 17154 of this title.

(3) Approval by Secretary

(A) In general

The Secretary shall approve or disapprove a proposed strategy under paragraph (2)(B) by not later than 120 days after the date of submission of the proposed strategy.

(B) Disapproval

If the Secretary disapproves a proposed strategy under subparagraph (A)—

(i) the Secretary shall provide to the State the reasons for the disapproval; and

(ii) the State may revise and resubmit the proposed strategy as many times as necessary until the Secretary approves a proposed strategy.

(C) Requirement

The Secretary shall not provide to a State any grant under the program until a proposed strategy of the State is approved by the Secretary under this paragraph.

(4) Limitations on use of funds

A State may use not more than 10 percent of amounts provided under the program for administrative expenses.

(5) Annual reports

Each State that receives a grant under the program shall submit to the Secretary an annual report that describes—

(A) the status of development and implementation of the energy efficiency and conservation strategy of the State during the preceding calendar year;

(B) the status of the subgrant program of the State under paragraph (1);

(C) the energy efficiency gains achieved through the energy efficiency and conservation strategy of the State during the preceding calendar year; and

(D) specific energy efficiency and conservation goals of the State for subsequent calendar years.

(Pub. L. 110–140, title V, §545, Dec. 19, 2007, 121 Stat. 1670.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(2)(A), is set out in the Appendix to Title 5, Government Organization and Employees. Section 903 of Title 5 relates to Presidential authority regarding reorganization plans.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] See References in Text note below.

[2] So in original. Probably should be "or".

§17156. Competitive grants

(a) In general

Of the total amount made available for each fiscal year to carry out this part, the Secretary shall use not less than 2 percent to provide grants under this section, on a competitive basis, to—

(1) units of local government (including Indian tribes) that are not eligible entities; and

(2) consortia of units of local government described in paragraph (1).

(b) Applications

To be eligible to receive a grant under this section, a unit of local government or consortia shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a plan of the unit of local government to carry out an activity described in section 17154 of this title.

(c) Priority

In providing grants under this section, the Secretary shall give priority to units of local government—

(1) located in States with populations of less than 2,000,000; or

(2) that plan to carry out projects that would result in significant energy efficiency improvements or reductions in fossil fuel use.

(Pub. L. 110–140, title V, §546, Dec. 19, 2007, 121 Stat. 1673.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17157. Review and evaluation

(a) In general

The Secretary may review and evaluate the performance of any eligible entity that receives a grant under the program, including by conducting an audit, as the Secretary determines to be appropriate.

(b) Withholding of funds

The Secretary may withhold from an eligible entity any portion of a grant to be provided to the eligible entity under the program if the Secretary determines that the eligible entity has failed to achieve compliance with—

(1) any applicable guideline or regulation of the Secretary relating to the program, including the misuse or misappropriation of funds provided under the program; or

(2) the energy efficiency and conservation strategy of the eligible entity.

(Pub. L. 110–140, title V, §547, Dec. 19, 2007, 121 Stat. 1674.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17158. Funding

(a) Authorization of appropriations

(1) Grants

There is authorized to be appropriated to the Secretary for the provision of grants under the program $2,000,000,000 for each of fiscal years 2008 through 2012.

(2) Administrative costs

There are authorized to be appropriated to the Secretary for administrative expenses of the program—

(A) $20,000,000 for each of fiscal years 2008 and 2009;

(B) $25,000,000 for each of fiscal years 2010 and 2011; and

(C) $30,000,000 for fiscal year 2012.

(b) Maintenance of funding

The funding provided under this section shall supplement (and not supplant) other Federal funding provided under—

(1) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(2) the Weatherization Assistance Program for Low-Income Persons established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.).

(Pub. L. 110–140, title V, §548, Dec. 19, 2007, 121 Stat. 1674; Pub. L. 111–5, div. A, title IV, §404(c), Feb. 17, 2009, 123 Stat. 143.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (b)(1), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871. Part D of title III of the Act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Energy Conservation and Production Act, referred to in subsec. (b)(2), is Pub. L. 94–385, Aug. 14, 1976, 90 Stat. 1125. Part A of title IV of the Act is classified generally to part A (§6861 et seq.) of subchapter III of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–5 struck out "; provided that 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government-alternative 1 in section 17151(3)(A) of this title and 49 percent of the appropriated funds shall be distributed using the definition of eligible unit of local government-alternative 2 in section 17151(3)(B) of this title" after "2012".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER V—ACCELERATED RESEARCH AND DEVELOPMENT

PART A—SOLAR ENERGY

§17171. Thermal energy storage research and development program

(a) Establishment

The Secretary shall establish a program of research and development to provide lower cost and more viable thermal energy storage technologies to enable the shifting of electric power loads on demand and extend the operating time of concentrating solar power electric generating plants.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for fiscal year 2008, $7,000,000 for fiscal year 2009, $9,000,000 for fiscal year 2010, $10,000,000 for fiscal year 2011, and $12,000,000 for fiscal year 2012.

(Pub. L. 110–140, title VI, §602, Dec. 19, 2007, 121 Stat. 1674.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SHORT TITLE

This part known as the "Solar Energy Research and Advancement Act of 2007", see Short Title note set out under section 17001 of this title.

§17172. Solar energy curriculum development and certification grants

(a) Establishment

The Secretary shall establish in the Office of Solar Energy Technologies a competitive grant program to create and strengthen solar industry workforce training and internship programs in installation, operation, and maintenance of solar energy products. The goal of this program is to ensure a supply of well-trained individuals to support the expansion of the solar energy industry.

(b) Authorized activities

Grant funds may be used to support the following activities:

(1) Creation and development of a solar energy curriculum appropriate for the local educational, entrepreneurial, and environmental conditions, including curriculum for community colleges.

(2) Support of certification programs for individual solar energy system installers, instructors, and training programs.

(3) Internship programs that provide hands-on participation by students in commercial applications.

(4) Activities required to obtain certification of training programs and facilities by an industry-accepted quality-control certification program.

(5) Incorporation of solar-specific learning modules into traditional occupational training and internship programs for construction-related trades.

(6) The purchase of equipment necessary to carry out activities under this section.

(7) Support of programs that provide guidance and updates to solar energy curriculum instructors.

(c) Administration of grants

Grants may be awarded under this section for up to 3 years. The Secretary shall award grants to ensure sufficient geographic distribution of training programs nationally. Grants shall only be awarded for programs certified by an industry-accepted quality-control certification institution, or for new and growing programs with a credible path to certification. Due consideration shall be given to women, underrepresented minorities, and persons with disabilities.

(d) Report

The Secretary shall make public, on the website of the Department or upon request, information on the name and institution for all grants awarded under this section, including a brief description of the project as well as the grant award amount.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $10,000,000 for each of the fiscal years 2008 through 2012.

(Pub. L. 110–140, title VI, §604, Dec. 19, 2007, 121 Stat. 1675.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17173. Daylighting systems and direct solar light pipe technology

(a) Establishment

The Secretary shall establish a program of research and development to provide assistance in the demonstration and commercial application of direct solar renewable energy sources to provide alternatives to traditional power generation for lighting and illumination, including light pipe technology, and to promote greater energy conservation and improved efficiency. All direct solar renewable energy devices supported under this program shall have the capability to provide

measurable data on the amount of kilowatt-hours saved over the traditionally powered light sources they have replaced.

(b) Reporting

The Secretary shall transmit to Congress an annual report assessing the measurable data derived from each project in the direct solar renewable energy sources program and the energy savings resulting from its use.

(c) Definitions

For purposes of this section—

(1) the term "direct solar renewable energy" means energy from a device that converts sunlight into useable light within a building, tunnel, or other enclosed structure, replacing artificial light generated by a light fixture and doing so without the conversion of the sunlight into another form of energy; and

(2) the term "light pipe" means a device designed to transport visible solar radiation from its collection point to the interior of a building while excluding interior heat gain in the nonheating season.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section $3,500,000 for each of the fiscal years 2008 through 2012.

(Pub. L. 110–140, title VI, §605, Dec. 19, 2007, 121 Stat. 1676.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§§17174, 17175. Repealed. Pub. L. 116–260, div. Z, title III, §3006(g)(1), Dec. 27, 2020, 134 Stat. 2513

Section 17174, Pub. L. 110–140, title VI, §606, Dec. 19, 2007, 121 Stat. 1676, related to solar air conditioning research and development program.

Section 17175, Pub. L. 110–140, title VI, §607, Dec. 19, 2007, 121 Stat. 1677, related to photovoltaic demonstration program.

PART B—GEOTHERMAL ENERGY

§17191. Definitions

For purposes of this part:

(1) Engineered

When referring to enhanced geothermal systems, the term "engineered" means designed to access subsurface heat, including stimulation and nonstimulation technologies to address one or more of the following issues:

(A) Lack of effective permeability, porosity or open fracture connectivity within the heat reservoir.

(B) Insufficient contained geofluid in the heat reservoir.

(C) A low average geothermal gradient which necessitates deeper drilling, or the use of alternative heat sources or heat generation processes.

(2) Eligible entity

The term "eligible entity" means any of the following entities:

(A) An institution of higher education.

(B) A National laboratory.

(C) A Federal research agency.

(D) A State research agency.

(E) A nonprofit research organization.

(F) An industrial entity.

(G) A consortium of 2 or more entities described in subparagraphs (A) through (F).

(3) Enhanced geothermal systems

The term "enhanced geothermal systems" means geothermal reservoir systems that are engineered, as opposed to occurring naturally.

(4) Geofluid

The term "geofluid" means any fluid used to extract thermal energy from the Earth which is transported to the surface for direct use or electric power generation, except that such term shall not include oil or natural gas.

(5) Geopressured resources

The term "geopressured resources" mean geothermal deposits found in sedimentary rocks under higher than normal pressure and saturated with gas or methane.

(6) Geothermal

The term "geothermal" refers to heat energy stored in the Earth's crust that can be accessed for direct use or electric power generation.

(7) Hydrothermal

The term "hydrothermal" refers to naturally occurring subsurface reservoirs of hot water or steam.

(8) Systems approach

The term "systems approach" means an approach to solving problems or designing systems that attempts to optimize the performance of the overall system, rather than a particular component of the system.

(Pub. L. 110–140, title VI, §612, Dec. 19, 2007, 121 Stat. 1679; Pub. L. 116–260, div. Z, title III, §3002(a), Dec. 27, 2020, 134 Stat. 2487.)

EDITORIAL NOTES

AMENDMENTS

2020—Par. (1). Pub. L. 116–260, §3002(a), amended par. (1) generally. Prior to amendment, par. (1) defined the term "engineered".

Pars. (2) to (8). Pub. L. 116–260, §3002(a)(2), (3), added par. (2) and redesignated former pars. (2) to (7) as (3) to (8), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SHORT TITLE

This part known as the "Advanced Geothermal Energy Research and Development Act of 2007", see Short Title note set out under section 17001 of this title.

§17192. Hydrothermal research and development

(a) In general

The Secretary shall carry out a program of research, development, demonstration, and commercial application for geothermal energy production from hydrothermal systems.

(b) Programs

The program authorized in subsection (a) shall include the following:

(1) Advanced hydrothermal resource tools

The research and development of advanced geologic tools to assist in locating hydrothermal resources, and to increase the reliability of site characterization, including the development of new imaging and sensing technologies and techniques to assist in prioritization of targets for characterization;

(2) Exploratory drilling for geothermal resources

The demonstration of advanced technologies and techniques of siting and exploratory drilling for undiscovered resources in a variety of geologic settings, carried out in collaboration with industry partners that will assist in the acquisition of high quality data sets relevant for hydrothermal subsurface characterization activities.

(Pub. L. 110–140, title VI, §613, Dec. 19, 2007, 121 Stat. 1679; Pub. L. 116–260, div. Z, title III, §3002(b), Dec. 27, 2020, 134 Stat. 2487.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to hydrothermal research and development.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17193. General geothermal systems research and development

(a) Subsurface components and systems

The Secretary shall support a program of research, development, demonstration, and commercial application of components and systems capable of withstanding geothermal environments and necessary to develop, produce, and monitor geothermal reservoirs and produce geothermal energy.

(b) Environmental impacts

The Secretary shall—

(1) support a program of research, development, demonstration, and commercial application of technologies and practices designed to mitigate or preclude potential adverse environmental impacts of geothermal energy development, production or use;

(2) support a research program to identify potential environmental impacts, including induced seismicity, and environmental benefits of geothermal energy development, production, and use, and ensure that the program described in paragraph (1) addresses such impacts, including water use and effects on groundwater and local hydrology;

(3) support a program of research to compare the potential environmental impacts and environmental benefits identified as part of the development, production, and use of geothermal

energy with the potential emission reductions of greenhouse gases gained by geothermal energy development, production, and use; and

(4) in carrying out this section, the Secretary shall,[1] to the maximum extent practicable, consult with relevant federal agencies, including the Environmental Protection Agency.

(c) Reservoir thermal energy storage

The Secretary shall support a program of research, development, and demonstration of reservoir thermal energy storage, emphasizing cost-effective improvements through deep direct use engineering, design, and systems research.

(d) Oil and gas technology transfer initiative

(1) In general

The Secretary shall support an initiative among the Office of Fossil Energy, the Office of Energy Efficiency and Renewable Energy, and the private sector to research, develop, and demonstrate relevant advanced technologies and operation techniques used in the oil and gas sector for use in geothermal energy development.

(2) Priorities

In carrying out paragraph (1), the Secretary shall prioritize technologies with the greatest potential to significantly increase the use and lower the cost of geothermal energy in the United States, including the cost and speed of geothermal drilling surface technologies, large- and small-scale drilling, and well construction.

(e) Coproduction of geothermal energy and minerals production research and development initiative

(1) In general

The Secretary shall carry out a research and development initiative under which the Secretary shall provide financial assistance to demonstrate the coproduction of critical minerals from geothermal resources.

(2) Requirements

An award made under paragraph (1) shall—

(A) improve the cost effectiveness of removing minerals from geothermal brines as part of the coproduction process;

(B) increase recovery rates of the targeted mineral commodity;

(C) decrease water use and other environmental impacts, as determined by the Secretary; and

(D) demonstrate a path to commercial viability.

(f) Flexible operations

The Secretary shall support a research initiative on flexible operation of geothermal power plants.

(g) Integrated energy systems

The Secretary shall identify opportunities for joint research, development, and demonstration programs between geothermal systems and other energy generation or storage systems.

(h) Drilling data repository

(1) In general

The Secretary shall, in consultation with the Secretary of the Interior, establish and operate a voluntary, industry-wide repository of geothermal drilling information to lower the cost of future geothermal drilling.

(2) Repository

(A) In general

In carrying out paragraph (1), the Secretary shall collaborate with countries utilizing a significant amount of geothermal energy, as determined by the Secretary.

(B) Data system

The repository established under paragraph (1) shall be integrated with the National Geothermal Data System.

(Pub. L. 110–140, title VI, §614, Dec. 19, 2007, 121 Stat. 1680; Pub. L. 116–260, div. Z, title III, §3002(c), Dec. 27, 2020, 134 Stat. 2488.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to general geothermal systems research and development.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] *So in original. The words "The Secretary shall" appear in introductory provisions.*

§17194. Enhanced geothermal systems research and development

(a) In general

The Secretary shall support a program of research, development, demonstration, and commercial application for enhanced geothermal systems, including the programs described in subsection (b).

(b) Enhanced geothermal systems technologies

In collaboration with industry partners, institutions of higher education, and the national laboratories, the Secretary shall support a program of research, development, demonstration, and commercial application of the technologies to achieve higher efficiency and lower cost enhanced geothermal systems, including—

(1) reservoir stimulation;

(2) drilled, non-stimulated (e.g. closed-loop) reservoir technologies;

(3) reservoir characterization, monitoring, and modeling and understanding of the surface area and volume of fractures;

(4) stress and fracture mapping including real time monitoring and modeling;

(5) tracer development;

(6) three and four-dimensional seismic imaging and tomography;

(7) well placement and orientation;

(8) long-term reservoir management;

(9) drilling technologies, methods, and tools;

(10) improved exploration tools;

(11) zonal isolation; and

(12) understanding induced seismicity risks from reservoir engineering and stimulation.

(c) Frontier observatory for research in geothermal energy

(1) In general

The Secretary shall support the establishment and construction of up to 3 field research sites, which shall each be known as a "Frontier Observatory for Research in Geothermal Energy" or "FORGE" site to develop, test, and enhance techniques and tools for enhanced geothermal energy.

(2) Duties

The Secretary shall—

(A) provide financial assistance in support of research and development projects focused on advanced monitoring technologies, new technologies and approaches for implementing multi-zone stimulations, nonstimulation techniques, and dynamic reservoir modeling that incorporates all available high-fidelity characterization data; and

(B) seek opportunities to coordinate efforts and share information with domestic and international partners engaged in research and development of geothermal systems and related technology, including coordination between FORGE sites.

(3) Site selection

Of the FORGE sites referred to in paragraph (1), the Secretary shall—

(A) consider applications through a competitive, merit-reviewed process, from National Laboratories, multi-institutional collaborations, institutes of higher education and other appropriate entities best suited to provide national leadership on geothermal related issues and perform the duties enumerated under this subsection;

(B) prioritize existing field sites and facilities with capabilities relevant to the duties enumerated under this subsection;

(C) determine the mission need for and potential location of subsequent FORGE sites following the completion of construction and one year of operation of two FORGE sites; and

(D) ensure geologic diversity among FORGE sites when developing subsequent sites, to the maximum extent practicable.

(4) Existing forge sites

A FORGE site already in existence on December 27, 2020, may continue to receive support.

(5) Site operation

(A) Initial duration

FORGE sites selected under paragraph (3) shall operate for an initial term of not more than 7 years after the date on which site operation begins.

(B) Performance metrics

The Secretary shall establish performance metrics for each FORGE site supported under this paragraph, which may be used by the Secretary to determine whether a FORGE site should continue to receive funding.

(6) Additional terms

(A) In general

At the end of an operational term described in subparagraph (B), a FORGE site may—

(i) be transferred to other public or private entities for further enhanced geothermal testing; or

(ii) subject to appropriations and a merit review by the Secretary, operate for an additional term of not more than 7 years.

(B) Operational term described

An operational term referred to in subparagraph (A)—

(i) in the case of an existing FORGE site, is the existing operational term; and

(ii) in the case of new FORGE sites selected under paragraph (3), is the initial term under paragraph (5)(A) or an additional term under subparagraph (A)(ii) of this paragraph.

(7) Funding

(A) In general

Out of funds authorized to be appropriated under section 17202 of this title, there shall be made available to the Secretary to carry out the FORGE activities under this paragraph—

(i) $45,000,000 for fiscal year 2021;

(ii) $55,000,000 for fiscal year 2022;

(iii) $65,000,000 for fiscal year 2023;
(iv) $70,000,000 for fiscal year 2024; and
(v) $70,000,000 for fiscal year 2025.

(B) Considerations

In carrying out this subsection, the Secretary shall consider the balance between funds dedicated to construction and operations and research activities to reflect the state of site development.

(d) Enhanced geothermal systems demonstrations

(1) In general

Beginning on December 27, 2020, the Secretary, in collaboration with industry partners, institutions of higher education, and the national laboratories, shall support an initiative for demonstration of enhanced geothermal systems for power production or direct use.

(2) Projects

(A) In general

Under the initiative described in paragraph (1), 4 demonstration projects shall be carried out in locations that are potentially commercially viable for enhanced geothermal systems development, while also considering environmental impacts to the maximum extent practicable, as determined by the Secretary.

(B) Requirements

Demonstration projects under subparagraph (A) shall—
(i) collectively demonstrate—
(I) different geologic settings, such as hot sedimentary aquifers, layered geologic systems, supercritical systems, and basement rock systems; and
(II) a variety of development techniques, including open hole and cased hole completions, differing well orientations, and stimulation and nonstimulation mechanisms; and

(ii) to the extent practicable, use existing sites where subsurface characterization or geothermal energy integration analysis has been conducted.

(C) Eastern demonstration

Not fewer than 1 of the demonstration projects carried out under subparagraph (A) shall be located an area east of the Mississippi River that is suitable for enhanced geothermal demonstration for power, heat, or a combination of power and heat.

(D) Milestone-based demonstration projects

The Secretary may carry out demonstration projects under this subsection as a milestone-based demonstration project under section 7256c of this title.

(3) Funding

Out of funds authorized to be appropriated under section 17202 of this title, there shall be made available to the Secretary to carry out the demonstration activities under this subsection $21,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 110–140, title VI, §615, Dec. 19, 2007, 121 Stat. 1680; Pub. L. 116–260, div. Z, title III, §3002(d), Dec. 27, 2020, 134 Stat. 2489.)

EDITORIAL NOTES

REFERENCES IN TEXT

December 27, 2020, referred to in subsecs. (c)(4) and (d)(1), was in the original "the date of enactment of this Act" and "he date of enactment of this section", respectively, and were translated as meaning the date of

enactment of Pub. L. 116–260, which was approved Dec. 27, 2020.

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to enhanced geothermal systems research and development.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17195. Geothermal energy production from oil and gas fields and recovery and production of geopressured gas resources

(a) In general

The Secretary shall establish a program of research, development, demonstration, and commercial application to support development of geothermal energy production from oil and gas fields and production and recovery of energy, including electricity, from geopressured resources. In addition, the Secretary shall conduct such supporting activities including research, resource characterization, and technology development as necessary.

(b) Geothermal energy production from oil and gas fields

The Secretary shall implement a grant program in support of geothermal energy production from oil and gas fields. The program shall include grants for a total of not less than three demonstration projects of the use of geothermal techniques such as advanced organic rankine cycle systems at marginal, unproductive, and productive oil and gas wells. The Secretary shall, to the extent practicable and in the public interest, make awards that—

(1) include not less than five oil or gas well sites per project award;

(2) use a range of oil or gas well hot water source temperatures from 150 degrees Fahrenheit to 300 degrees Fahrenheit;

(3) cover a range of sizes up to one megawatt;

(4) are located at a range of sites;

(5) can be replicated at a wide range of sites;

(6) facilitate identification of optimum techniques among competing alternatives;

(7) include business commercialization plans that have the potential for production of equipment at high volumes and operation and support at a large number of sites; and

(8) satisfy other criteria that the Secretary determines are necessary to carry out the program and collect necessary data and information.

The Secretary shall give preference to assessments that address multiple elements contained in paragraphs (1) through (8).

(c) Grant awards

Each grant award for demonstration of geothermal technology such as advanced organic rankine cycle systems at oil and gas wells made by the Secretary under subsection (b) shall include—

(1) necessary and appropriate site engineering study;

(2) detailed economic assessment of site specific conditions;

(3) appropriate feasibility studies to determine whether the demonstration can be replicated;

(4) design or adaptation of existing technology for site specific circumstances or conditions;

(5) installation of equipment, service, and support;

(6) operation for a minimum of 1 year and monitoring for the duration of the demonstration; and

(7) validation of technical and economic assumptions and documentation of lessons learned.

(d) Geopressured gas resource recovery and production

(1) The Secretary shall implement a program to support the research, development, demonstration, and commercial application of cost-effective techniques to produce energy from geopressured resources.

(2) The Secretary shall solicit preliminary engineering designs for geopressured resources production and recovery facilities.

(3) Based upon a review of the preliminary designs, the Secretary shall award grants, which may be cost-shared, to support the detailed development and completion of engineering, architectural and technical plans needed to support construction of new designs.

(4) Based upon a review of the final design plans above, the Secretary shall award cost-shared development and construction grants for demonstration geopressured production facilities that show potential for economic recovery of the heat, kinetic energy and gas resources from geopressured resources.

(e) Competitive grant selection

Not less than 90 days after December 19, 2007, the Secretary shall conduct a national solicitation for applications for grants under the programs outlined in subsections (b) and (d). Grant recipients shall be selected on a competitive basis based on criteria in the respective subsection.

(f) Well drilling

No funds may be used under this section for the purpose of drilling new wells.

(Pub. L. 110–140, title VI, §616, Dec. 19, 2007, 121 Stat. 1681.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17195a. Geothermal heat pumps and direct use research and development

(a) Purposes

The purposes of this section are—

(1) to improve the understanding of related earth sciences, components, processes, and systems used for geothermal heat pumps and the direct use of geothermal energy; and

(2) to increase the energy efficiency, lower the cost, increase the use, and improve and demonstrate the effectiveness of geothermal heat pumps and the direct use of geothermal energy.

(b) Definitions

In this section:

(1) Direct use of geothermal energy

The term "direct use of geothermal energy" means geothermal systems that use water directly or through a heat exchanger to provide—

(A) heating and cooling to buildings, commercial districts, residential communities, and large municipal, or industrial projects; or

(B) heat required for industrial processes, agriculture, aquaculture, and other facilities.

(2) Economically distressed area

The term "economically distressed area" means an area described in section 3161(a) of this title.

(3) Geothermal heat pump

The term "geothermal heat pump" means a system that provides heating and cooling by

exchanging heat from shallow geology, groundwater, or surface water using—

(A) a closed loop system, which transfers heat by way of buried or immersed pipes that contain a mix of water and working fluid; or

(B) an open loop system, which circulates ground or surface water directly into the building and returns the water to the same aquifer or surface water source.

(c) Program

(1) In general

The Secretary shall support within the Geothermal Technologies Office a program of research, development, and demonstration for geothermal heat pumps and the direct use of geothermal energy.

(2) Areas

The program under paragraph (1) may include research, development, demonstration, and commercial application of—

(A) geothermal ground loop efficiency improvements, cost reductions, and improved installation and operations methods;

(B) the use of geothermal energy for building-scale energy storage;

(C) the use of geothermal energy as a grid management resource or seasonal energy storage;

(D) geothermal heat pump efficiency improvements;

(E) the use of alternative fluids as a heat exchange medium, such as hot water found in mines and mine shafts, graywater, or other fluids that may improve the economics of geothermal heat pumps;

(F) heating of districts, neighborhoods, communities, large commercial or public buildings, and industrial and manufacturing facilities;

(G) the use of low temperature groundwater for direct use; and

(H) system integration of direct use with geothermal electricity production.

(3) Environmental impacts

In carrying out the program, the Secretary shall identify and mitigate potential environmental impacts in accordance with section 17193(b) of this title.

(d) Financial assistance

(1) In general

The Secretary shall carry out the program established in subsection (c) by making financial assistance available to State, local, and Tribal governments, institutions of higher education, nonprofit entities, National Laboratories, utilities, and for-profit companies.

(2) Priority

In providing financial assistance under this subsection, the Secretary may give priority to proposals that apply to large buildings, commercial districts, and residential communities that are located in economically distressed areas and areas that the Secretary determines to have high economic potential for geothermal district heating based on the report, "Geovision: Harnessing the Heat Beneath our Feet" published by the Department in 2019, or a successor report.

(Pub. L. 110–140, title VI, §616A, as added Pub. L. 116–260, div. Z, title III, §3002(e)(1), Dec. 27, 2020, 134 Stat. 2492.)

§17196. Organization and administration of programs

(a) Federal share

The Federal share of costs of projects funded under this part shall be in accordance with section 16352 of this title.

(b) Organization and administration of programs

Programs under this part shall incorporate the following elements:

(1) The Secretary shall coordinate with, and where appropriate may provide funds in furtherance of the purposes of this part to, other Department of Energy research and development programs focused on drilling, subsurface characterization, and other related technologies.

(2) The Secretary shall coordinate and consult with the appropriate Federal land management agencies in selecting proposals for funding under this part.

(3) Nothing in this part shall be construed to alter or affect any law relating to the management or protection of Federal lands.

(c) Education and outreach

In carrying out the activities described in this part, the Secretary shall support education and outreach activities to disseminate information on geothermal energy technologies and the geothermal energy workforce, including activities at the Frontier Observatory for Research in Geothermal Energy site or sites.

(d) Technical assistance

In carrying out this part, the Secretary shall also conduct technical assistance and analysis activities with eligible entities for the purpose of supporting the commercial application of advances in geothermal energy systems development and operations, which may include activities that support expanding access to advanced geothermal energy technologies for rural, Tribal, and low-income communities.

(e) Report

Every 5 years after December 27, 2020, the Secretary shall report to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on advanced concepts and technologies to maximize the geothermal resource potential of the United States.

(f) Progress reports

Not later than 1 year after December 27, 2020, and every 2 years thereafter, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the results of projects undertaken under this part and other such information the Secretary considers appropriate.

(Pub. L. 110–140, title VI, §617, Dec. 19, 2007, 121 Stat. 1682; Pub. L. 116–260, div. Z, title III, §3002(f)(1), Dec. 27, 2020, 134 Stat. 2493.)

EDITORIAL NOTES

REFERENCES IN TEXT

This part, referred to in subsec. (f), probably should be a reference to "this subtitle", meaning subtitle B of title VI of Pub. L. 110–140, which is classified to this part.

AMENDMENTS

2020—Pub. L. 116–260, §3002(f)(1)(A), substituted "Organization and administration of programs" for "Cost sharing and proposal evaluation" in section catchline.

Subsec. (b)(2) to (4). Pub. L. 116–260, §3002(f)(1)(B), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "In evaluating proposals, the Secretary shall give priority to proposals that demonstrate clear evidence of employing a systems approach."

Subsecs. (c) to (f). Pub. L. 116–260, §3002(f)(1)(C), added subsecs. (c) to (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17197. Advanced geothermal computing and data science research and development

(a) In general

The Secretary shall carry out a program of research and development of advanced computing and data science tools for geothermal energy.

(b) Programs

The program authorized in subsection (a) shall include the following:

(1) Advanced computing for geothermal systems technologies

Research, development, and demonstration of technologies to develop advanced data, machine learning, artificial intelligence, and related computing tools to assist in locating geothermal resources, to increase the reliability of site characterization, to increase the rate and efficiency of drilling, to improve induced seismicity mitigation, and to support enhanced geothermal systems technologies.

(2) Geothermal systems reservoir modeling

Research, development, and demonstration of models of geothermal reservoir performance and enhanced geothermal systems reservoir stimulation technologies and techniques, with an emphasis on accurately modeling fluid and heat flow, permeability evolution, geomechanics, geochemistry, seismicity, and operational performance over time, including collaboration with industry and field validation.

(c) Coordination

In carrying out these programs, the Secretary shall ensure coordination and consultation with the Department of Energy's Office of Science. The Secretary shall ensure, to the maximum extent practicable, coordination of these activities with the Department of Energy National Laboratories, institutes of higher education, and the private sector.

(Pub. L. 110–140, title VI, §618, Dec. 19, 2007, 121 Stat. 1683; Pub. L. 116–260, div. Z, title III, §3002(g)(1), Dec. 27, 2020, 134 Stat. 2494.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to Center for Geothermal Technology Transfer.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17198. Geothermal workforce development

The Secretary shall support the development of a geothermal energy workforce through a program that—

(1) facilitates collaboration between university students and researchers at the National Laboratories; and

(2) prioritizes science in areas relevant to the mission of the Department through the application of geothermal energy tools and technologies.

(Pub. L. 110–140, title VI, §619, Dec. 19, 2007, 121 Stat. 1683; Pub. L. 116–260, div. Z, title III,

§3002(h)(1), Dec. 27, 2020, 134 Stat. 2495.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section read as follows: "The Secretary shall expand the Department of Energy's GeoPowering the West program to extend its geothermal technology transfer activities throughout the entire United States. The program shall be renamed 'GeoPowering America'. The program shall continue to be based in the Department of Energy office in Golden, Colorado."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§§17199, 17200. Repealed. Pub. L. 116–260, div. Z, title III, §3002(i)(1), Dec. 27, 2020, 134 Stat. 2495

Section 17199, Pub. L. 110–140, title VI, §620, Dec. 19, 2007, 121 Stat. 1683, related to educational pilot program.

Section 17200, Pub. L. 110–140, title VI, §621, Dec. 19, 2007, 121 Stat. 1684, related to reports to Congress.

§17201. Applicability of other laws

Nothing in this part shall be construed as waiving, modifying, or superseding the applicability of any requirement under any environmental or other Federal or State law. To the extent that activities authorized in this part take place in coastal and ocean areas, the Secretary shall consult with the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, regarding the potential marine environmental impacts and measures to address such impacts.

(Pub. L. 110–140, title VI, §622, Dec. 19, 2007, 121 Stat. 1684.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17202. Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the programs under this part $170,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 110–140, title VI, §623, Dec. 19, 2007, 121 Stat. 1684; Pub. L. 116–260, div. Z, title III, §3002(j), Dec. 27, 2020, 134 Stat. 2495.)

EDITORIAL NOTES

AMENDMENTS

2020—Pub. L. 116–260 amended section generally. Prior to amendment, section related to authorization of appropriations for fiscal years 2008 to 2012.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17203. International geothermal energy development

(a) In general

The Secretary of Energy, in coordination with other appropriate Federal and multilateral agencies (including the United States Agency for International Development) shall support collaborative efforts with international partners to promote the research, development, and demonstration of geothermal technologies used to develop hydrothermal and enhanced geothermal system resources.

(b) United States Trade and Development Agency

The Director of the United States Trade and Development Agency may—

(1) encourage participation by United States firms in actions taken to carry out subsection (a); and

(2) provide grants and other financial support for feasibility and resource assessment studies conducted in, or intended to benefit, less developed countries.

(Pub. L. 110–140, title VI, §624, Dec. 19, 2007, 121 Stat. 1684; Pub. L. 116–260, div. Z, title III, §3002(k), Dec. 27, 2020, 134 Stat. 2495.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260, §3002(k)(1), amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Energy, in coordination with other appropriate Federal and multilateral agencies (including the United States Agency for International Development) shall support international collaborative efforts to promote the research, development, and deployment of geothermal technologies used to develop hydrothermal and enhanced geothermal system resources, including as partners (as appropriate) the African Rift Geothermal Development Facility, Australia, China, France, the Republic of Iceland, India, Japan, and the United Kingdom."

Subsec. (c). Pub. L. 116–260, §3002(k)(2), struck out subsec. (c). Text read as follows: "There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17204. High cost region geothermal energy grant program

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a utility;

(B) an electric cooperative;
(C) a State;
(D) a political subdivision of a State;
(E) an Indian tribe; or
(F) a Native corporation.

(2) High-cost region

The term "high-cost region" means a region in which the average cost of electrical power or heat exceeds 150 percent of the national average retail cost, as determined by the Secretary.

(b) Program

The Secretary shall use amounts made available to carry out this section to make grants to eligible entities for activities described in subsection (c).

(c) Eligible activities

An eligible entity may use grant funds under this section, with respect to a geothermal energy project in a high-cost region, only—

(1) to conduct a feasibility study, including a study of exploration, geochemical testing, geomagnetic surveys, geologic information gathering, baseline environmental studies, well drilling, resource characterization, permitting, and economic analysis;

(2) for design and engineering costs, relating to the project; and

(3) to demonstrate and promote commercial application of technologies related to geothermal energy as part of the project.

(d) Cost sharing

The cost-sharing requirements of section 16352 of this title shall apply to any project carried out under this section.

(e) Authorization of appropriations

Out of funds authorized under section 17202 of this title, there is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2021 through 2025.

(Pub. L. 110–140, title VI, §625, Dec. 19, 2007, 121 Stat. 1685; Pub. L. 116–260, div. Z, title III, §3002(l), Dec. 27, 2020, 134 Stat. 2496.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a)(2). Pub. L. 116–260, §3002(l)(1), inserted "or heat" after "electrical power".

Subsec. (e). Pub. L. 116–260, §3002(l)(2), amended subsec. (e) generally. Prior to amendment, text read as follows: "There are authorized to be appropriated such sums as are necessary to carry out this section."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART C—WATER POWER RESEARCH AND DEVELOPMENT

CODIFICATION

Subtitle C of title VI of the Energy Independence and Security Act of 2007, known as the Marine and Hydrokinetic Renewable Energy Research and Development Act, comprising this part, was originally enacted

by Pub. L. 110–140, title VI, Dec. 19, 2007, 121 Stat. 1686. Such part is shown herein, however, as having been added by Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2479, because of the extensive revision of the part's provisions by Pub. L. 116–260.

APPLICATION

Provisions of section 3212 of this title applicable to construction, alteration, or repair work of demonstration projects funded by grants or contracts authorized under this part, see section 9006(b) of div. Z of Pub. L. 116–260, set out as a note under section 16237 of this title.

§17211. Definitions

In this part:

(1) Eligible entity

The term "eligible entity" means any of the following entities:

(A) An institution of higher education.
(B) A National Laboratory.
(C) A Federal research agency.
(D) A State research agency.
(E) A nonprofit research organization.
(F) An industrial entity or a multi-institutional consortium thereof.

(2) Institution of higher education

The term "institution of higher education" means—

(A) an institution of higher education (as defined in section 1001(a) of title 20); or
(B) a postsecondary vocational institution (as defined in section 1002(c) of title 20).

(3) Marine energy

The term "marine energy" means energy from—

(A) waves, tides, and currents in oceans, estuaries, and tidal areas;
(B) free flowing water in rivers, lakes, streams, and man-made channels;
(C) differentials in salinity and pressure gradients; and
(D) differentials in water temperature, including ocean thermal energy conversion.

(4) National laboratory

The term "National Laboratory" has the meaning given such term in section 15801(3) of this title.

(5) Water power

The term "water power" refers to hydropower, including conduit power, pumped storage, and marine energy technologies.

(6) Microgrid

The term "microgrid" has the meaning given such term in section 17231 of this title.

(Pub. L. 110–140, title VI, §632, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2479.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 17211, Pub. L. 110–140, title VI, §632, Dec. 19, 2007, 121 Stat. 1686, related to definitions of terms, prior to the general amendment of this part by Pub. L. 116–260.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

This part was formerly known as the "Marine and Hydrokinetic Renewable Energy Research and Development Act", see Short Title note formerly set out under section 17001 of this title.

§17212. Water power technology research, development, and demonstration

The Secretary shall carry out a program to conduct research, development, demonstration, and commercial application of water power technologies in support of each of the following purposes:

(1) To promote research, development, demonstration, and commercial application of water power generation technologies in order to increase capacity and reduce the cost of those technologies.

(2) To promote research and development to improve the environmental impact of water power technologies.

(3) To provide grid reliability and resilience, including through technologies that facilitate new market opportunities, such as ancillary services, for water power.

(4) To promote the development of water power technologies to improve economic growth and enhance cross-institutional foundational workforce development in the water power sector, including in coastal communities.

(Pub. L. 110–140, title VI, §633, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2480.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 17212, Pub. L. 110–140, title VI, §633, Dec. 19, 2007, 121 Stat. 1686, related to marine and hydrokinetic renewable energy research and development, prior to the general amendment of this part by Pub. L. 116–260.

§17213. Hydropower research, development, and demonstration

The Secretary shall conduct a program of research, development, demonstration, and commercial application for technologies that improve the capacity, efficiency, resilience, security, reliability, affordability, and environmental impact, including potential cumulative environmental impacts, of hydropower systems. In carrying out such program, the Secretary shall prioritize activities designed to—

(1) develop technology for—

(A) non-powered dams, including aging and potentially hazardous dams;

(B) pumped storage;

(C) constructed waterways;

(D) new stream-reach development;

(E) modular and small dams;

(F) increased operational flexibility; and

(G) enhancement of relevant existing facilities;

(2) develop new strategies and technologies, including analytical methods, physical and numerical tools, and advanced computing, as well as methods to validate such methods and tools, in order to—

(A) extend the operational lifetime of hydropower systems and their physical structures, while improving environmental impact, including potential cumulative environmental impacts;

(B) assist in device and system design, installation, operation, and maintenance; and

(C) reduce costs, limit outages, and increase unit and plant efficiencies, including by examining the impact of changing water and electricity demand on hydropower generation, flexibility, and provision of grid services;

(3) study, in conjunction with other relevant Federal agencies as appropriate, methods to improve the hydropower licensing process, including by compiling current and accepted best practices, public comments, and methodologies to assess the full range of potential environmental and economic impacts;

(4) identify opportunities for joint research, development, and demonstration programs between hydropower systems, which may include—

(A) pumped storage systems and other renewable energy systems;

(B) small hydro facilities and other energy storage systems;

(C) other hybrid energy systems;

(D) small hydro facilities and critical infrastructure, including water infrastructure; and

(E) hydro facilities and responsive load technologies, which may include smart buildings and city systems;

(5) improve the reliability of hydropower technologies, including during extreme weather events;

(6) develop methods and technologies to improve environmental impact, including potential cumulative environmental impacts, of hydropower and pumped storage technologies, including potential impacts on wildlife, such as—

(A) fisheries;

(B) aquatic life and resources;

(C) navigation of waterways; and

(D) upstream and downstream environmental conditions, including sediment movement, water quality, and flow volumes;

(7) identify ways to increase power generation by—

(A) diversifying plant configuration options;

(B) improving pump-back efficiencies;

(C) investigating multi-phase systems;

(D) developing, testing, and monitoring advanced generators with faster cycling times, variable speeds, and improved efficiencies;

(E) developing, testing, and monitoring advanced turbines capable of improving environmental impact, including potential cumulative environmental impacts, including small turbine designs;

(F) developing standardized powertrain components;

(G) developing components with advanced materials and manufacturing processes, including additive manufacturing; and

(H) developing analytical tools that enable hydropower to provide grid services that, amongst other services, improve grid integration of other energy sources;

(8) advance new pumped storage technologies, including—

(A) systems with adjustable speed and other new pumping and generating equipment designs;

(B) modular systems;

(C) alternative closed-loop systems, including mines and quarries; and

(D) other innovative equipment and materials as determined by the Secretary;

(9) reduce civil works costs and construction times for hydropower and pumped storage systems, including comprehensive data and systems analysis of hydropower and pumped storage construction technologies and processes in order to identify areas for whole-system efficiency gains;

(10) advance efficient and reliable integration of hydropower and pumped storage systems with the electric grid by—

(A) improving methods for operational forecasting of renewable energy systems to identify

opportunities for hydropower applications in pumped storage and hybrid energy systems, including forecasting of seasonal and annual energy storage;

(B) considering aggregating small distributed hydropower assets; and

(C) identifying barriers to grid scale implementation of hydropower and pumped storage technologies;

(11) improve computational fluid dynamic modeling methods;

(12) improve flow measurement methods, including maintenance of continuous flow measurement equipment;

(13) identify best methods for compiling data on all hydropower resources and assets, including identifying potential for increased capacity; and

(14) identify mechanisms to test and validate performance of hydropower and pumped storage technologies.

(Pub. L. 110–140, title VI, §634, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2480.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 17213, Pub. L. 110–140, title VI, §634, Dec. 19, 2007, 121 Stat. 1687, related to National Marine Renewable Energy Research, Development, and Demonstration Centers, prior to the general amendment of this part by Pub. L. 116–260.

§17214. Marine energy research, development, and demonstration

(a) In general

The Secretary, in consultation with the Secretary of Defense, Secretary of Commerce (acting through the Under Secretary of Commerce for Oceans and Atmosphere) and other relevant Federal agencies, shall conduct a program of research, development, demonstration, and commercial application of marine energy technology, including activities to—

(1) assist technology development to improve the components, processes, and systems used for power generation from marine energy resources at a variety of scales;

(2) establish and expand critical testing infrastructure and facilities necessary to—

(A) demonstrate and prove marine energy devices at a range of scales in a manner that is cost-effective and efficient; and

(B) accelerate the technological readiness and commercial application of such devices;

(3) address marine energy resource variability issues, including through the application of energy storage technologies;

(4) advance efficient and reliable integration of marine energy with the electric grid, which may include smart building systems;

(5) identify and study critical short-term and long-term needs to maintaining a sustainable marine energy supply chain based in the United States;

(6) increase the reliability, security, and resilience of marine energy technologies;

(7) validate the performance, reliability, maintainability, and cost of marine energy device designs and system components in an operating environment;

(8) consider the protection of critical infrastructure, such as adequate separation between marine energy devices and submarine telecommunications cables, including through the development of voluntary, consensus-based standards for such purposes;

(9) identify opportunities for crosscutting research, development, and demonstration programs between existing energy research programs;

(10) identify and improve, in conjunction with the Secretary of Commerce, acting through the

Under Secretary of Commerce for Oceans and Atmosphere, and other relevant Federal agencies as appropriate, the environmental impact, including potential cumulative environmental impacts, of marine energy technologies, including—

(A) potential impacts on fisheries and other marine resources; and

(B) developing technologies, including mechanisms for self-evaluation, and other means available for improving environmental impact, including potential cumulative environmental impacts;

(11) identify, in consultation with relevant Federal agencies, potential navigational impacts of marine energy technologies and strategies to prevent possible adverse impacts, in addition to opportunities for marine energy systems to aid the United States Coast Guard, such as remote sensing for coastal border security;

(12) develop numerical and physical tools, including models and monitoring technologies, to assist industry in device and system design, installation, operation, and maintenance, including methods to validate such tools;

(13) support materials science as it relates to marine energy technology, such as the development of corrosive-resistant materials;

(14) improve marine energy resource forecasting and general understanding of aquatic system behavior, including turbulence and extreme conditions;

(15) develop metrics and voluntary, consensus-based standards, in coordination with the National Institute of Standards and Technology and appropriate standard development organizations, for marine energy components, systems, and projects, including—

(A) measuring performance of marine energy technologies; and

(B) characterizing environmental conditions;

(16) enhance integration with hybrid energy systems, including desalination;

(17) identify opportunities to integrate marine energy technologies into new and existing infrastructure; and

(18) to [1] develop technology necessary to support the use of marine energy—

(A) for the generation and storage of power at sea; and

(B) for the generation and storage of power to promote the resilience of coastal communities, including in applications relating to—

(i) desalination;

(ii) disaster recovery and resilience; and

(iii) community microgrids in isolated power systems.

(b) Study of non-power sector applications for advanced marine energy technologies

(1) In general

The Secretary, in consultation with the Secretary of Transportation and the Secretary of Commerce, shall conduct a study to examine opportunities for research and development in advanced marine energy technologies for non-power sector applications, including applications with respect to—

(A) the maritime transportation sector;

(B) associated maritime energy infrastructure, including infrastructure that serves ports, to improve system resilience and disaster recovery; and

(C) enabling scientific missions at sea and in extreme environments, including the Arctic.

(2) Report

Not later than 1 year after December 27, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report that describes the results of the study conducted under paragraph (1).

(Pub. L. 110–140, title VI, §635, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020,

134 Stat. 2482.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 17214, Pub. L. 110–140, title VI, §635, Dec. 19, 2007, 121 Stat. 1688, related to applicability of other laws, prior to the general amendment of this part by Pub. L. 116–260.

[1] *So in original.*

§17215. National Marine Energy Centers

(a) In general

The Secretary shall award grants, each such grant up to $10,000,000 per year, to institutions of higher education (or consortia thereof) for—

(1) the continuation and expansion of the research, development, demonstration, testing, and commercial application activities at the National Marine Energy Centers (referred to in this section as "Centers") established as of January 1, 2020; and

(2) the establishment of new National Marine Energy Centers.

(b) Location selection

In selecting institutions of higher education for new Centers, the Secretary shall consider the following criteria:

(1) Whether the institution hosts an existing marine energy research and development program.

(2) Whether the institution has proven technical expertise to support marine energy research.

(3) Whether the institution has access to marine resources.

(c) Purposes

The Centers shall coordinate among themselves, the Department, and National Laboratories to—

(1) advance research, development, demonstration, and commercial application of marine energy technologies in response to industry and commercial needs;

(2) support in-water testing and demonstration of marine energy technologies, including facilities capable of testing—

(A) marine energy systems of various technology readiness levels and scales;

(B) a variety of technologies in multiple test berths at a single location;

(C) arrays of technology devices; and

(D) interconnectivity to an electrical grid, including microgrids; and

(3) collect and disseminate information on best practices in all areas relating to developing and managing marine energy resources and energy systems.

(d) Coordination

To the extent practicable, the Centers shall coordinate their activities with the Secretary of Commerce, acting through the Undersecretary of Commerce for Oceans and Atmosphere, and other relevant Federal agencies.

(e) Termination

To the extent otherwise authorized by law, the Secretary may terminate funding for a Center described in paragraph (a) if such Center is under-performing.

(Pub. L. 110–140, title VI, §636, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2484.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 17215, Pub. L. 110–140, title VI, §636, Dec. 19, 2007, 121 Stat. 1688, related to authorization of appropriations, prior to the general amendment of this part by Pub. L. 116–260.

§17216. Organization and administration of programs

(a) Coordination

In carrying out this part, the Secretary shall coordinate activities, and effectively manage cross-cutting research priorities across programs of the Department and other relevant Federal agencies, including the National Laboratories and the National Marine Energy Centers.

(b) Collaboration

(1) In general

In carrying out this part, the Secretary shall collaborate with industry, National Laboratories, other relevant Federal agencies, institutions of higher education, including Minority Serving Institutions, National Marine Energy Centers, Tribal entities, including Alaska Native Corporations, and international bodies with relevant scientific and technical expertise.

(2) Participation

To the extent practicable, the Secretary shall encourage research projects that promote collaboration between entities specified in paragraph (1) and include entities not historically associated with National Marine Energy Centers, such as Minority Serving Institutions.

(3) International collaboration

The Secretary, in coordination with other appropriate Federal and multilateral agencies (including the United States Agency for International Development) shall support collaborative efforts with international partners to promote the research, development, and demonstration of water power technologies used to develop hydropower, pump storage, and marine energy resources.

(c) Dissemination of results and public availability

The Secretary shall—

(1) publish the results of projects supported under this part through Department websites, reports, databases, training materials, and industry conferences, including information discovered after the completion of such projects, withholding any industrial proprietary information; and

(2) share results of such projects with the public except to the extent that the information is protected from disclosure under section 552(b) of title 5.

(d) Award frequency

The Secretary shall solicit applications for awards under this part no less frequently than once per fiscal year.

(e) Education and outreach

In carrying out the activities described in this part, the Secretary shall support education and outreach activities to disseminate information and promote public understanding of water power technologies and the water power workforce, including activities at the National Marine Energy Centers.

(f) Technical assistance and workforce development

In carrying out this part, the Secretary may also conduct, for purposes of supporting technical, non-hardware, and information-based advances in water power systems development and operations—

(1) technical assistance and analysis activities with eligible entities, including activities that support expanding access to advanced water power technologies for rural, Tribal, and low-income communities; and

(2) workforce development and training activities, including to support the dissemination of standards and best practices for enabling water power production.

(g) Strategic plan

In carrying out the activities described in this part, the Secretary shall—

(1) not later than one year after December 27, 2020, draft a plan, considering input from relevant stakeholders such as industry and academia, to implement the programs described in this part and update the plan on an annual basis; and

(2) the plan [1] shall address near-term (up to 2 years), mid-term (up to 7 years), and long-term (up to 15 years) challenges to the advancement of water power systems.

(h) Report to Congress

Not later than 1 year after December 27, 2020, and at least once every 2 years thereafter, the Secretary shall provide, and make available to the public and the relevant authorizing and appropriations committees of Congress, a report on the findings of research conducted and activities carried out pursuant to this part, including the most current strategic plan under subsection (g) and the progress made in implementing such plan.

(Pub. L. 110–140, title VI, §637, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2485.)

[1] *So in original.*

§17217. Applicability of other laws

Nothing in this part shall be construed as waiving, modifying, or superseding the applicability of any requirement under any environmental or other Federal or State law.

(Pub. L. 110–140, title VI, §638, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2486.)

§17218. Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out this part $186,600,000 for each of fiscal years 2021 through 2025, including $137,428,378 for marine energy and $49,171,622 for hydropower research, development, and demonstration activities.

(Pub. L. 110–140, title VI, §639, as added Pub. L. 116–260, div. Z, title III, §3001(a), Dec. 27, 2020, 134 Stat. 2486.)

PART D—ENERGY STORAGE FOR TRANSPORTATION AND ELECTRIC POWER

§17231. Energy storage competitiveness

(a) Short title

This section may be cited as the "United States Energy Storage Competitiveness Act of 2007".

(b) Definitions

In this section:

(1) Council

The term "Council" means the Energy Storage Advisory Council established under subsection (e).

(2) Compressed air energy storage

The term "compressed air energy storage" means, in the case of an electricity grid application, the storage of energy through the compression of air.

(3) Electric drive vehicle

The term "electric drive vehicle" means—

(A) a vehicle that uses an electric motor for all or part of the motive power of the vehicle, including battery electric, hybrid electric, plug-in hybrid electric, fuel cell, and plug-in fuel cell vehicles and rail transportation vehicles; or

(B) mobile equipment that uses an electric motor to replace an internal combustion engine for all or part of the work of the equipment.

(4) Islanding

The term "islanding" means a distributed generator or energy storage device continuing to power a location in the absence of electric power from the primary source.

(5) Flywheel

The term "flywheel" means, in the case of an electricity grid application, a device used to store rotational kinetic energy.

(6) Microgrid

The term "microgrid" means an integrated energy system consisting of interconnected loads and distributed energy resources (including generators and energy storage devices), which as an integrated system can operate in parallel with the utility grid or in an intentional islanding mode.

(7) Self-healing grid

The term "self-healing grid" means a grid that is capable of automatically anticipating and responding to power system disturbances (including the isolation of failed sections and components), while optimizing the performance and service of the grid to customers.

(8) Spinning reserve services

The term "spinning reserve services" means a quantity of electric generating capacity in excess of the quantity needed to meet peak electric demand.

(9) Ultracapacitor

The term "ultracapacitor" means an energy storage device that has a power density comparable to a conventional capacitor but is capable of exceeding the energy density of a conventional capacitor by several orders of magnitude.

(c) Program

The Secretary shall carry out a research, development, and demonstration program to support the ability of the United States to remain globally competitive in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(d) Coordination

In carrying out the activities of this section, the Secretary shall coordinate relevant efforts with appropriate Federal agencies, including the Department of Transportation.

(e) Energy Storage Advisory Council

(1) Establishment

Not later than 90 days after December 19, 2007, the Secretary shall establish an Energy Storage Advisory Council.

(2) Composition

(A) In general

Subject to subparagraph (B), the Council shall consist of not less than 15 individuals appointed by the Secretary, based on recommendations of the National Academy of Sciences.

(B) Energy storage industry

The Council shall consist primarily of representatives of the energy storage industry of the United States.

(C) Chairperson

The Secretary shall select a Chairperson for the Council from among the members appointed under subparagraph (A).

(3) Meetings

(A) In general

The Council shall meet not less than once a year.

(B) Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a meeting of the Council.

(4) Plans

No later than 1 year after December 19, 2007, and every 5 years thereafter, the Council, in conjunction with the Secretary, shall develop a 5-year plan for integrating basic and applied research so that the United States retains a globally competitive domestic energy storage industry for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(5) Review

The Council shall—

(A) assess, every 2 years, the performance of the Department in meeting the goals of the plans developed under paragraph (4); and

(B) make specific recommendations to the Secretary on programs or activities that should be established or terminated to meet those goals.

(f) Basic research program

(1) Basic research

The Secretary shall conduct a basic research program on energy storage systems to support electric drive vehicles, stationary applications, and electricity transmission and distribution, including—

(A) materials design;

(B) materials synthesis and characterization;

(C) electrode-active materials, including electrolytes and bioelectrolytes;

(D) surface and interface dynamics;

(E) modeling and simulation; and

(F) thermal behavior and life degradation mechanisms.

(2) Nanoscience centers

The Secretary, in cooperation with the Council, shall coordinate the activities of the nanoscience centers of the Department to help the energy storage research centers of the Department maintain a globally competitive posture in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(3) Funding

For activities carried out under this subsection, in addition to funding activities at National Laboratories, the Secretary shall award funds to, and coordinate activities with, a range of stakeholders including the public, private, and academic sectors.

(g) Applied research program

(1) In general

The Secretary shall conduct an applied research program on energy storage systems to support electric drive vehicles, stationary applications, and electricity transmission and distribution technologies, including—

(A) ultracapacitors;
(B) flywheels;
(C) batteries and battery systems (including flow batteries);
(D) compressed air energy systems;
(E) power conditioning electronics;
(F) manufacturing technologies for energy storage systems;
(G) thermal management systems; and
(H) hydrogen as an energy storage medium.

(2) Funding

For activities carried out under this subsection, in addition to funding activities at National Laboratories, the Secretary shall provide funds to, and coordinate activities with, a range of stakeholders, including the public, private, and academic sectors.

(h) Energy storage research centers

(1) In general

The Secretary shall establish, through competitive bids, not more than 4 energy storage research centers to translate basic research into applied technologies to advance the capability of the United States to maintain a globally competitive posture in energy storage systems for electric drive vehicles, stationary applications, and electricity transmission and distribution.

(2) Program management

The centers shall be managed by the Under Secretary for Science of the Department.

(3) Participation agreements

As a condition of participating in a center, a participant shall enter into a participation agreement with the center that requires that activities conducted by the participant for the center promote the goal of enabling the United States to compete successfully in global energy storage markets.

(4) Plans

A center shall conduct activities that promote the achievement of the goals of the plans of the Council under subsection (e)(4).

(5) National laboratories

A national laboratory (as defined in section 15801 of this title) may participate in a center established under this subsection, including a cooperative research and development agreement (as defined in section 3710a(d) of title 15).

(6) Disclosure

Section 13293 of this title may apply to any project carried out through a grant, contract, or cooperative agreement under this subsection.

(7) Intellectual property

In accordance with section 202(a)(ii) of title 35, section 2182 of this title, and section 5908 of this title, the Secretary may require, for any new invention developed under this subsection, that—

(A) if an industrial participant is active in a [1] energy storage research center established under this subsection relating to the advancement of energy storage technologies carried out, in whole

or in part, with Federal funding, the industrial participant be granted the first option to negotiate with the invention owner, at least in the field of energy storage technologies, nonexclusive licenses, and royalties on terms that are reasonable, as determined by the Secretary;

(B) if 1 or more industry participants are active in a center, during a 2-year period beginning on the date on which an invention is made—

(i) the patent holder shall not negotiate any license or royalty agreement with any entity that is not an industrial participant under this subsection; and

(ii) the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested industrial participant under this subsection; and

(C) the new invention be developed under such other terms as the Secretary determines to be necessary to promote the accelerated commercialization of inventions made under this subsection to advance the capability of the United States to successfully compete in global energy storage markets.

(i) Energy storage systems demonstrations

(1) In general

The Secretary shall carry out a program of new demonstrations of advanced energy storage systems.

(2) Scope

The demonstrations shall—

(A) be regionally diversified; and

(B) expand on the existing technology demonstration program of the Department.

(3) Stakeholders

In carrying out the demonstrations, the Secretary shall, to the maximum extent practicable, include the participation of a range of stakeholders, including—

(A) rural electric cooperatives;

(B) investor owned utilities;

(C) municipally owned electric utilities;

(D) energy storage systems manufacturers;

(E) electric drive vehicle manufacturers;

(F) the renewable energy production industry;

(G) State or local energy offices;

(H) the fuel cell industry; and

(I) institutions of higher education.

(4) Objectives

Each of the demonstrations shall include 1 or more of the following:

(A) Energy storage to improve the feasibility of microgrids or islanding, or transmission and distribution capability, to improve reliability in rural areas.

(B) Integration of an energy storage system with a self-healing grid.

(C) Use of energy storage to improve security to emergency response infrastructure and ensure availability of emergency backup power for consumers.

(D) Integration with a renewable energy production source, at the source or away from the source.

(E) Use of energy storage to provide ancillary services, such as spinning reserve services, for grid management.

(F) Advancement of power conversion systems to make the systems smarter, more efficient, able to communicate with other inverters, and able to control voltage.

(G) Use of energy storage to optimize transmission and distribution operation and power quality, which could address overloaded lines and maintenance of transformers and substations.

(H) Use of advanced energy storage for peak load management of homes, businesses, and the

grid.

(I) Use of energy storage devices to store energy during nonpeak generation periods to make better use of existing grid assets.

(j) Vehicle energy storage demonstration

(1) In general

The Secretary shall carry out a program of electric drive vehicle energy storage technology demonstrations.

(2) Consortia

The technology demonstrations shall be conducted through consortia, which may include—

(A) energy storage systems manufacturers and suppliers of the manufacturers;
(B) electric drive vehicle manufacturers;
(C) rural electric cooperatives;
(D) investor owned utilities;
(E) municipal and rural electric utilities;
(F) State and local governments;
(G) metropolitan transportation authorities; and
(H) institutions of higher education.

(3) Objectives

The program shall demonstrate 1 or more of the following:

(A) Novel, high capacity, high efficiency energy storage, charging, and control systems, along with the collection of data on performance characteristics, such as battery life, energy storage capacity, and power delivery capacity.

(B) Advanced onboard energy management systems and highly efficient battery cooling systems.

(C) Integration of those systems on a prototype vehicular platform, including with drivetrain systems for passenger, commercial, and nonroad electric drive vehicles.

(D) New technologies and processes that reduce manufacturing costs.

(E) Integration of advanced vehicle technologies with electricity distribution system and smart metering technology.

(F) Control systems that minimize emissions profiles in cases in which clean diesel engines are part of a plug-in hybrid drive system.

(k) Electric drive vehicle battery second-life applications and recycling

(1) Definitions

In this subsection:

(A) Battery recycling and second-life applications program

The term "battery recycling and second-life applications program" means the electric drive vehicle battery recycling and second-life applications program established under paragraph (3).

(B) Critical material

The term "critical material" has the meaning given the term in section 1606(a) of title 30.

(C) Economically distressed area

The term "economically distressed area" means an area described in section 3161(a) of this title.

(D) Electric drive vehicle battery

The term "electric *drive* [1] vehicle battery" means any battery that is a motive power source for an electric drive vehicle.

(E) Eligible entity

The term "eligible entity" means an entity described in any of paragraphs (1) through (5) of

section 16353(b) of this title.

(2) Program

The Secretary shall carry out a program of research, development, and demonstration of—

(A) second-life applications for electric drive vehicle batteries that have been used to power electric drive vehicles; and

(B) technologies and processes for final recycling and disposal of the devices described in subparagraph (A).

(3) Electric drive vehicle battery recycling and second-life applications

(A) In general

In carrying out the program under paragraph (2), the Secretary shall establish an electric drive vehicle battery recycling and second-life applications program under which the Secretary shall—

(i) award grants under subparagraph (D); and

(ii) carry out other activities in accordance with this paragraph.

(B) Purposes

The purposes of the battery recycling and second-life applications program are the following:

(i) To improve the recycling rates and second-use adoption rates of electric drive vehicle batteries.

(ii) To optimize the design and adaptability of electric drive vehicle batteries to make electric drive vehicle batteries more easily recyclable.

(iii) To establish alternative supply chains for critical materials that are found in electric drive vehicle batteries.

(iv) To reduce the cost of manufacturing, installation, purchase, operation, and maintenance of electric drive vehicle batteries.

(v) To improve the environmental impact of electric drive vehicle battery recycling processes.

(C) Targets

In carrying out the battery recycling and second-life applications program, the Secretary shall address near-term (up to 2 years), mid-term (up to 5 years), and long-term (up to 10 years) challenges to the recycling of electric drive vehicle batteries.

(D) Grants

(i) In general

In carrying out the battery recycling and second-life applications program, the Secretary shall award multiyear grants on a competitive, merit-reviewed basis to eligible entities—

(I) to conduct research, development, testing, and evaluation of solutions to increase the rate and productivity of electric drive vehicle battery recycling; and

(II) for research, development, and demonstration projects to create innovative and practical approaches to increase the recycling and second-use of electric drive vehicle batteries, including by addressing—

(aa) technology to increase the efficiency of electric drive vehicle battery recycling and maximize the recovery of critical materials for use in new products;

(bb) expanded uses for critical materials recovered from electric drive vehicle batteries;

(cc) product design and construction to facilitate the disassembly and recycling of electric drive vehicle batteries;

(dd) product design and construction and other tools and techniques to extend the lifecycle of electric drive vehicle batteries, including methods to promote the safe second-use of electric drive vehicle batteries;

(ee) strategies to increase consumer acceptance of, and participation in, the recycling

of electric drive vehicle batteries;

(ff) improvements and changes to electric drive vehicle battery chemistries that include ways to decrease processing costs for battery recycling without sacrificing front-end performance;

(gg) second-use of electric drive vehicle batteries, including in applications outside of the automotive industry; and

(hh) the commercialization and scale-up of electric drive vehicle battery recycling technologies.

(ii) Priority

In awarding grants under clause (i), the Secretary shall give priority to projects that—

(I) are located in geographically diverse regions of the United States;

(II) include business commercialization plans that have the potential for the recycling of electric drive vehicle batteries at high volumes;

(III) support the development of advanced manufacturing technologies that have the potential to improve the competitiveness of the United States in the international electric drive vehicle battery manufacturing sector;

(IV) provide the greatest potential to reduce costs for consumers and promote accessibility and community implementation of demonstrated technologies;

(V) increase disclosure and transparency of information to consumers;

(VI) support the development or demonstration of projects in economically distressed areas; and

(VII) support other relevant priorities, as determined to be appropriate by the Secretary.

(iii) Solicitation

Not later than 90 days after November 15, 2021, and annually thereafter, the Secretary shall conduct a national solicitation for applications for grants described in clause (i).

(iv) Dissemination of results

The Secretary shall publish the results of the projects carried out through grants awarded under clause (i) through—

(I) best practices relating to those grants, for use in the electric drive vehicle battery manufacturing, design, installation, refurbishing, or recycling industries;

(II) coordination with information dissemination programs relating to general recycling of electronic devices; and

(III) educational materials for the public, produced in conjunction with State and local governments or nonprofit organizations, on the problems and solutions relating to the recycling and second-life applications of electric drive vehicle batteries.

(E) Coordination with other programs of the Department

In carrying out the battery recycling and second-life applications program, the Secretary shall coordinate and leverage the resources of complementary efforts of the Department.

(F) Study and report

(i) Study

The Secretary shall conduct a study on the viable market opportunities available for the recycling, second-use, and manufacturing of electric drive vehicle batteries in the United States.

(ii) Report

Not later than 1 year after November 15, 2021, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and any other relevant committee of Congress a report containing the results of the study under clause (i), including a description of—

(I) the ability of relevant businesses or other entities to competitively manufacture

electric drive vehicle batteries and recycle electric drive vehicle batteries in the United States;

(II) any existing electric drive vehicle battery recycling and second-use practices and plans of electric drive vehicle manufacturing companies in the United States;

(III) any barriers to electric drive vehicle battery recycling in the United States;

(IV) opportunities and barriers in electric drive vehicle battery supply chains in the United States and internationally, including with allies and trading partners;

(V) opportunities for job creation in the electric drive vehicle battery recycling and manufacturing fields and the necessary skills employees must acquire for growth of those fields in the United States;

(VI) policy recommendations for enhancing electric drive vehicle battery manufacturing and recycling in the United States;

(VII) any recommendations for lowering logistics costs and creating better coordination and efficiency with respect to the removal, collection, transportation, storage, and disassembly of electric drive vehicle batteries;

(VIII) any recommendations for areas of coordination with other Federal agencies to improve electric drive vehicle battery recycling rates in the United States;

(IX) an aggressive 2-year target and plan, the implementation of which shall begin during the 90-day period beginning on the date on which the report is submitted, to enhance the competitiveness of electric drive vehicle battery manufacturing and recycling in the United States; and

(X) needs for future research, development, and demonstration projects in electric drive vehicle battery manufacturing, recycling, and related areas, as determined by the Secretary.

(G) Evaluation

Not later than 3 years after the date on which the report under subparagraph (F)(ii) is submitted, and every 4 years thereafter, the Secretary shall conduct, and make available to the public and the relevant committees of Congress, an independent review of the progress of the grants awarded under subparagraph (D) in meeting the recommendations and targets included in the report.

(l) Cost sharing

The Secretary shall carry out the programs established under this section in accordance with section 16352 of this title.

(m) Merit review of proposals

The Secretary shall carry out the programs established under subsections (i), (j), and (k) in accordance with section 16353 of this title.

(n) Coordination and nonduplication

To the maximum extent practicable, the Secretary shall coordinate activities under this section with other programs and laboratories of the Department and other Federal research programs.

(o) Review by National Academy of Sciences

On the business day that is 5 years after December 19, 2007, the Secretary shall offer to enter into an arrangement with the National Academy of Sciences to assess the performance of the Department in carrying out this section.

(p) Authorization of appropriations

There are authorized to be appropriated to carry out—

(1) the basic research program under subsection (f) $50,000,000 for each of fiscal years 2009 through 2018;

(2) the applied research program under subsection (g) $80,000,000 for each of fiscal years 2009 through 2018; and; [2]

(3) the energy storage research center program under subsection (h) $100,000,000 for each of fiscal years 2009 through 2018;

(4) the energy storage systems demonstration program under subsection (i) $30,000,000 for each of fiscal years 2009 through 2018;

(5) the vehicle energy storage demonstration program under subsection (j) $30,000,000 for each of fiscal years 2009 through 2018; and

(6) the electric drive vehicle battery recycling and second-life applications program under subsection (k) $200,000,000 for the period of fiscal years 2022 through 2026.

(q) Critical material recycling and reuse research, development, and demonstration program

(1) Definitions

In this subsection:

(A) Critical material

The term "critical material" has the meaning given the term in 1606 of title 30.

(B) Critical material recycling

The term "critical material recycling" means the separation and recovery of critical materials embedded within an energy storage system through physical or chemical means for the purpose of reuse of those critical materials in other technologies.

(2) Establishment

Not later than 180 days after December 27, 2020, the Secretary shall establish a research, development, and demonstration program for critical material recycling and reuse of energy storage systems containing critical materials.

(3) Research, development, and demonstration

In carrying out the program established under paragraph (1), the Secretary shall conduct—

(A) research, development, and demonstration activities for—

(i) technologies, process improvements, and design optimizations that facilitate and promote critical material recycling of energy storage systems, including separation and sorting of component materials of such systems, and extraction, recovery, and reuse of critical materials from such systems;

(ii) technologies and methods that mitigate emissions and environmental impacts that arise from critical material recycling, including disposal of toxic reagents and byproducts related to critical material recycling processes;

(iii) technologies to enable extraction, recovery, and reuse of energy storage systems from electric vehicles and critical material recycling from such vehicles; and

(iv) technologies and methods to enable the safe transport, storage, and disposal of energy storage systems containing critical materials, including waste materials and components recovered during the critical material recycling process; and

(B) research on nontechnical barriers to improve the collection and critical material recycling of energy storage systems, including strategies to improve consumer education of, acceptance of, and participation in, the critical material recycling of energy storage systems.

(4) Report to Congress

Not later than 2 years after December 27, 2020, and every 3 years thereafter, the Secretary shall submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report summarizing the activities, findings, and progress of the program.

(Pub. L. 110–140, title VI, §641, Dec. 19, 2007, 121 Stat. 1688; Pub. L. 116–260, div. Z, title III, §3201(f), formerly §3201(e), Dec. 27, 2020, 134 Stat. 2523, renumbered §3201(f), Pub. L. 117–58, div. D, title III, §40334(1), Nov. 15, 2021, 135 Stat. 1025; Pub. L. 117–58, div. D, title II, §40208, Nov. 15, 2021, 135 Stat. 971.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e)(3)(B), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section 40334(1) of Pub. L. 117–58, which directed amendment of section 3201 of the Energy Policy Act of 2020 by redesignating subsection (e) as subsection (f), was executed by making the amendment to section 3201 of div. Z of Pub. L. 116–260, known as the Energy Act of 2020, to reflect the probable intent of Congress.

AMENDMENTS

2021—Subsec. (k). Pub. L. 117–58, §40208(1), added subsec. (k) and struck out former subsec. (k) which related to secondary applications and disposal of electric drive vehicle batteries.

Subsec. (p)(6). Pub. L. 117–58, §40208(2), added par. (6) and struck out former par. (6) which read as follows: "the secondary applications and disposal of electric drive vehicle batteries program under subsection (k) $5,000,000 for each of fiscal years 2009 through 2018."

2020—Subsec. (q). Pub. L. 116–260 added subsec. (q).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] So in original. Probably should be "an".

[1] So in original.

[2] So in original.

§17232. Better energy storage technology

(a) Definitions

In this section:

(1) Energy storage system

The term "energy storage system" means any system, equipment, facility, or technology that—

(A) is capable of absorbing or converting energy, storing the energy for a period of time, and dispatching the energy; and

(B)(i) uses mechanical, electrochemical, thermal, electrolysis, or other processes to convert and store electric energy that was generated at an earlier time for use at a later time;

(ii) uses mechanical, electrochemical, biochemical, or thermal processes to convert and store energy generated from mechanical processes that would otherwise be wasted, for delivery at a later time; or

(iii) stores energy in an electric, thermal, or gaseous state for direct use for heating or cooling at a later time in a manner that avoids the need to use electricity or other fuel sources at that later time, such as a grid-enabled water heater.

(2) Program

The term "program" means the Energy Storage System Research, Development, and Deployment Program established under subsection (b)(1).

(3) Secretary

The term "Secretary" means the Secretary of Energy.

(b) Energy Storage System Research, Development, and Deployment Program

(1) Establishment

Not later than 180 days after December 27, 2020, the Secretary shall establish a program, to be known as the Energy Storage System Research, Development, and Deployment Program.

(2) Initial program objectives

The program shall focus on research, development, and deployment of—

(A) energy storage systems, components, and materials designed to further the development of technologies—

(i) for large-scale commercial deployment;

(ii) for deployment at cost targets established by the Secretary;

(iii) for hourly and subhourly durations required to provide reliability services to the grid;

(iv) for daily durations, which have the capacity to discharge energy for a minimum of 6 hours;

(v) for weekly or monthly durations, which have the capacity to discharge energy for 10 to 100 hours, at a minimum; and

(vi) for seasonal durations, which have the capability to address seasonal variations in supply and demand;

(B) distributed energy storage technologies and applications, including building-grid integration;

(C) long-term cost, performance, and demonstration targets for different types of energy storage systems and for use in a variety of regions, including rural areas;

(D) transportation energy storage technologies and applications, including vehicle-grid integration;

(E) cost-effective systems and methods for—

(i) the sustainable and secure sourcing, reclamation, recycling, and disposal of energy storage systems, including critical minerals; and

(ii) the reuse and repurposing of energy storage system technologies;

(F) advanced control methods for energy storage systems;

(G) pumped hydroelectric energy storage systems to advance—

(i) adoption of innovative technologies, including—

(I) systems with adjustable-speed and other new pumping and generating equipment designs;

(II) modular systems;

(III) closed-loop systems, including mines and quarries; and

(IV) other innovative equipment and materials as determined by the Secretary; and

(ii) reductions of civil works costs and construction times for hydropower and pumped storage systems, including comprehensive data and systems analysis of hydropower and pumped storage construction technologies and processes in order to identify areas for whole-system efficiency gains;

(H) models and tools to demonstrate the costs and benefits of energy storage to—

(i) power and water supply systems;

(ii) electric generation portfolio optimization; and

(iii) expanded deployment of other renewable energy technologies, including in integrated energy storage systems;

(I) energy storage use cases from individual and combination technology applications, including value from various-use cases and energy storage services; and

(J) advanced manufacturing technologies that have the potential to improve United States

competitiveness in energy storage manufacturing or reduce United States dependence on critical materials.

(3) Testing and validation

In coordination with 1 or more National Laboratories, the Secretary shall support the development, standardized testing, and validation of energy storage systems under the program, including test-bed and field trials, by developing testing and evaluation methodologies for—

(A) storage technologies, controls, and power electronics for energy storage systems under a variety of operating conditions;

(B) standardized and grid performance testing for energy storage systems, materials, and technologies during each stage of development;

(C) reliability, safety, degradation, and durability testing under standard and evolving duty cycles; and

(D) accelerated life testing protocols to predict estimated lifetime metrics with accuracy.

(4) Periodic evaluation of program objectives

Not less frequently than once every calendar year, the Secretary shall evaluate and, if necessary, update the program objectives to ensure that the program continues to advance energy storage systems toward widespread commercial deployment by lowering the costs and increasing the duration of energy storage resources.

(5) Energy storage strategic plan

(A) In general

The Secretary shall develop a 10-year strategic plan for the program, and update the plan, in accordance with this paragraph.

(B) Contents

The strategic plan developed under subparagraph (A) shall—

(i) be coordinated with and integrated across other relevant offices in the Department;

(ii) to the extent practicable, include metrics that can be used to evaluate storage technologies;

(iii) identify Department programs that—

(I) support the research and development activities described in paragraph (2) and the demonstration projects under subsection (c); and

(II)(aa) do not support the activities or projects described in subclause (I); but

(bb) are important to the development of energy storage systems and the mission of the Department, as determined by the Secretary;

(iv) include expected timelines for—

(I) the accomplishment of relevant objectives under current programs of the Department relating to energy storage systems; and

(II) the commencement of any new initiatives within the Department relating to energy storage systems to accomplish those objectives; and

(v) incorporate relevant activities described in the Grid Modernization Initiative Multi-Year Program Plan.

(C) Submission to Congress

Not later than 180 days after December 27, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and Science, Space, and Technology of the House of Representatives the strategic plan developed under subparagraph (A).

(D) Updates to plan

The Secretary—

(i) shall annually review the strategic plan developed under subparagraph (A); and
(ii) may periodically revise the strategic plan as appropriate.

(6) Leveraging of resources

The program may be led by a specific office of the Department, but shall be cross-cutting in nature, so that in carrying out activities under the program, the Secretary (or a designee of the Secretary charged with leading the program) shall leverage existing Federal resources, including, at a minimum, the expertise and resources of—

(A) the Office of Electricity;

(B) the Office of Energy Efficiency and Renewable Energy, including the Water Power Technologies Office; and

(C) the Office of Science, including—

(i) the Basic Energy Sciences Program;

(ii) the Advanced Scientific Computing Research Program;

(iii) the Biological and Environmental Research Program; and

(D) the Electricity Storage Research Initiative established under section 16315 of this title.

(7) Protecting privacy and security

In carrying out this subsection, the Secretary shall identify, incorporate, and follow best practices for protecting the privacy of individuals and businesses and the respective sensitive data of the individuals and businesses, including by managing privacy risk and implementing the Fair Information Practice Principles of the Federal Trade Commission for the collection, use, disclosure, and retention of individual electric consumer information in accordance with the Office of Management and Budget Circular A–130 (or successor circulars).

(c) Energy storage demonstration projects; pilot grant program

(1) Demonstration projects

Not later than September 30, 2023, the Secretary shall, to the maximum extent practicable, enter into agreements to carry out 3 energy storage system demonstration projects, including—

(A) at least 1 energy storage system demonstration project designed to further the development of technologies described in clause (v) or (vi) of subsection (b)(2)(A); and

(B) 1 project to demonstrate second-life applications of electric vehicle batteries as aggregated energy storage installations to provide services to the electric grid, in accordance with paragraph (3).

(2) Energy storage pilot grant program

(A) Definition of eligible entity

In this paragraph, the term "eligible entity" means—

(i) a State energy office (as defined in section 15821(a) of this title);

(ii) an Indian Tribe (as defined in section 4103 of title 25;

(iii) a Tribal organization (as defined in section 3765 of title 38);

(iv) an institution of higher education (as defined in section 1001 of title 20);

(v) an electric utility, including—

(I) an electric cooperative;

(II) a political subdivision of a State, such as a municipally owned electric utility, or any agency, authority, corporation, or instrumentality of a State political subdivision; and

(III) an investor-owned utility; and

(vi) a private energy storage company.

(B) Establishment

The Secretary shall establish a competitive grant program under which the Secretary shall award grants to eligible entities to carry out demonstration projects for pilot energy storage

systems.

(C) Selection requirements

In selecting eligible entities to receive a grant under subparagraph (B), the Secretary shall, to the maximum extent practicable—

(i) ensure regional diversity among eligible entities awarded grants, including ensuring participation of eligible entities that are rural States and States with high energy costs;

(ii) ensure that grants are awarded for demonstration projects that—

(I) expand on the existing technology demonstration programs of the Department;

(II) are designed to achieve 1 or more of the objectives described in subparagraph (D); and

(III) inject or withdraw energy from the bulk power system, electric distribution system, building energy system, or microgrid (grid-connected or islanded mode) where the project is located;

(iii) give consideration to proposals from eligible entities for securing energy storage through competitive procurement or contract for service; and

(iv) prioritize projects that leverage matching funds from non-Federal sources.

(D) Objectives

Each demonstration project carried out by a grant awarded under subparagraph (B) shall have 1 or more of the following objectives:

(i) To improve the security of critical infrastructure and emergency response systems.

(ii) To improve the reliability of transmission and distribution systems, particularly in rural areas, including high-energy cost rural areas.

(iii) To optimize transmission or distribution system operation and power quality to defer or avoid costs of replacing or upgrading electric grid infrastructure, including transformers and substations.

(iv) To supply energy at peak periods of demand on the electric grid or during periods of significant variation of electric grid supply.

(v) To reduce peak loads of homes and businesses.

(vi) To improve and advance power conversion systems.

(vii) To provide ancillary services for grid stability and management.

(viii) To integrate renewable energy resource production.

(ix) To increase the feasibility of microgrids (grid-connected or islanded mode).

(x) To enable the use of stored energy in forms other than electricity to support the natural gas system and other industrial processes.

(xi) To integrate fast charging of electric vehicles.

(xii) To improve energy efficiency.

(3) Demonstration of electric vehicle battery second-life applications for grid services

(A) In general

The Secretary shall enter into an agreement to carry out a project to demonstrate second-life applications of electric vehicle batteries as aggregated energy storage installations to provide services to the electric grid.

(B) Purposes

The purposes of the project under subparagraph (A) shall be—

(i) to demonstrate power safety and the reliability of the applications demonstrated under the program;

(ii) to demonstrate the ability of electric vehicle batteries—

(I) to provide ancillary services for grid stability and management; and

(II) to reduce the peak loads of homes and businesses;

(iii) to extend the useful life of electric vehicle batteries and the components of electric vehicle batteries prior to the collection, recycling, and reprocessing of the batteries and components; and

(iv) to increase acceptance of, and participation in, the use of second-life applications of electric vehicle batteries by utilities.

(C) Priority

In selecting a project to carry out under subparagraph (A), the Secretary shall give priority to projects in which the demonstration of the applicable second-life applications is paired with 1 or more facilities that could particularly benefit from increased resiliency and lower energy costs, such as a multi-family affordable housing facility, a senior care facility, and a community health center.

(4) Reports

Not less frequently than once every 3 years for the duration of the programs under paragraphs (1) and (2), the Secretary shall submit to Congress and make publicly available a report describing the performance of those programs.

(5) No project ownership interest

The Federal Government shall not hold any equity or other ownership interest in any energy storage system that is part of a project under this subsection unless the holding is agreed to by each participant of the project.

(d) Long-duration demonstration initiative and joint program

(1) Definitions

In this subsection:

(A) Initiative

The term "Initiative" means the demonstration initiative established under paragraph (2).

(B) Joint Program

The term "Joint Program" means the joint program established under paragraph (4).

(2) Establishment of Initiative

Not later than 180 days after December 27, 2020, the Secretary shall establish a demonstration initiative composed of demonstration projects focused on the development of long-duration energy storage technologies.

(3) Selection of projects

To the maximum extent practicable, in selecting demonstration projects to participate in the Initiative, the Secretary shall—

(A) ensure a range of technology types;

(B) ensure regional diversity among projects; and

(C) consider bulk power level, distribution power level, behind-the-meter, microgrid (gridconnected or islanded mode), and off-grid applications.

(4) Joint program

(A) Establishment

As part of the Initiative, the Secretary, in consultation with the Secretary of Defense, shall establish within the Department a joint program to carry out projects—

(i) to demonstrate promising long-duration energy storage technologies at different scales; and

(ii) to help new, innovative long-duration energy storage technologies become commercially viable.

(B) Memorandum of understanding

Not later than 200 days after December 27, 2020, the Secretary shall enter into a memorandum of understanding with the Secretary of Defense to administer the Joint Program.

(C) Infrastructure

In carrying out the Joint Program, the Secretary and the Secretary of Defense shall—

(i) use existing test-bed infrastructure at—

(I) Department facilities; and

(II) Department of Defense installations; and

(ii) develop new infrastructure for identified projects, if appropriate.

(D) Goals and metrics

The Secretary and the Secretary of Defense shall develop goals and metrics for technological progress under the Joint Program consistent with energy resilience and energy security policies.

(E) Selection of projects

(i) In general

To the maximum extent practicable, in selecting projects to participate in the Joint Program, the Secretary and the Secretary of Defense shall—

(I) ensure that projects are carried out under conditions that represent a variety of environments with different physical conditions and market constraints; and

(II) ensure an appropriate balance of—

(aa) larger, higher-cost projects; and

(bb) smaller, lower-cost projects.

(ii) Priority

In carrying out the Joint Program, the Secretary and the Secretary of Defense shall give priority to demonstration projects that—

(I) make available to the public project information that will accelerate deployment of long-duration energy storage technologies; and

(II) will be carried out in the field.

(e) Pumped storage hydropower wind and solar integration and system reliability initiative

(1) Definition of eligible entity

In this subsection, the term "eligible entity" means—

(A)(i) an electric utility, including—

(I) a political subdivision of a State, such as a municipally owned electric utility; or

(II) an instrumentality of a State composed of municipally owned electric utilities;

(ii) an electric cooperative; or

(iii) an investor-owned utility;

(B) an Indian Tribe or Tribal organization;

(C) a State energy office;

(D) an institution of higher education; and

(E) a consortium of the entities described in subparagraphs (A) through (D).

(2) Demonstration project

(A) In general

Not later than September 30, 2023, the Secretary shall, to the maximum extent practicable, enter into an agreement with an eligible entity to provide financial assistance to the eligible entity to carry out project design, transmission studies, power market assessments, and permitting for a pumped storage hydropower project to facilitate the long-duration storage of intermittent renewable electricity.

(B) Project requirements

To be eligible for financial assistance under subparagraph (A), a project shall—

(i) be designed to provide not less than 1,000 megawatts of storage capacity;

(ii) be able to provide energy and capacity for use in more than 1 organized electricity market;

(iii) be able to store electricity generated by intermittent renewable electricity projects located on Tribal land; and

(iv) have received a preliminary permit from the Federal Energy Regulatory Commission.

(C) Matching requirement

An eligible entity receiving financial assistance under subparagraph (A) shall provide matching funds equal to or greater than the amount of financial assistance provided under that subparagraph.

(3) Authorization of appropriations

There is authorized to be appropriated to carry out this subsection $2,000,000 for each of fiscal years 2022 through 2026.

(f) Omitted

(g) Coordination

To the maximum extent practicable, the Secretary shall coordinate the activities under this section (including activities conducted pursuant to the amendments made by this section) among the offices and employees of the Department, other Federal agencies, and other relevant entities—

(1) to ensure appropriate collaboration;

(2) to avoid unnecessary duplication of those activities; and

(3) to increase domestic manufacturing and production of energy storage systems, such as those within the Department and within the National Institute of Standards and Technology.

(h) Authorization of appropriations

There are authorized to be appropriated—

(1) to carry out subsection (b), $100,000,000 for each of fiscal years 2021 through 2025, to remain available until expended;

(2) to carry out subsection (c), $71,000,000 for each of fiscal years 2021 through 2025, to remain available until expended; and

(3) to carry out subsection (d), $30,000,000 for each of fiscal years 2021 through 2025, to remain available until expended.

(Pub. L. 116–260, div. Z, title III, §3201, Dec. 27, 2020, 134 Stat. 2517; Pub. L. 117–58, div. D, title I, §40112, title III, §40334, Nov. 15, 2021, 135 Stat. 946, 1024.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

Section is comprised of section 3201 of div. Z of Pub. L. 116–260. Subsec. (f) of section 3201 of div. Z of Pub. L. 116–260 amended section 17231 of this title. Section 40334(1) of Pub. L. 117–58, which directed amendment of section 3201 of the Energy Policy Act of 2020 by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, was executed by making the amendment to section 3201 of div. Z of Pub. L. 116–260, known as the Energy Act of 2020, to reflect the probable intent of Congress.

AMENDMENTS

2021—Subsec. (c)(1). Pub. L. 117–58, §40112(1), substituted "including—" for "including", inserted subpar. (A) designation before "at least" and added subpar. (B).

Subsec. (c)(3) to (5). Pub. L. 117–58, §40112(2), (3), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsecs. (e) to (h). Pub. L. 117–58, §40334, which directed amendment of section 3201 of the Energy

Policy Act of 2020 by adding subsec. (e) and redesignating former subsecs. (e) to (g) as (f) to (h), respectively, was executed to this section, which is section 3201 of the Energy Act of 2020, to reflect the probable intent of Congress.

§17233. Energy storage technology and microgrid assistance program

(a) Definitions

In this section:

(1) Eligible entity

The term "eligible entity" means—

(A) a rural electric cooperative;

(B) an agency, authority, or instrumentality of a State or political subdivision of a State that sells or otherwise uses electrical energy to provide electric services for customers; or

(C) a nonprofit organization working with at least 6 entities described in subparagraph (A) or (B).

(2) Energy storage technology

The term "energy storage technology" includes grid-enabled water heaters, building heating or cooling systems, electric vehicles, the production of hydrogen for transportation or industrial use, or other technologies that store energy.

(3) Microgrid

The term "microgrid" means a localized grid that operates autonomously regardless of whether the grid can operate in connection with another grid.

(4) Renewable energy source

The term "renewable energy source" has the meaning given the term in section 918c(a) of title 7.

(5) Rural electric cooperative

The term "rural electric cooperative" means an electric cooperative (as defined in section 796 of title 16) that sells electric energy to persons in rural areas.

(6) Secretary

The term "Secretary" means the Secretary of Energy.

(b) In general

Not later than 180 days after December 27, 2020, the Secretary shall establish a program under which the Secretary shall—

(1) provide grants to eligible entities under subsection (d);

(2) provide technical assistance to eligible entities under subsection (e); and

(3) disseminate information to eligible entities on—

(A) the activities described in subsections (d)(1) and (e); and

(B) potential and existing energy storage technology and microgrid projects.

(c) Cooperative agreement

The Secretary may enter into a cooperative agreement with an eligible entity to carry out subsection (b).

(d) Grants

(1) In general

The Secretary may award grants to eligible entities for identifying, evaluating, designing, and demonstrating energy storage technology and microgrid projects that utilize energy from renewable energy sources.

(2) Application

To be eligible to receive a grant under paragraph (1), an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) Use of grant

An eligible entity that receives a grant under paragraph (1)—

(A) shall use the grant—

(i) to conduct feasibility studies to assess the potential for implementation or improvement of energy storage technology or microgrid projects;

(ii) to analyze and implement strategies to overcome barriers to energy storage technology or microgrid project implementation, including financial, contracting, siting, and permitting barriers;

(iii) to conduct detailed engineering of energy storage technology or microgrid projects;

(iv) to perform a cost-benefit analysis with respect to an energy storage technology or microgrid project;

(v) to plan for both the short- and long-term inclusion of energy storage technology or microgrid projects into the future development plans of the eligible entity; or

(vi) to purchase and install necessary equipment, materials, and supplies for demonstration of emerging technologies; and

(B) may use the grant to obtain technical assistance from experts in carrying out the activities described in subparagraph (A).

(4) Condition

As a condition of receiving a grant under paragraph (1), an eligible entity shall—

(A) implement a public awareness campaign, in coordination with the Secretary, about the project implemented under the grant in the community in which the eligible entity is located, which campaign shall include providing projected environmental benefits achieved under the project, where to find more information about the program established under this section, and any other information the Secretary determines necessary;

(B) submit to the Secretary, and make available to the public, a report that describes—

(i) any energy cost savings and environmental benefits achieved under the project; and

(ii) the results of the project, including quantitative assessments to the extent practicable, associated with each activity described in paragraph (3)(A); and

(C) create and disseminate tools and resources that will benefit other rural electric cooperatives, which may include cost calculators, guidebooks, handbooks, templates, and training courses.

(5) Cost-share

Activities under this subsection shall be subject to the cost-sharing requirements of section 16352 of this title.

(e) Technical assistance

(1) In general

In carrying out the program established under subsection (b), the Secretary may provide eligible entities with technical assistance relating to—

(A) identifying opportunities for energy storage technology and microgrid projects;

(B) understanding the technical and economic characteristics of energy storage technology or microgrid projects;

(C) understanding financing alternatives;

(D) permitting and siting issues;

(E) obtaining case studies of similar and successful energy storage technology or microgrid

projects;

(F) reviewing and obtaining computer software for assessment, design, and operation and maintenance of energy storage technology or microgrid systems; and

(G) understanding and utilizing the reliability and resiliency benefits of energy storage technology and microgrid projects.

(2) External contracts

In carrying out paragraph (1), the Secretary may enter into contracts with third-party experts, including engineering, finance, and insurance experts, to provide technical assistance to eligible entities relating to the activities described in such paragraph, or other relevant activities, as determined by the Secretary.

(f) Authorization of appropriations

(1) In general

There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2021 through 2025.

(2) Administrative costs

Not more than 5 percent of the amount appropriated under paragraph (1) for each fiscal year shall be used for administrative expenses.

(Pub. L. 116–260, div. Z, title III, §3202, Dec. 27, 2020, 134 Stat. 2525.)

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

PART E—MISCELLANEOUS PROVISIONS

§17241. Lightweight materials research and development

(a) In general

As soon as practicable after December 19, 2007, the Secretary of Energy shall establish a program to determine ways in which the weight of motor vehicles could be reduced to improve fuel efficiency without compromising passenger safety by conducting research, development, and demonstration relating to—

(1) the development of new materials (including cast metal composite materials formed by autocombustion synthesis) and material processes that yield a higher strength-to-weight ratio or other properties that reduce vehicle weight; and

(2) reducing the cost of—

(A) lightweight materials (including high-strength steel alloys, aluminum, magnesium, metal composites, and carbon fiber reinforced polymer composites) with the properties required for construction of lighter-weight vehicles; and

(B) materials processing, automated manufacturing, joining, and recycling lightweight materials for high-volume applications.

(b) Authorization of appropriations

There is authorized to be appropriated to carry out this section $80,000,000 for the period of fiscal years 2008 through 2012.

(Pub. L. 110–140, title VI, §651, Dec. 19, 2007, 121 Stat. 1694.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17242. Commercial insulation demonstration program

(a) Definitions

In this section:

(1) Advanced insulation

The term "advanced insulation" means insulation that has an R value of not less than R35 per inch.

(2) Covered refrigeration unit

The term "covered refrigeration unit" means any—

(A) commercial refrigerated truck;

(B) commercial refrigerated trailer; or

(C) commercial refrigerator, freezer, or refrigerator-freezer described in section 6313(c) of this title.

(b) Report

Not later than 90 days after December 19, 2007, the Secretary shall submit to Congress a report that includes an evaluation of—

(1) the state of technological advancement of advanced insulation; and

(2) the projected amount of cost savings that would be generated by implementing advanced insulation into covered refrigeration units.

(c) Demonstration program

(1) Establishment

If the Secretary determines in the report described in subsection (b) that the implementation of advanced insulation into covered refrigeration units would generate an economically justifiable amount of cost savings, the Secretary, in cooperation with manufacturers of covered refrigeration units, shall establish a demonstration program under which the Secretary shall demonstrate the cost-effectiveness of advanced insulation.

(2) Disclosure

The Secretary may, for a period of up to 5 years after an award is granted under the demonstration program, exempt from mandatory disclosure under section 552 of title 5 (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

(3) Cost-sharing

Section 16352 of this title shall apply to any project carried out under this subsection.

(d) Authorization of appropriations

There is authorized to be appropriated to carry out this section $8,000,000 for the period of fiscal years 2009 through 2014.

(Pub. L. 110–140, title VI, §652, Dec. 19, 2007, 121 Stat. 1694.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out

as a note under section 1824 of Title 2, The Congress.

§17243. Bright Tomorrow Lighting Prizes

(a) Establishment

Not later than 1 year after December 19, 2007, as part of the program carried out under section 16396 of this title, the Secretary shall establish and award Bright Tomorrow Lighting Prizes for solid state lighting in accordance with this section.

(b) Prize specifications

(1) 60-Watt Incandescent Replacement Lamp Prize

The Secretary shall award a 60-Watt Incandescent Replacement Lamp Prize to an entrant that produces a solid-state-light package simultaneously capable of—

(A) producing a luminous flux greater than 900 lumens;

(B) consuming less than or equal to 10 watts;

(C) having an efficiency greater than 90 lumens per watt;

(D) having a color rendering index greater than 90;

(E) having a correlated color temperature of not less than 2,750, and not more than 3,000, degrees Kelvin;

(F) having 70 percent of the lumen value under subparagraph (A) exceeding 25,000 hours under typical conditions expected in residential use;

(G) having a light distribution pattern similar to a soft 60-watt incandescent A19 bulb;

(H) having a size and shape that fits within the maximum dimensions of an A19 bulb in accordance with American National Standards Institute standard C78.20–2003, figure C78.20–211;

(I) using a single contact medium screw socket; and

(J) mass production for a competitive sales commercial market satisfied by producing commercially accepted quality control lots of such units equal to or exceeding the criteria described in subparagraphs (A) through (I).

(2) PAR Type 38 Halogen Replacement Lamp Prize

The Secretary shall award a Parabolic Aluminized Reflector Type 38 Halogen Replacement Lamp Prize (referred to in this section as the "PAR Type 38 Halogen Replacement Lamp Prize") to an entrant that produces a solid-state-light package simultaneously capable of—

(A) producing a luminous flux greater than or equal to 1,350 lumens;

(B) consuming less than or equal to 11 watts;

(C) having an efficiency greater than 123 lumens per watt;

(D) having a color rendering index greater than or equal to 90;

(E) having a correlated color coordinate temperature of not less than 2,750, and not more than 3,000, degrees Kelvin;

(F) having 70 percent of the lumen value under subparagraph (A) exceeding 25,000 hours under typical conditions expected in residential use;

(G) having a light distribution pattern similar to a PAR 38 halogen lamp;

(H) having a size and shape that fits within the maximum dimensions of a PAR 38 halogen lamp in accordance with American National Standards Institute standard C78–21–2003, figure C78.21–238;

(I) using a single contact medium screw socket; and

(J) mass production for a competitive sales commercial market satisfied by producing commercially accepted quality control lots of such units equal to or exceeding the criteria described in subparagraphs (A) through (I).

(3) Twenty-First Century Lamp Prize

The Secretary shall award a Twenty-First Century Lamp Prize to an entrant that produces a

solid-state-light-light [1] capable of—

(A) producing a light output greater than 1,200 lumens;
(B) having an efficiency greater than 150 lumens per watt;
(C) having a color rendering index greater than 90;
(D) having a color coordinate temperature between 2,800 and 3,000 degrees Kelvin; and
(E) having a lifetime exceeding 25,000 hours.

(c) Private funds

(1) In general

Subject to paragraph (2), and notwithstanding section 3302 of title 31, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and
(B) without fiscal year limitation.

(2) Prize competition

A private source of funding may not participate in the competition for prizes awarded under this section.

(d) Technical review

The Secretary shall establish a technical review committee composed of non-Federal officers to review entrant data submitted under this section to determine whether the data meets the prize specifications described in subsection (b).

(e) Third party administration

The Secretary may competitively select a third party to administer awards under this section.

(f) Eligibility for prizes

To be eligible to be awarded a prize under this section—

(1) in the case of a private entity, the entity shall be incorporated in and maintain a primary place of business in the United States; and

(2) in the case of an individual (whether participating as a single individual or in a group), the individual shall be a citizen or lawful permanent resident of the United States.

(g) Award amounts

Subject to the availability of funds to carry out this section, the amount of—

(1) the 60-Watt Incandescent Replacement Lamp Prize described in subsection (b)(1) shall be $10,000,000;

(2) the PAR Type 38 Halogen Replacement Lamp Prize described in subsection (b)(2) shall be $5,000,000; and

(3) the Twenty-First Century Lamp Prize described in subsection (b)(3) shall be $5,000,000.

(h) Federal procurement of solid-state-lights

(1) 60-watt incandescent replacement

Subject to paragraph (3), as soon as practicable after the successful award of the 60-Watt Incandescent Replacement Lamp Prize under subsection (b)(1), the Secretary (in consultation with the Administrator of General Services) shall develop governmentwide Federal purchase guidelines with a goal of replacing the use of 60-watt incandescent lamps in Federal Government buildings with a solid-state-light package described in subsection (b)(1) by not later than the date that is 5 years after the date the award is made.

(2) PAR 38 halogen replacement lamp replacement [1]

Subject to paragraph (3), as soon as practicable after the successful award of the PAR Type 38 Halogen Replacement Lamp Prize under subsection (b)(2), the Secretary (in consultation with the Administrator of General Services) shall develop governmentwide Federal purchase guidelines

with the goal of replacing the use of PAR 38 halogen lamps in Federal Government buildings with a solid-state-light package described in subsection (b)(2) by not later than the date that is 5 years after the date the award is made.

(3) Waivers

(A) In general

The Secretary or the Administrator of General Services may waive the application of paragraph (1) or (2) if the Secretary or Administrator determines that the return on investment from the purchase of a solid-state-light package described in paragraph (1) or (2) of subsection (b), respectively, is cost prohibitive.

(B) Report of waiver

If the Secretary or Administrator waives the application of paragraph (1) or (2), the Secretary or Administrator, respectively, shall submit to Congress an annual report that describes the waiver and provides a detailed justification for the waiver.

(i) Report

Not later than 2 years after December 19, 2007, and annually thereafter, the Administrator of General Services shall submit to the Energy Information Agency a report describing the quantity, type, and cost of each lighting product purchased by the Federal Government.

(j) Bright Tomorrow Lighting Award Fund

(1) Establishment

There is established in the United States Treasury a Bright Tomorrow Lighting permanent fund without fiscal year limitation to award prizes under paragraphs (1), (2), and (3) of subsection (b).

(2) Sources of funding

The fund established under paragraph (1) shall accept—

(A) fiscal year appropriations; and

(B) private contributions authorized under subsection (c).

(k) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 110–140, title VI, §655, Dec. 19, 2007, 121 Stat. 1700.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] *So in original.*

§17244. Renewable Energy Innovation Manufacturing Partnership

(a) Establishment

The Secretary shall carry out a program, to be known as the Renewable Energy Innovation Manufacturing Partnership Program (referred to in this section as the "Program"), to make assistance awards to eligible entities for use in carrying out research, development, and demonstration relating to the manufacturing of renewable energy technologies.

(b) Solicitation

To carry out the Program, the Secretary shall annually conduct a competitive solicitation for assistance awards for an eligible project described in subsection (e).

(c) Program purposes

The purposes of the Program are—

(1) to develop, or aid in the development of, advanced manufacturing processes, materials, and infrastructure;

(2) to increase the domestic production of renewable energy technology and components; and

(3) to better coordinate Federal, State, and private resources to meet regional and national renewable energy goals through advanced manufacturing partnerships.

(d) Eligible entities

An entity shall be eligible to receive an assistance award under the Program to carry out an eligible project described in subsection (e) if the entity is composed of—

(1) 1 or more public or private nonprofit institutions or national laboratories engaged in research, development, demonstration, or technology transfer, that would participate substantially in the project; and

(2) 1 or more private entities engaged in the manufacturing or development of renewable energy system components (including solar energy, wind energy, biomass, geothermal energy, energy storage, or fuel cells).

(e) Eligible projects

An eligible entity may use an assistance award provided under this section to carry out a project relating to—

(1) the conduct of studies of market opportunities for component manufacturing of renewable energy systems;

(2) the conduct of multiyear applied research, development, demonstration, and deployment projects for advanced manufacturing processes, materials, and infrastructure for renewable energy systems; and

(3) other similar ventures, as approved by the Secretary, that promote advanced manufacturing of renewable technologies.

(f) Criteria and guidelines

The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under the Program.

(g) Cost sharing

Section 16352 of this title shall apply to a project carried out under this section.

(h) Disclosure

The Secretary may, for a period of up to 5 years after an award is granted under this section, exempt from mandatory disclosure under section 552 of title 5 (popularly known as the Freedom of Information Act) information that the Secretary determines would be a privileged or confidential trade secret or commercial or financial information under subsection (b)(4) of such section if the information had been obtained from a non-Government party.

(i) Sense of the Congress

It is the sense of the Congress that the Secretary should ensure that small businesses engaged in renewable manufacturing be given priority consideration for the assistance awards provided under this section.

(j) Authorization of appropriations

There is authorized to be appropriated out of funds already authorized to carry out this section $25,000,000 for each of fiscal years 2008 through 2013, to remain available until expended.

(Pub. L. 110–140, title VI, §656, Dec. 19, 2007, 121 Stat. 1703.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER VI—CARBON CAPTURE AND SEQUESTRATION

PART A—CARBON CAPTURE AND SEQUESTRATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION

§17251. Carbon capture

(a) Program establishment

(1) In general

The Secretary shall carry out a program to demonstrate technologies for the large-scale capture of carbon dioxide from industrial sources. In making awards under this program, the Secretary shall select, as appropriate, a diversity of capture technologies to address the need to capture carbon dioxide from a range of industrial sources.

(2) Scope of award

Awards under this section shall be only for the portion of the project that—

(A) carries out the large-scale capture (including purification and compression) of carbon dioxide from industrial sources;

(B) provides for the transportation and injection of carbon dioxide; and

(C) incorporates a comprehensive measurement, monitoring, and validation program.

(3) Preferences for award

To ensure reduced carbon dioxide emissions, the Secretary shall take necessary actions to provide for the integration of the program under this paragraph with the large-scale carbon dioxide sequestration tests described in section 16293(c) of this title. These actions should not delay implementation of these tests. The Secretary shall give priority consideration to projects with the following characteristics:

(A) Capacity

Projects that will capture a high percentage of the carbon dioxide in the treated stream and large volumes of carbon dioxide as determined by the Secretary.

(B) Sequestration

Projects that capture carbon dioxide from industrial sources that are near suitable geological reservoirs and could continue sequestration including—

(i) a field testing validation activity under section 16293 of this title; or

(ii) other geologic sequestration projects approved by the Secretary.

(4) Requirement

For projects that generate carbon dioxide that is to be sequestered, the carbon dioxide stream shall be of a sufficient purity level to allow for safe transport and sequestration.

(5) Cost-sharing

The cost-sharing requirements of section 16352 of this title for research and development projects shall apply to this section.

(b) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $200,000,000 per year for fiscal years 2009 through 2013.

(Pub. L. 110–140, title VII, §703, Dec. 19, 2007, 121 Stat. 1708; Pub. L. 116–260, div. Z, title IV, §4003(c)(1), Dec. 27, 2020, 134 Stat. 2539.)

STATUTORY NOTES

AMENDMENTS

2020—Subsec. (a)(3). Pub. L. 116–260 substituted "section 16293(c)" for "section 16293(c)(3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SHORT TITLE

Subtitle A (§§701–708) of title VII of Pub. L. 110–140, which is classified principally to this part, is known as the "Department of Energy Carbon Capture and Sequestration Research, Development, and Demonstration Act of 2007". See Short Title note set out under section 17001 of this title.

§17252. Review of large-scale programs

The Secretary shall enter into an arrangement with the National Academy of Sciences for an independent review and oversight, beginning in 2011, of the programs under section 16293(c) of this title and under section 17251 of this title, to ensure that the benefits of such programs are maximized. Not later than January 1, 2012, the Secretary shall transmit to the Congress a report on the results of such review and oversight.

(Pub. L. 110–140, title VII, §704, Dec. 19, 2007, 121 Stat. 1709; Pub. L. 116–260, div. Z, title IV, §4003(c)(2), Dec. 27, 2020, 134 Stat. 2539.)

STATUTORY NOTES

AMENDMENTS

2020—Pub. L. 116–260 substituted "section 16293(c)" for "section 16293(c)(3)".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17253. Geologic sequestration training and research

(a) Study

(1) In general

The Secretary shall enter into an arrangement with the National Academy of Sciences to undertake a study that—

(A) defines an interdisciplinary program in geology, engineering, hydrology, environmental science, and related disciplines that will support the Nation's capability to capture and sequester carbon dioxide from anthropogenic sources;

(B) addresses undergraduate and graduate education, especially to help develop graduate level programs of research and instruction that lead to advanced degrees with emphasis on geologic sequestration science;

(C) develops guidelines for proposals from colleges and universities with substantial capabilities in the required disciplines that seek to implement geologic sequestration science programs that advance the Nation's capacity to address carbon management through geologic sequestration science; and

(D) outlines a budget and recommendations for how much funding will be necessary to establish and carry out the grant program under subsection (b).

(2) Report

Not later than 1 year after December 19, 2007, the Secretary shall transmit to the Congress a copy of the results of the study provided by the National Academy of Sciences under paragraph (1).

(3) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this subsection $1,000,000 for fiscal year 2008.

(b) Grant program

(1) Establishment

The Secretary shall establish a competitive grant program through which colleges and universities may apply for and receive 4-year grants for—

(A) salary and startup costs for newly designated faculty positions in an integrated geologic carbon sequestration science program; and

(B) internships for graduate students in geologic sequestration science.

(2) Renewal

Grants under this subsection shall be renewable for up to 2 additional 3-year terms, based on performance criteria, established by the National Academy of Sciences study conducted under subsection (a), that include the number of graduates of such programs.

(3) Interface with regional geologic carbon sequestration partnerships

To the greatest extent possible, geologic carbon sequestration science programs supported under this subsection shall interface with the research of the Regional Carbon Sequestration Partnerships operated by the Department to provide internships and practical training in carbon capture and geologic sequestration.

(4) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this subsection such sums as may be necessary.

(Pub. L. 110–140, title VII, §705, Dec. 19, 2007, 121 Stat. 1709.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17254. Relation to Safe Drinking Water Act

The injection and geologic sequestration of carbon dioxide pursuant to this subtitle and the amendments made by this subtitle shall be subject to the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.), including the provisions of part C of such Act (42 U.S.C. 300h et seq.;

relating to protection of underground sources of drinking water). Nothing in this subtitle and the amendments made by this subtitle imposes or authorizes the promulgation of any requirement that is inconsistent or in conflict with the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or regulations thereunder.

(Pub. L. 110–140, title VII, §706, Dec. 19, 2007, 121 Stat. 1710.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle A (§§701–708) of title VII of Pub. L. 110–140, which enacted this part, amended section 16293 of this title, and enacted provisions set out as a note under section 17001 of this title. For complete classification of subtitle A to the Code, see Short Title note set out under section 17001 of this title and Tables.

The Safe Drinking Water Act, referred to in text, is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of this title. Part C of the Act is classified generally to part C (§300h et seq.) of subchapter XII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17255. Safety research

(a) Program

The Administrator of the Environmental Protection Agency shall conduct a research program to address public health, safety, and environmental impacts that may be associated with capture, injection, and sequestration of greenhouse gases in geologic reservoirs.

(b) Authorization of appropriations

There are authorized to be appropriated for carrying out this section $5,000,000 for each fiscal year.

(Pub. L. 110–140, title VII, §707, Dec. 19, 2007, 121 Stat. 1710.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17256. University based research and development grant program

(a) Establishment

The Secretary, in consultation with other appropriate agencies, shall establish a university based research and development program to study carbon capture and sequestration using the various types of coal.

(b) Rural and agricultural institutions

The Secretary shall give special consideration to rural or agricultural based institutions in areas

that have regional sources of coal and that offer interdisciplinary programs in the area of environmental science to study carbon capture and sequestration.

(c) Authorization of appropriations

There are to be authorized to be appropriated $10,000,000 to carry out this section.

(Pub. L. 110–140, title VII, §708, Dec. 19, 2007, 121 Stat. 1710.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART B—CARBON CAPTURE AND SEQUESTRATION ASSESSMENT AND FRAMEWORK

§17271. Carbon dioxide sequestration capacity assessment

(a) Definitions

In this section—

(1) Assessment

The term "assessment" means the national assessment of onshore capacity for carbon dioxide completed under subsection (f).

(2) Capacity

The term "capacity" means the portion of a sequestration formation that can retain carbon dioxide in accordance with the requirements (including physical, geological, and economic requirements) established under the methodology developed under subsection (b).

(3) Engineered hazard

The term "engineered hazard" includes the location and completion history of any well that could affect potential sequestration.

(4) Risk

The term "risk" includes any risk posed by geomechanical, geochemical, hydrogeological, structural, and engineered hazards.

(5) Secretary

The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(6) Sequestration formation

The term "sequestration formation" means a deep saline formation, unmineable coal seam, or oil or gas reservoir that is capable of accommodating a volume of industrial carbon dioxide.

(b) Methodology

Not later than 1 year after December 19, 2007, the Secretary shall develop a methodology for conducting an assessment under subsection (f), taking into consideration—

(1) the geographical extent of all potential sequestration formations in all States;

(2) the capacity of the potential sequestration formations;

(3) the injectivity of the potential sequestration formations;

(4) an estimate of potential volumes of oil and gas recoverable by injection and sequestration of

industrial carbon dioxide in potential sequestration formations;

(5) the risk associated with the potential sequestration formations; and

(6) the work done to develop the Carbon Sequestration Atlas of the United States and Canada that was completed by the Department.

(c) Coordination

(1) Federal coordination

(A) Consultation

The Secretary shall consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency on issues of data sharing, format, development of the methodology, and content of the assessment required under this section to ensure the maximum usefulness and success of the assessment.

(B) Cooperation

The Secretary of Energy and the Administrator shall cooperate with the Secretary to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(2) State coordination

The Secretary shall consult with State geological surveys and other relevant entities to ensure, to the maximum extent practicable, the usefulness and success of the assessment.

(d) External review and publication

On completion of the methodology under subsection (b), the Secretary shall—

(1) publish the methodology and solicit comments from the public and the heads of affected Federal and State agencies;

(2) establish a panel of individuals with expertise in the matters described in paragraphs (1) through (5) of subsection (b) composed, as appropriate, of representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international geoscience organizations to review the methodology and comments received under paragraph (1); and

(3) on completion of the review under paragraph (2), publish in the Federal Register the revised final methodology.

(e) Periodic updates

The methodology developed under this section shall be updated periodically (including at least once every 5 years) to incorporate new data as the data becomes available.

(f) National assessment

(1) In general

Not later than 2 years after the date of publication of the methodology under subsection (d)(1), the Secretary, in consultation with the Secretary of Energy and State geological surveys, shall complete a national assessment of capacity for carbon dioxide in accordance with the methodology.

(2) Geological verification

As part of the assessment under this subsection, the Secretary shall carry out a drilling program to supplement the geological data relevant to determining sequestration capacity of carbon dioxide in geological sequestration formations, including—

(A) well log data;

(B) core data; and

(C) fluid sample data.

(3) Partnership with other drilling programs

As part of the drilling program under paragraph (2), the Secretary shall enter, as appropriate, into partnerships with other entities to collect and integrate data from other drilling programs

relevant to the sequestration of carbon dioxide in geological formations.

(4) Incorporation into NatCarb

(A) In general

On completion of the assessment, the Secretary of Energy and the Secretary of the Interior shall incorporate the results of the assessment using—

(i) the NatCarb database, to the maximum extent practicable; or

(ii) a new database developed by the Secretary of Energy, as the Secretary of Energy determines to be necessary.

(B) Ranking

The database shall include the data necessary to rank potential sequestration sites for capacity and risk, across the United States, within each State, by formation, and within each basin.

(5) Report

Not later than 180 days after the date on which the assessment is completed, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the findings under the assessment.

(6) Periodic updates

The national assessment developed under this section shall be updated periodically (including at least once every 5 years) to support public and private sector decisionmaking.

(g) Authorization of appropriations

There is authorized to be appropriated to carry out this section $30,000,000 for the period of fiscal years 2008 through 2012.

(Pub. L. 110–140, title VII, §711, Dec. 19, 2007, 121 Stat. 1710.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17272. Assessment of carbon sequestration and methane and nitrous oxide emissions from ecosystems

(a) Definitions

In this section:

(1) Adaptation strategy

The term "adaptation strategy" means a land use and management strategy that can be used—

(A) to increase the sequestration capabilities of covered greenhouse gases of any ecosystem; or

(B) to reduce the emissions of covered greenhouse gases from any ecosystem.

(2) Assessment

The term "assessment" means the national assessment authorized under subsection (b).

(3) Covered greenhouse gas

The term "covered greenhouse gas" means carbon dioxide, nitrous oxide, and methane gas.

(4) Ecosystem

The term "ecosystem" means any terrestrial, freshwater aquatic, or coastal ecosystem, including

an estuary.

(5) Native plant species

The term "native plant species" means any noninvasive, naturally occurring plant species within an ecosystem.

(6) Secretary

The term "Secretary" means the Secretary of the Interior.

(b) Authorization of assessment

Not later than 2 years after the date on which the final methodology is published under subsection (f)(3)(D), the Secretary shall complete a national assessment of—

(1) the quantity of carbon stored in and released from ecosystems, including from man-caused and natural fires; and

(2) the annual flux of covered greenhouse gases in and out of ecosystems.

(c) Components

In conducting the assessment under subsection (b), the Secretary shall—

(1) determine the processes that control the flux of covered greenhouse gases in and out of each ecosystem;

(2) estimate the potential for increasing carbon sequestration in natural and managed ecosystems through management activities or restoration activities in each ecosystem;

(3) develop near-term and long-term adaptation strategies or mitigation strategies that can be employed—

(A) to enhance the sequestration of carbon in each ecosystem;

(B) to reduce emissions of covered greenhouse gases from ecosystems; and

(C) to adapt to climate change; and

(4) estimate the annual carbon sequestration capacity of ecosystems under a range of policies in support of management activities to optimize sequestration.

(d) Use of native plant species

In developing restoration activities under subsection (c)(2) and management strategies and adaptation strategies under subsection (c)(3), the Secretary shall emphasize the use of native plant species (including mixtures of many native plant species) for sequestering covered greenhouse gas in each ecosystem.

(e) Consultation

(1) In general

In conducting the assessment under subsection (b) and developing the methodology under subsection (f), the Secretary shall consult with—

(A) the Secretary of Energy;

(B) the Secretary of Agriculture;

(C) the Administrator of the Environmental Protection Agency;

(D) the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere; and

(E) the heads of other relevant agencies.

(2) Ocean and coastal ecosystems

In carrying out this section with respect to ocean and coastal ecosystems (including estuaries), the Secretary shall work jointly with the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere.

(f) Methodology

(1) In general

Not later than 1 year after December 19, 2007, the Secretary shall develop a methodology for

conducting the assessment.

(2) Requirements

The methodology developed under paragraph (1)—

(A) shall—

(i) determine the method for measuring, monitoring, and quantifying covered greenhouse gas emissions and reductions;

(ii) estimate the total capacity of each ecosystem to sequester carbon; and

(iii) estimate the ability of each ecosystem to reduce emissions of covered greenhouse gases through management practices; and

(B) may employ economic and other systems models, analyses, and estimates, to be developed in consultation with each of the individuals described in subsection (e).

(3) External review and publication

On completion of a proposed methodology, the Secretary shall—

(A) publish the proposed methodology;

(B) at least 60 days before the date on which the final methodology is published, solicit comments from—

(i) the public; and

(ii) heads of affected Federal and State agencies;

(C) establish a panel to review the proposed methodology published under subparagraph (A) and any comments received under subparagraph (B), to be composed of members—

(i) with expertise in the matters described in subsections (c) and (d); and

(ii) that are, as appropriate, representatives of Federal agencies, institutions of higher education, nongovernmental organizations, State organizations, industry, and international organizations; and

(D) on completion of the review under subparagraph (C), publish in the Federal Register the revised final methodology.

(g) Estimate; review

The Secretary shall—

(1) based on the assessment, prescribe the data, information, and analysis needed to establish a scientifically sound estimate of the carbon sequestration capacity of relevant ecosystems; and

(2) not later than 180 days after the date on which the assessment is completed, submit to the heads of applicable Federal agencies and the appropriate committees of Congress a report that describes the results of the assessment.

(h) Data and report availability

On completion of the assessment, the Secretary shall incorporate the results of the assessment into a web-accessible database for public use.

(i) Authorization

There is authorized to be appropriated to carry out this section $20,000,000 for the period of fiscal years 2008 through 2012.

(Pub. L. 110–140, title VII, §712, Dec. 19, 2007, 121 Stat. 1713.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER VII—IMPROVED MANAGEMENT OF ENERGY POLICY

PART A—MANAGEMENT IMPROVEMENTS

§17281. National media campaign

(a) In general

The Secretary, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy (referred to in this section as the "Secretary"), shall develop and conduct a national media campaign—

(1) to increase energy efficiency throughout the economy of the United States during the 10-year period beginning on December 19, 2007;

(2) to promote the national security benefits associated with increased energy efficiency; and

(3) to decrease oil consumption in the United States during the 10-year period beginning on December 19, 2007.

(b) Contract with entity

The Secretary shall carry out subsection (a) directly or through—

(1) competitively bid contracts with 1 or more nationally recognized media firms for the development and distribution of monthly television, radio, and newspaper public service announcements; or

(2) collective agreements with 1 or more nationally recognized institutes, businesses, or nonprofit organizations for the funding, development, and distribution of monthly television, radio, and newspaper public service announcements.

(c) Use of funds

(1) In general

Amounts made available to carry out this section shall be used for—

(A) advertising costs, including—

(i) the purchase of media time and space;

(ii) creative and talent costs;

(iii) testing and evaluation of advertising; and

(iv) evaluation of the effectiveness of the media campaign; and

(B) administrative costs, including operational and management expenses.

(2) Limitations

In carrying out this section, the Secretary shall allocate not less than 85 percent of funds made available under subsection (e) for each fiscal year for the advertising functions specified under paragraph (1)(A).

(d) Reports

The Secretary shall annually submit to Congress a report that describes—

(1) the strategy of the national media campaign and whether specific objectives of the campaign were accomplished, including—

(A) determinations concerning the rate of change of energy consumption, in both absolute and per capita terms; and

(B) an evaluation that enables consideration of whether the media campaign contributed to reduction of energy consumption;

(2) steps taken to ensure that the national media campaign operates in an effective and efficient manner consistent with the overall strategy and focus of the campaign;

(3) plans to purchase advertising time and space;

(4) policies and practices implemented to ensure that Federal funds are used responsibly to purchase advertising time and space and eliminate the potential for waste, fraud, and abuse; and

(5) all contracts or cooperative agreements entered into with a corporation, partnership, or individual working on behalf of the national media campaign.

(e) Authorization of appropriations

(1) In general

There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

(2) Decreased oil consumption

The Secretary shall use not less than 50 percent of the amount that is made available under this section for each fiscal year to develop and conduct a national media campaign to decrease oil consumption in the United States over the next decade.

(Pub. L. 110–140, title VIII, §801, Dec. 19, 2007, 121 Stat. 1716.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17282. Renewable energy deployment

(a) Definitions

In this section:

(1) Alaska small hydroelectric power

The term "Alaska small hydroelectric power" means power that—

(A) is generated—

(i) in the State of Alaska;

(ii) without the use of a dam or impoundment of water; and

(iii) through the use of—

(I) a lake tap (but not a perched alpine lake); or

(II) a run-of-river screened at the point of diversion; and

(B) has a nameplate capacity rating of a wattage that is not more than 15 megawatts.

(2) Eligible applicant

The term "eligible applicant" means any—

(A) governmental entity;

(B) private utility;

(C) public utility;

(D) municipal utility;

(E) cooperative utility;

(F) Indian tribes; and

(G) Regional Corporation (as defined in section 1602 of title 43).

(3) Ocean energy

(A) Inclusions

The term "ocean energy" includes current, wave, and tidal energy.

(B) Exclusion

The term "ocean energy" excludes thermal energy.

(4) Renewable energy project

The term "renewable energy project" means a project—

(A) for the commercial generation of electricity; and

(B) that generates electricity from—

(i) solar, wind, or geothermal energy or ocean energy;

(ii) biomass (as defined in section 15852(b) of this title);

(iii) landfill gas; or

(iv) Alaska small hydroelectric power.

(b) Renewable energy construction grants

(1) In general

The Secretary shall use amounts appropriated under this section to make grants for use in carrying out renewable energy projects.

(2) Criteria

Not later than 180 days after December 19, 2007, the Secretary shall set forth criteria for use in awarding grants under this section.

(3) Application

To receive a grant from the Secretary under paragraph (1), an eligible applicant shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a written assurance that—

(A) all laborers and mechanics employed by contractors or subcontractors during construction, alteration, or repair that is financed, in whole or in part, by a grant under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40; and

(B) the Secretary of Labor shall, with respect to the labor standards described in this paragraph, have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40.

(4) Non-Federal share

Each eligible applicant that receives a grant under this subsection shall contribute to the total cost of the renewable energy project constructed by the eligible applicant an amount not less than 50 percent of the total cost of the project.

(c) Authorization of appropriations

There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

(Pub. L. 110–140, title VIII, §803, Dec. 19, 2007, 121 Stat. 1718.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(3)(B), is set out in the Appendix to Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17283. Repealed. Pub. L. 113–76, div. D, title III, §314, Jan. 17, 2014, 128 Stat. 177

Section, Pub. L. 110–140, title VIII, §804, Dec. 19, 2007, 121 Stat. 1720, related to coordination of planned refinery outages.

§17284. Assessment of resources

(a) 5-year plan

(1) Establishment

The Administrator of the Energy Information Administration (referred to in this section as the "Administrator") shall establish a 5-year plan to enhance the quality and scope of the data collection necessary to ensure the scope, accuracy, and timeliness of the information needed for efficient functioning of energy markets and related financial operations.

(2) Requirement

In establishing the plan under paragraph (1), the Administrator shall pay particular attention to—

(A) data series terminated because of budget constraints;

(B) data on demand response;

(C) timely data series of State-level information;

(D) improvements in the area of oil and gas data;

(E) improvements in data on solid byproducts from coal-based energy-producing facilities; and

(F) the ability to meet applicable deadlines under Federal law (including regulations) to provide data required by Congress.

(b) Submission to Congress

The Administrator shall submit to Congress the plan established under subsection (a), including a description of any improvements needed to enhance the ability of the Administrator to collect and process energy information in a manner consistent with the needs of energy markets.

(c) Guidelines

(1) In general

The Administrator shall—

(A) establish guidelines to ensure the quality, comparability, and scope of State energy data, including data on energy production and consumption by product and sector and renewable and alternative sources, required to provide a comprehensive, accurate energy profile at the State level;

(B) share company-level data collected at the State level with each State involved, in a manner consistent with the legal authorities, confidentiality protections, and stated uses in effect at the time the data were collected, subject to the condition that the State shall agree to reasonable requirements for use of the data, as the Administrator may require;

(C) assess any existing gaps in data obtained and compiled by the Energy Information Administration; and

(D) evaluate the most cost-effective ways to address any data quality and quantity issues in conjunction with State officials.

(2) Consultation

The Administrator shall consult with State officials and the Federal Energy Regulatory

Commission on a regular basis in—

(A) establishing guidelines and determining the scope of State-level data under paragraph (1); and

(B) exploring ways to address data needs and serve data uses.

(d) Assessment of State data needs

Not later than 1 year after December 19, 2007, the Administrator shall submit to Congress an assessment of State-level data needs, including a plan to address the needs.

(e) Authorization of appropriations

In addition to any other amounts made available to the Administrator, there are authorized to be appropriated to the Administrator to carry out this section—

(1) $10,000,000 for fiscal year 2008;
(2) $10,000,000 for fiscal year 2009;
(3) $10,000,000 for fiscal year 2010;
(4) $15,000,000 for fiscal year 2011;
(5) $20,000,000 for fiscal year 2012; and
(6) such sums as are necessary for subsequent fiscal years.

(Pub. L. 110–140, title VIII, §805, Dec. 19, 2007, 121 Stat. 1721.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17285. Sense of Congress relating to the use of renewable resources to generate energy

(a) Findings

Congress finds that—

(1) the United States has a quantity of renewable energy resources that is sufficient to supply a significant portion of the energy needs of the United States;

(2) the agricultural, forestry, and working land of the United States can help ensure a sustainable domestic energy system;

(3) accelerated development and use of renewable energy technologies provide numerous benefits to the United States, including improved national security, improved balance of payments, healthier rural economies, improved environmental quality, and abundant, reliable, and affordable energy for all citizens of the United States;

(4) the production of transportation fuels from renewable energy would help the United States meet rapidly growing domestic and global energy demands, reduce the dependence of the United States on energy imported from volatile regions of the world that are politically unstable, stabilize the cost and availability of energy, and safeguard the economy and security of the United States;

(5) increased energy production from domestic renewable resources would attract substantial new investments in energy infrastructure, create economic growth, develop new jobs for the citizens of the United States, and increase the income for farm, ranch, and forestry jobs in the rural regions of the United States;

(6) increased use of renewable energy is practical and can be cost effective with the implementation of supportive policies and proper incentives to stimulate markets and infrastructure; and

(7) public policies aimed at enhancing renewable energy production and accelerating technological improvements will further reduce energy costs over time and increase market demand.

(b) Sense of Congress

It is the sense of Congress that it is the goal of the United States that, not later than January 1, 2025, the agricultural, forestry, and working land of the United States should—

(1) provide from renewable resources not less than 25 percent of the total energy consumed in the United States; and

(2) continue to produce safe, abundant, and affordable food, feed, and fiber.

(Pub. L. 110–140, title VIII, §806, Dec. 19, 2007, 121 Stat. 1722.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17286. Geothermal assessment, exploration information, and priority activities

(a) In general

Not later than January 1, 2012, the Secretary of the Interior, acting through the Director of the United States Geological Survey, shall—

(1) complete a comprehensive nationwide geothermal resource assessment that examines the full range of geothermal resources in the United States; and

(2) submit to the the [1] Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the assessment.

(b) Periodic updates

At least once every 10 years, the Secretary shall update the national assessment required under this section to support public and private sector decisionmaking.

(c) Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Interior to carry out this section—

(1) $15,000,000 for each of fiscal years 2008 through 2012; and

(2) such sums as are necessary for each of fiscal years 2013 through 2022.

(Pub. L. 110–140, title VIII, §807, Dec. 19, 2007, 121 Stat. 1723.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] *So in original.*

PART B—PROHIBITIONS ON MARKET MANIPULATION AND FALSE INFORMATION

§17301. Prohibition on market manipulation

It is unlawful for any person, directly or indirectly, to use or employ, in connection with the

purchase or sale of crude oil [1] gasoline or petroleum distillates at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Federal Trade Commission may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.

(Pub. L. 110–140, title VIII, §811, Dec. 19, 2007, 121 Stat. 1723.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] So in original. A comma probably should appear.

§17302. Prohibition on false information

It is unlawful for any person to report information related to the wholesale price of crude oil [1] gasoline or petroleum distillates to a Federal department or agency if—

(1) the person knew, or reasonably should have known, the information to be false or misleading;

(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by the department or agency for statistical or analytical purposes with respect to the market for crude oil, gasoline, or petroleum distillates.

(Pub. L. 110–140, title VIII, §812, Dec. 19, 2007, 121 Stat. 1723.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] So in original. A comma probably should appear.

§17303. Enforcement by the Federal Trade Commission

(a) Enforcement

This part shall be enforced by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as though all applicable terms of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this part.

(b) Violation is treated as unfair or deceptive act or practice

The violation of any provision of this part shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(Pub. L. 110–140, title VIII, §813, Dec. 19, 2007, 121 Stat. 1724.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17304. Penalties

(a) Civil penalty

In addition to any penalty applicable under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), any supplier that violates section 17301 or 17302 of this title shall be punishable by a civil penalty of not more than $1,000,000.

(b) Method

The penalties provided by subsection (a) shall be obtained in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(c) Multiple offenses; mitigating factors

In assessing the penalty provided by subsection (a)—

(1) each day of a continuing violation shall be considered a separate violation; and

(2) the court shall take into consideration, among other factors—

(A) the seriousness of the violation; and

(B) the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(Pub. L. 110–140, title VIII, §814, Dec. 19, 2007, 121 Stat. 1724.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17305. Effect on other laws

(a) Other authority of the Commission

Nothing in this part limits or affects the authority of the Federal Trade Commission to bring an enforcement action or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) Antitrust law

Nothing in this part shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of this subsection, the term "antitrust laws" shall have the meaning given

it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that it includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(c) State law

Nothing in this part preempts any State law.

(Pub. L. 110–140, title VIII, §815, Dec. 19, 2007, 121 Stat. 1724.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (a), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER VIII—INTERNATIONAL ENERGY PROGRAMS

§17321. Definitions

In this subchapter:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) Clean and efficient energy technology

The term "clean and efficient energy technology" means an energy supply or end-use technology that, compared to a similar technology already in widespread commercial use in a recipient country, will—

(A) reduce emissions of greenhouse gases; or

(B)(i) increase efficiency of energy production; or

(ii) decrease intensity of energy usage.

(3) Greenhouse gas

The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; or

(F) sulfur hexafluoride.

(Pub. L. 110–140, title IX, §901, Dec. 19, 2007, 121 Stat. 1725.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title IX of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1725, which enacted this subchapter and amended section 5314 of Title 5, Government Organization and Employees, section 9101 of Title 31, Money and Finance, and section 3021 of Title 50, War and National Defense. For complete classification of title IX to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART A—ASSISTANCE TO PROMOTE CLEAN AND EFFICIENT ENERGY TECHNOLOGIES IN FOREIGN COUNTRIES

§17331. United States assistance for developing countries

(a) Assistance authorized

The Administrator of the United States Agency for International Development shall support policies and programs in developing countries that promote clean and efficient energy technologies—

(1) to produce the necessary market conditions for the private sector delivery of energy and environmental management services;

(2) to create an environment that is conducive to accepting clean and efficient energy technologies that support the overall purpose of reducing greenhouse gas emissions, including—

(A) improving policy, legal, and regulatory frameworks;

(B) increasing institutional abilities to provide energy and environmental management services; and

(C) increasing public awareness and participation in the decision-making of delivering energy and environmental management services; and

(3) to promote the use of American-made clean and efficient energy technologies, products, and energy and environmental management services.

(b) Report

The Administrator of the United States Agency for International Development shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) Authorization of appropriations

To carry out this section, there are authorized to be appropriated to the Administrator of the United States Agency for International Development $200,000,000 for each of the fiscal years 2008 through 2012.

(Pub. L. 110–140, title IX, §911, Dec. 19, 2007, 121 Stat. 1725.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17332. United States exports and outreach programs for India, China, and other countries

(a) Assistance authorized

The Secretary of Commerce shall direct the United States and Foreign Commercial Service to expand or create a corps of the Foreign Commercial Service officers to promote United States exports in clean and efficient energy technologies and build the capacity of government officials in India, China, and any other country the Secretary of Commerce determines appropriate, to become more familiar with the available technologies—

(1) by assigning or training Foreign Commercial Service attachés, who have expertise in clean and efficient energy technologies from the United States, to embark on business development and outreach efforts to such countries; and

(2) by deploying the attachés described in paragraph (1) to educate provincial, state, and local government officials in such countries on the variety of United States-based technologies in clean and efficient energy technologies for the purposes of promoting United States exports and reducing global greenhouse gas emissions.

(b) Report

The Secretary of Commerce shall submit to the appropriate congressional committees an annual report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) Authorization of appropriations

To carry out this section, there are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for each of the fiscal years 2008 through 2012.

(Pub. L. 110–140, title IX, §912, Dec. 19, 2007, 121 Stat. 1726.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17333. United States trade missions to encourage private sector trade and investment

(a) Assistance authorized

The Secretary of Commerce shall direct the International Trade Administration to expand or create trade missions to and from the United States to encourage private sector trade and investment in clean and efficient energy technologies—

(1) by organizing and facilitating trade missions to foreign countries and by matching United States private sector companies with opportunities in foreign markets so that clean and efficient energy technologies can help to combat increases in global greenhouse gas emissions; and

(2) by creating reverse trade missions in which the Department of Commerce facilitates the meeting of foreign private and public sector organizations with private sector companies in the United States for the purpose of showcasing clean and efficient energy technologies in use or in development that could be exported to other countries.

(b) Report

The Secretary of Commerce shall submit to the appropriate congressional committees an annual

report on the implementation of this section for each of the fiscal years 2008 through 2012.

(c) Authorization of appropriations

To carry out this section, there are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary for each of the fiscal years 2008 through 2012.

(Pub. L. 110–140, title IX, §913, Dec. 19, 2007, 121 Stat. 1726.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17334. Actions by United States International Development Finance Corporation

(a) Sense of Congress

It is the sense of Congress that the United States International Development Finance Corporation should promote greater investment in clean and efficient energy technologies by—

(1) proactively reaching out to United States companies that are interested in investing in clean and efficient energy technologies in countries that are significant contributors to global greenhouse gas emissions;

(2) giving preferential treatment to the evaluation and awarding of projects that involve the investment or utilization of clean and efficient energy technologies; and

(3) providing greater flexibility in supporting projects that involve the investment or utilization of clean and efficient energy technologies, including financing, insurance, and other assistance.

(b) Report

The United States International Development Finance Corporation shall include in its annual report required under section 9653 of title 22—

(1) a description of the activities carried out to implement this section; or

(2) if the Corporation did not carry out any activities to implement this section, an explanation of the reasons therefor.

(Pub. L. 110–140, title IX, §914, Dec. 19, 2007, 121 Stat. 1727; Pub. L. 115–254, div. F, title VI, §1470(v)(1), Oct. 5, 2018, 132 Stat. 3519.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–254, §1470(v)(1)(A), substituted "United States International Development Finance Corporation" for "Overseas Private Investment Corporation" in section catchline.

Subsec. (a). Pub. L. 115–254, §1470(v)(1)(B), substituted "United States International Development Finance Corporation" for "Overseas Private Investment Corporation" in introductory provisions.

Subsec. (b). Pub. L. 115–254, §1470(v)(1)(C), substituted "United States International Development Finance Corporation shall include in its annual report required under section 9653 of title 22" for "Overseas Private Investment Corporation shall include in its annual report required under section 2200a of title 22" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 effective at the end of the transition period, as defined in section 9681 of Title 22, Foreign Relations and Intercourse, see section 1470(w) of Pub. L. 115–254, set out as a note under

section 905 of Title 2, The Congress.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17335. Actions by United States Trade and Development Agency

(a) Assistance authorized

The Director of the Trade and Development Agency shall establish or support policies that—

(1) proactively seek opportunities to fund projects that involve the utilization of clean and efficient energy technologies, including in trade capacity building and capital investment projects;

(2) where appropriate, advance the utilization of clean and efficient energy technologies, particularly to countries that have the potential for significant reduction in greenhouse gas emissions; and

(3) recruit and retain individuals with appropriate expertise or experience in clean, renewable, and efficient energy technologies to identify and evaluate opportunities for projects that involve clean and efficient energy technologies and services.

(b) Report

The President shall include in the annual report on the activities of the Trade and Development Agency required under section 2421(d) of title 22 a description of the activities carried out to implement this section.

(Pub. L. 110–140, title IX, §915, Dec. 19, 2007, 121 Stat. 1727.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17336. Deployment of international clean and efficient energy technologies and investment in global energy markets

(a) Task Force

(1) Establishment

Not later than 90 days after December 19, 2007, the President shall establish a Task Force on International Cooperation for Clean and Efficient Energy Technologies (in this section referred to as the "Task Force").

(2) Composition

The Task Force shall be composed of representatives, appointed by the head of the respective Federal department or agency, of—

(A) the Council on Environmental Quality;
(B) the Department of Energy;
(C) the Department of Commerce;
(D) the Department of the Treasury;
(E) the Department of State;
(F) the Environmental Protection Agency;
(G) the United States Agency for International Development;
(H) the Export-Import Bank of the United States;
(I) the United States International Development Finance Corporation;

(J) the Trade and Development Agency;
(K) the Small Business Administration;
(L) the Office of the United States Trade Representative; and
(M) other Federal departments and agencies, as determined by the President.

(3) Chairperson

The President shall designate a Chairperson or Co-Chairpersons of the Task Force.

(4) Duties

The Task Force—

(A) shall develop and assist in the implementation of the strategy required under subsection (c); and

(B)(i) shall analyze technology, policy, and market opportunities for the development, demonstration, and deployment of clean and efficient energy technologies on an international basis; and

(ii) shall examine relevant trade, tax, finance, international, and other policy issues to assess which policies, in the United States and in developing countries, would help open markets and improve the export of clean and efficient energy technologies from the United States.

(5) Termination

The Task Force, including any working group established by the Task Force pursuant to subsection (b), shall terminate 12 years after December 19, 2007.

(b) Working groups

(1) Establishment

The Task Force—

(A) shall establish an Interagency Working Group on the Export of Clean and Efficient Energy Technologies (in this section referred to as the "Interagency Working Group"); and

(B) may establish other working groups as may be necessary to carry out this section.

(2) Composition

The Interagency Working Group shall be composed of—

(A) the Secretary of Energy, the Secretary of Commerce, and the Secretary of State, who shall serve as Co-Chairpersons of the Interagency Working Group; and

(B) other members, as determined by the Chairperson or Co-Chairpersons of the Task Force.

(3) Duties

The Interagency Working Group shall coordinate the resources and relevant programs of the Department of Energy, the Department of Commerce, the Department of State, and other relevant Federal departments and agencies to support the export of clean and efficient energy technologies developed or demonstrated in the United States to other countries and the deployment of such clean and efficient energy technologies in such other countries.

(4) Interagency Center

The Interagency Working Group—

(A) shall establish an Interagency Center on the Export of Clean and Efficient Energy Technologies (in this section referred to as the "Interagency Center") to assist the Interagency Working Group in carrying out its duties required under paragraph (3); and

(B) shall locate the Interagency Center at a site agreed upon by the Co-Chairpersons of the Interagency Working Group, with the approval of the Chairperson or Co-Chairpersons of the Task Force.

(c) Strategy

(1) In general

Not later than 1 year after December 19, 2007, the Task Force shall develop and submit to the President and the appropriate congressional committees a strategy to—

(A) support the development and implementation of programs, policies, and initiatives in developing countries to promote the adoption and deployment of clean and efficient energy technologies, with an emphasis on those developing countries that are expected to experience the most significant growth in energy production and use over the next 20 years;

(B) open and expand clean and efficient energy technology markets and facilitate the export of clean and efficient energy technologies to developing countries, in a manner consistent with United States obligations as a member of the World Trade Organization;

(C) integrate into the foreign policy objectives of the United States the promotion of—

(i) the deployment of clean and efficient energy technologies and the reduction of greenhouse gas emissions in developing countries; and

(ii) the export of clean and efficient energy technologies; and

(D) develop financial mechanisms and instruments, including securities that mitigate the political and foreign exchange risks of uses that are consistent with the foreign policy objectives of the United States by combining the private sector market and government enhancements, that—

(i) are cost-effective; and

(ii) facilitate private capital investment in clean and efficient energy technology projects in developing countries.

(2) Updates

Not later than 3 years after the date of submission of the strategy under paragraph (1), and every 3 years thereafter, the Task Force shall update the strategy in accordance with the requirements of paragraph (1).

(d) Report

(1) In general

Not later than 3 years after the date of submission of the strategy under subsection (c)(1), and every 3 years thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this section for the prior 3-year period.

(2) Matters to be included

The report required under paragraph (1) shall include the following:

(A) The update of the strategy required under subsection (c)(2) and a description of the actions taken by the Task Force to assist in the implementation of the strategy.

(B) A description of actions taken by the Task Force to carry out the duties required under subsection (a)(4)(B).

(C) A description of assistance provided under this section.

(D) The results of programs, projects, and activities carried out under this section.

(E) A description of priorities for promoting the diffusion and adoption of clean and efficient energy technologies and strategies in developing countries, taking into account economic and security interests of the United States and opportunities for the export of technology of the United States.

(F) Recommendations to the heads of appropriate Federal departments and agencies on methods to streamline Federal programs and policies to improve the role of such Federal departments and agencies in the development, demonstration, and deployment of clean and efficient energy technologies on an international basis.

(G) Strategies to integrate representatives of the private sector and other interested groups on the export and deployment of clean and efficient energy technologies.

(H) A description of programs to disseminate information to the private sector and the public on clean and efficient energy technologies and opportunities to transfer such clean and efficient energy technologies.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2020.

(Pub. L. 110–140, title IX, §916, Dec. 19, 2007, 121 Stat. 1728; Pub. L. 115–254, div. F, title VI, §1470(v)(2), Oct. 5, 2018, 132 Stat. 3519.)

EDITORIAL NOTES

AMENDMENTS

2018—Subsec. (a)(2)(I). Pub. L. 115–254 substituted "United States International Development Finance Corporation;" for "Overseas Private Investment Corporation:".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–254 effective at the end of the transition period, as defined in section 9681 of Title 22, Foreign Relations and Intercourse, see section 1470(w) of Pub. L. 115–254, set out as a note under section 905 of Title 2, The Congress.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17337. United States-Israel energy cooperation

(a) Findings

Congress finds that—

(1) it is in the highest national security interests of the United States to develop covered energy sources;

(2) the State of Israel is a steadfast ally of the United States;

(3) the special relationship between the United States and Israel is manifested in a variety of cooperative scientific research and development programs, such as—

(A) the United States-Israel Binational Science Foundation; and

(B) the United States-Israel Binational Industrial Research and Development Foundation;

(4) those programs have made possible—

(A) many scientific, technological, and commercial breakthroughs in the fields of life sciences, medicine, bioengineering, agriculture, biotechnology, communications, and others; and

(B) significant contributions to the development of renewable energy and energy efficiency through the established programs of the United States-Israel Binational Industrial Research and Development Foundation and the United States-Israel Binational Science Foundation;

(5) on February 1, 1996, the Secretary of Energy (referred to in this section as the "Secretary") and the Israeli Minister of Energy and Infrastructure signed an agreement to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(6) Israeli scientists and engineers are at the forefront of research and development in the field of covered energy sources;

(7) enhanced cooperation between the United States and Israel for the purpose of research and development of covered energy sources would be in the national interests of both countries;

(8) United States-Israel energy cooperation and the development of natural resources by Israel are in the strategic interest of the United States;

(9) Israel is a strategic partner of the United States in water technology;

(10) the United States can play a role in assisting Israel with regional safety and security issues;

(11) the National Science Foundation of the United States, to the extent consistent with the National Science Foundation's mission, should collaborate with the Israel Science Foundation and the United States-Israel Binational Science Foundation;

(12) the United States and Israel should strive to develop more robust academic cooperation in—

(A) energy innovation technology and engineering;

(B) water science;

(C) technology transfer; and

(D) analysis of emerging geopolitical implications, crises and threats from foreign natural resource and energy acquisitions, and the development of domestic resources as a response;

(13) the United States supports the goals of the Alternative Fuels Administration of Israel with respect to expanding the use of alternative fuels;

(14) the United States strongly urges open dialogue and continued mechanisms for regular engagement and encourages further cooperation between applicable departments, agencies, ministries, institutions of higher education, and the private sector of the United States and Israel on energy security issues, including—

(A) identifying policy priorities associated with the development of natural resources of Israel;

(B) discussing and sharing best practices to secure cyber energy infrastructure and other energy security matters;

(C) leveraging natural gas to positively impact regional stability;

(D) issues relating to the energy-water nexus, including improving energy efficiency and the overall performance of water technologies through research and development in water desalination, wastewater treatment and reclamation, water treatment in gas and oil production processes, and other water treatment refiners;

(E) technical and environmental management of deep-water exploration and production;

(F) emergency response and coastal protection and restoration;

(G) academic outreach and engagement;

(H) private sector and business development engagement;

(I) regulatory consultations;

(J) leveraging alternative transportation fuels and technologies; and

(K) any other areas determined appropriate by the United States and Israel;

(15) the United States—

(A) acknowledges the achievements and importance of the Binational Industrial Research and Development Foundation and the United States-Israel Binational Science Foundation; and

(B) supports continued multiyear funding to ensure the continuity of the programs of the foundations specified in subparagraph (A); and

(16) the United States and Israel have a shared interest in addressing immediate, near-term, and long-term energy, energy poverty, energy independence, and environmental challenges facing the United States and Israel, respectively.

(b) Grant program

(1) Establishment

In implementing the agreement entitled the "Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation", dated February 1, 1996, the Secretary shall establish a grant program in accordance with the requirements of sections 16352 and 16353 of this title to support research, development, and commercialization of covered energy.

(2) Types of energy

In carrying out paragraph (1), the Secretary may make grants to promote—

(A) solar energy;

(B) biomass energy;

(C) energy efficiency;

(D) wind energy;

(E) geothermal energy;

(F) wave and tidal energy;

(G) advanced battery technology;

(H) natural gas energy, including conventional and unconventional natural gas technologies and other associated technologies, and natural gas projects conducted by or in conjunction with the United States-Israel Binational Science Foundation and the United States-Israel Binational Industrial Research and Development Foundation; and

(I) improvement of energy efficiency and the overall performance of water technologies through research and development in water desalination, wastewater treatment and reclamation, and other water treatment refiners.

(3) Eligible applicants

An applicant shall be eligible to receive a grant under this subsection if the project of the applicant—

(A) addresses a requirement in the area of improved covered energy sources, as determined by the Secretary; and

(B) is a joint venture between—

(i)(I) a for-profit business entity, academic institution, National Laboratory (as defined in section 15801 of this title), or nonprofit entity in the United States; and

(II) a for-profit business entity, academic institution, or nonprofit entity in Israel; or

(ii)(I) the Federal Government; and

(II) the Government of Israel.

(4) Applications

To be eligible to receive a grant under this subsection, an applicant shall submit to the Secretary an application for the grant in accordance with procedures established by the Secretary, in consultation with the advisory board established under paragraph (5).

(5) Advisory board

(A) Establishment

The Secretary shall establish an advisory board—

(i) to monitor the method by which grants are awarded under this subsection; and

(ii) to provide to the Secretary periodic performance reviews of actions taken to carry out this subsection.

(B) Composition

The advisory board established under subparagraph (A) shall be composed of 3 members, to be appointed by the Secretary, of whom—

(i) 1 shall be a representative of the Federal Government;

(ii) 1 shall be selected from a list of nominees provided by the United States-Israel Binational Science Foundation; and

(iii) 1 shall be selected from a list of nominees provided by the United States-Israel Binational Industrial Research and Development Foundation.

(6) Contributed funds

Notwithstanding section 3302 of title 31, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(7) Report

Not later than 180 days after the date of completion of a project for which a grant is provided under this subsection, the grant recipient shall submit to the Secretary a report that contains—

(A) a description of the method by which the recipient used the grant funds; and

(B) an evaluation of the level of success of each project funded by the grant.

(8) Classification

Grants shall be awarded under this subsection only for projects that are considered to be unclassified by both the United States and Israel.

(c) International partnerships

(1) In general

The Secretary, subject to the availability of appropriations, may enter into cooperative agreements supporting and enhancing dialogue and planning involving international partnerships between the Department, including National Laboratories of the Department, and the Government of Israel and its ministries, offices, and institutions.

(2) Federal share

The Secretary may not pay more than 50 percent of Federal share of the costs of implementing cooperative agreements entered into pursuant to paragraph (1).

(3) Annual reports

If the Secretary enters into agreements authorized by paragraph (1), the Secretary shall submit an annual report to the Committee on Energy and Natural Resources of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, the Committee on Energy and Commerce of the House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of the House of Representatives that describes—

(A) actions taken to implement such agreements; and

(B) any projects undertaken pursuant to such agreements.

(d) United States-Israel Energy Center

The Secretary may establish a joint United States-Israel Energy Center in the United States leveraging the experience, knowledge, and expertise of institutions of higher education and entities in the private sector, among others, in offshore energy development to further dialogue and collaboration to develop more robust academic cooperation in energy innovation technology and engineering, water science, technology transfer, and analysis of emerging geopolitical implications, crises and threats from foreign natural resource and energy acquisitions, and the development of domestic resources as a response.

(e) Termination

The grant program and the advisory committee established under this section terminate on September 30, 2024.

(Pub. L. 110–140, title IX, §917, Dec. 19, 2007, 121 Stat. 1730; Pub. L. 113–296, §12(a)–(c)(1), Dec. 19, 2014, 128 Stat. 4078–4080.)

EDITORIAL NOTES

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113–296, §12(a)(1), substituted "covered" for "renewable".

Subsec. (a)(4). Pub. L. 113–296, §12(a)(2), substituted "possible—" for "possible", designated remaining existing provisions as subpar. (A), and added subpar. (B).

Subsec. (a)(6). Pub. L. 113–296, §12(a)(3)(A), substituted "covered" for "renewable".

Subsec. (a)(7). Pub. L. 113–296, §12(a)(4)(A), substituted "covered" for "renewable".

Subsec. (a)(8) to (16). Pub. L. 113–296, §12(a)(3)(B), (4)(B), (5), added pars. (8) to (16).

Subsec. (b)(1). Pub. L. 113–296, §12(b)(1), substituted "covered energy" for "renewable energy or energy efficiency".

Subsec. (b)(2)(H), (I). Pub. L. 113–296, §12(b)(2), added subpars. (H) and (I).

Subsec. (b)(3)(A). Pub. L. 113–296, §12(b)(3), substituted "covered" for "energy efficiency or renewable".

Subsec. (c). Pub. L. 113–296, §12(c)(1)(C), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 113–296, §12(c)(1)(A), (C), added subsec. (d) and struck out former subsec. (d) which related to authorization of appropriations.

Subsec. (e). Pub. L. 113–296, §12(c)(1)(B), (D), redesignated subsec. (c) as (e) and substituted "September 30, 2024" for "the date that is 7 years after December 19, 2007".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART B—INTERNATIONAL CLEAN ENERGY FOUNDATION

§17351. Definitions

In this part:

(1) Board

The term "Board" means the Board of Directors of the Foundation established pursuant to section 17352(c) of this title.

(2) Chief Executive Officer

The term "Chief Executive Officer" means the chief executive officer of the Foundation appointed pursuant to section 17352(b) of this title.

(3) Foundation

The term "Foundation" means the International Clean Energy Foundation established by section 17352(a) of this title.

(Pub. L. 110–140, title IX, §921, Dec. 19, 2007, 121 Stat. 1732.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17352. Establishment and management of Foundation

(a) Establishment

(1) In general

There is established in the executive branch a foundation to be known as the "International Clean Energy Foundation" that shall be responsible for carrying out the provisions of this part. The Foundation shall be a government corporation, as defined in section 103 of title 5.

(2) Board of Directors

The Foundation shall be governed by a Board of Directors in accordance with subsection (c).

(3) Intent of Congress

It is the intent of Congress, in establishing the structure of the Foundation set forth in this subsection, to create an entity that serves the long-term foreign policy and energy security goals of reducing global greenhouse gas emissions.

(b) Chief Executive Officer

(1) In general

There shall be in the Foundation a Chief Executive Officer who shall be responsible for the management of the Foundation.

(2) Appointment

The Chief Executive Officer shall be appointed by the Board, with the advice and consent of the Senate, and shall be a recognized leader in clean and efficient energy technologies and climate change and shall have experience in energy security, business, or foreign policy, chosen on the basis of a rigorous search.

(3) Relationship to Board

The Chief Executive Officer shall report to, and be under the direct authority of, the Board.

(4) Compensation and rank

(A) In general

The Chief Executive Officer shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(B) Omitted

(C) Authorities and duties

The Chief Executive Officer shall be responsible for the management of the Foundation and shall exercise the powers and discharge the duties of the Foundation.

(D) Authority to appoint officers

In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Foundation.

(c) Board of Directors

(1) Establishment

There shall be in the Foundation a Board of Directors.

(2) Duties

The Board shall perform the functions specified to be carried out by the Board in this part and may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised.

(3) Membership

The Board shall consist of—

(A) the Secretary of State (or the Secretary's designee), the Secretary of Energy (or the Secretary's designee), and the Administrator of the United States Agency for International Development (or the Administrator's designee); and

(B) four other individuals with relevant experience in matters relating to energy security (such as individuals who represent institutions of energy policy, business organizations, foreign policy organizations, or other relevant organizations) who shall be appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) one individual shall be appointed from among a list of individuals submitted by the Majority Leader of the House of Representatives;

(ii) one individual shall be appointed from among a list of individuals submitted by the

Minority Leader of the House of Representatives;

(iii) one individual shall be appointed from among a list of individuals submitted by the Majority Leader of the Senate; and

(iv) one individual shall be appointed from among a list of individuals submitted by the Minority Leader of the Senate.

(4) Chief Executive Officer

The Chief Executive Officer of the Foundation shall serve as a nonvoting, ex officio member of the Board.

(5) Terms

(A) Officers of the Federal Government

Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) Other members

Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 3 years.

(C) Vacancies

A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(D) Acting members

A vacancy in the Board may be filled with an appointment of an acting member by the Chairperson of the Board for up to 1 year while a nominee is named and awaits confirmation in accordance with paragraph (3)(B).

(6) Chairperson

There shall be a Chairperson of the Board. The Secretary of State (or the Secretary's designee) shall serve as the Chairperson.

(7) Quorum

A majority of the members of the Board described in paragraph (3) shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on December 19, 2007, shall include at least 1 member of the Board described in paragraph (3)(B).

(8) Meetings

The Board shall meet at the call of the Chairperson, who shall call a meeting no less than once a year.

(9) Compensation

(A) Officers of the Federal Government

(i) In general

A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) Travel expenses

Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

(B) Other members

(i) In general

Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this part at the daily equivalent of the highest rate payable under section 5332 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5.

(ii) Limitation

A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

(Pub. L. 110–140, title IX, §922, Dec. 19, 2007, 121 Stat. 1733.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 922 of Pub. L. 110–140. Subsec. (b)(4)(B) of section 922 of Pub. L. 110–140 amended section 5314 of Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17353. Duties of Foundation

The Foundation shall—

(1) use the funds authorized by this part to make grants to promote projects outside of the United States that serve as models of how to significantly reduce the emissions of global greenhouse gases through clean and efficient energy technologies, processes, and services;

(2) seek contributions from foreign governments, especially those rich in energy resources such as member countries of the Organization of the Petroleum Exporting Countries, and private organizations to supplement funds made available under this part;

(3) harness global expertise through collaborative partnerships with foreign governments and domestic and foreign private actors, including nongovernmental organizations and private sector companies, by leveraging public and private capital, technology, expertise, and services towards innovative models that can be instituted to reduce global greenhouse gas emissions;

(4) create a repository of information on best practices and lessons learned on the utilization and implementation of clean and efficient energy technologies and processes to be used for future initiatives to tackle the climate change crisis;

(5) be committed to minimizing administrative costs and to maximizing the availability of funds for grants under this part; and

(6) promote the use of American-made clean and efficient energy technologies, processes, and services by giving preference to entities incorporated in the United States and whose technology will be substantially manufactured in the United States.

(Pub. L. 110–140, title IX, §923, Dec. 19, 2007, 121 Stat. 1735.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17354. Annual report

(a) Report required

Not later than March 31, 2008, and each March 31 thereafter, the Foundation shall submit to the appropriate congressional committees a report on the implementation of this part during the prior fiscal year.

(b) Contents

The report required by subsection (a) shall include—

(1) the total financial resources available to the Foundation during the year, including appropriated funds, the value and source of any gifts or donations accepted pursuant to section 17355(a)(6) of this title, and any other resources;

(2) a description of the Board's policy priorities for the year and the basis upon which competitive grant proposals were solicited and awarded to nongovernmental institutions and other organizations;

(3) a list of grants made to nongovernmental institutions and other organizations that includes the identity of the institutional recipient, the dollar amount, and the results of the program; and

(4) the total administrative and operating expenses of the Foundation for the year, as well as specific information on—

(A) the number of Foundation employees and the cost of compensation for Board members, Foundation employees, and personal service contractors;

(B) costs associated with securing the use of real property for carrying out the functions of the Foundation;

(C) total travel expenses incurred by Board members and Foundation employees in connection with Foundation activities; and

(D) total representational expenses.

(Pub. L. 110–140, title IX, §924, Dec. 19, 2007, 121 Stat. 1736.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17355. Powers of the Foundation; related provisions

(a) Powers

The Foundation—

(1) shall have perpetual succession unless dissolved by a law enacted after December 19, 2007;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may accept money, funds, services, or property (real, personal, or mixed), tangible or

intangible, made available by gift, bequest [1] grant, or otherwise for the purpose of carrying out the provisions of this subchapter from domestic or foreign private individuals, charities, nongovernmental organizations, corporations, or governments;

(7) may use the United States mails in the same manner and on the same conditions as the executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this part.

(b) Principal office

The Foundation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) Applicability of Government Corporation Control Act

(1) In general

The Foundation shall be subject to chapter 91 of subtitle VI of title 31, except that the Foundation shall not be authorized to issue obligations or offer obligations to the public.

(2) Omitted

(d) Inspector General

(1) In general

The Inspector General of the Department of State shall serve as Inspector General of the Foundation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Foundation.

(2) Authority of the Board

In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) Reimbursement and authorization of services

(A) Reimbursement

The Foundation shall reimburse the Department of State for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

(B) Authorization for services

Of the amount authorized to be appropriated under section 17357(a) of this title for a fiscal year, up to $500,000 is authorized to be made available to the Inspector General of the Department of State to conduct reviews, investigations, and inspections of operations and activities of the Foundation.

(Pub. L. 110–140, title IX, §925, Dec. 19, 2007, 121 Stat. 1736.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(6), was in the original "this title", meaning title IX of Pub. L. 110–140, Dec. 19, 2007, 121 Stat. 1725, which enacted this subchapter and amended section 5314 of Title 5, Government Organization and Employees, section 9101 of Title 31, Money and Finance, and section 3021 of Title 50, War and National Defense. For complete classification of title IX to the Code, see Tables.

CODIFICATION

Section is comprised of section 925 of Pub. L. 110–140. Subsec. (c)(2) of section 925 of Pub. L. 110–140 amended section 9101 of Title 31, Money and Finance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] *So in original. A comma probably should appear.*

§17356. General personnel authorities

(a) Detail of personnel

Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Foundation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee's allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) Reemployment rights

(1) In general

An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Foundation, is entitled to be reemployed in such employee's former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Foundation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Foundation.

(2) Specific rights

An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) Hiring authority

Of persons employed by the Foundation, no more than 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) Basic pay

The Chief Executive Officer may fix the rate of basic pay of employees of the Foundation without regard to the provisions of chapter 51 of title 5 (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Foundation may receive a rate of basic pay that exceeds the rate for level IV of the Executive Schedule under section 5315 of such title.

(e) Definitions

In this section—

(1) the term "agency" means an executive agency, as defined by section 105 of title 5; and

(2) the term "detail" means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Foundation.

(Pub. L. 110–140, title IX, §926, Dec. 19, 2007, 121 Stat. 1737.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17357. Authorization of appropriations

(a) Authorization of appropriations

To carry out this part, there are authorized to be appropriated $20,000,000 for each of the fiscal years 2009 through 2013.

(b) Allocation of funds

(1) In general

The Foundation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this part. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this part or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

(2) Notification

The Foundation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

(Pub. L. 110–140, title IX, §927, Dec. 19, 2007, 121 Stat. 1738.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

PART C—MISCELLANEOUS PROVISIONS

§17371. Energy diplomacy and security within the Department of State

(a) State Department Coordinator for International Energy Affairs

(1) In general

The Secretary of State should ensure that energy security is integrated into the core mission of the Department of State.

(2) Coordinator for International Energy Affairs

There is established within the Office of the Secretary of State a Coordinator for International Energy Affairs, who shall be responsible for—

(A) representing the Secretary of State in interagency efforts to develop the international energy policy of the United States;

(B) ensuring that analyses of the national security implications of global energy and environmental developments are reflected in the decision making process within the Department of State;

(C) incorporating energy security priorities into the activities of the Department of State;

(D) coordinating energy activities of the Department of State with relevant Federal agencies; and

(E) coordinating energy security and other relevant functions within the Department of State currently undertaken by offices within—

(i) the Bureau of Economic, Energy and Business Affairs;

(ii) the Bureau of Oceans and International Environmental and Scientific Affairs; and

(iii) other offices within the Department of State.

(3) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) Energy experts in key embassies

Not later than 180 days after December 19, 2007, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that includes—

(1) a description of the Department of State personnel who are dedicated to energy matters and are stationed at embassies and consulates in countries that are major energy producers or consumers;

(2) an analysis of the need for Federal energy specialist personnel in United States embassies and other United States diplomatic missions; and

(3) recommendations for increasing energy expertise within United States embassies among foreign service officers and options for assigning to such embassies energy attachés from the National Laboratories or other agencies within the Department of Energy.

(c) Energy advisors

The Secretary of Energy may make appropriate arrangements with the Secretary of State to assign personnel from the Department of Energy or the National Laboratories of the Department of Energy to serve as dedicated advisors on energy matters in embassies of the United States or other United States diplomatic missions.

(d) Report

Not later than 180 days after December 19, 2007, and every 2 years thereafter for the following 20 years, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that describes—

(1) the energy-related activities being conducted by the Department of State, including activities within—

(A) the Bureau of Economic, Energy and Business Affairs;

(B) the Bureau of Oceans and Environmental and Scientific Affairs; and

(C) other offices within the Department of State;

(2) the amount of funds spent on each activity within each office described in paragraph (1); and

(3) the number and qualification of personnel in each embassy (or relevant foreign posting) of the United States whose work is dedicated exclusively to energy matters.

(Pub. L. 110–140, title IX, §931, Dec. 19, 2007, 121 Stat. 1739.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17372. Annual national energy security strategy report

(a) Reports

(1) In general

Subject to paragraph (2), on the date on which the President submits to Congress the budget for the following fiscal year under section 1105 of title 31, the President shall submit to Congress a comprehensive report on the national energy security of the United States.

(2) New Presidents

In addition to the reports required under paragraph (1), the President shall submit a comprehensive report on the national energy security of the United States by not later than 150 days after the date on which the President assumes the office of President after a presidential election.

(b) Contents

Each report under this section shall describe the national energy security strategy of the United States, including a comprehensive description of—

(1) the worldwide interests, goals, and objectives of the United States that are vital to the national energy security of the United States;

(2) the foreign policy, worldwide commitments, and national defense capabilities of the United States necessary—

(A) to deter political manipulation of world energy resources; and

(B) to implement the national energy security strategy of the United States;

(3) the proposed short-term and long-term uses of the political, economic, military, and other authorities of the United States—

(A) to protect or promote energy security; and

(B) to achieve the goals and objectives described in paragraph (1);

(4) the adequacy of the capabilities of the United States to protect the national energy security of the United States, including an evaluation of the balance among the capabilities of all elements of the national authority of the United States to support the implementation of the national energy security strategy; and

(5) such other information as the President determines to be necessary to inform Congress on matters relating to the national energy security of the United States.

(c) Classified and unclassified form

Each national energy security strategy report shall be submitted to Congress in—

(1) a classified form; and

(2) an unclassified form.

(Pub. L. 110–140, title IX, §933, Dec. 19, 2007, 121 Stat. 1740.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17373. Convention on Supplementary Compensation for Nuclear Damage contingent cost allocation

(a) Findings and purpose

(1) Findings

Congress finds that—

(A) section 2210 of this title (commonly known as the "Price-Anderson Act")—

(i) provides a predictable legal framework necessary for nuclear projects; and

(ii) ensures prompt and equitable compensation in the event of a nuclear incident in the United States;

(B) the Price-Anderson Act, in effect, provides operators of nuclear powerplants with insurance for damage arising out of a nuclear incident and funds the insurance primarily through the assessment of a retrospective premium from each operator after the occurrence of a nuclear incident;

(C) the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997, will establish a global system—

(i) to provide a predictable legal framework necessary for nuclear energy projects; and

(ii) to ensure prompt and equitable compensation in the event of a nuclear incident;

(D) the Convention benefits United States nuclear suppliers that face potentially unlimited liability for nuclear incidents that are not covered by the Price-Anderson Act by replacing a potentially open-ended liability with a predictable liability regime that, in effect, provides nuclear suppliers with insurance for damage arising out of such an incident;

(E) the Convention also benefits United States nuclear facility operators that may be publicly liable for a Price-Anderson incident by providing an additional early source of funds to compensate damage arising out of the Price-Anderson incident;

(F) the combined operation of the Convention, the Price-Anderson Act, and this section will augment the quantity of assured funds available for victims in a wider variety of nuclear incidents while reducing the potential liability of United States suppliers without increasing potential costs to United States operators;

(G) the cost of those benefits is the obligation of the United States to contribute to the supplementary compensation fund established by the Convention;

(H) any such contribution should be funded in a manner that does not—

(i) upset settled expectations based on the liability regime established under the Price-Anderson Act; or

(ii) shift to Federal taxpayers liability risks for nuclear incidents at foreign installations;

(I) with respect to a Price-Anderson incident, funds already available under the Price-Anderson Act should be used; and

(J) with respect to a nuclear incident outside the United States not covered by the Price-Anderson Act, a retrospective premium should be prorated among nuclear suppliers relieved from potential liability for which insurance is not available.

(2) Purpose

The purpose of this section is to allocate the contingent costs associated with participation by the United States in the international nuclear liability compensation system established by the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997—

(A) with respect to a Price-Anderson incident, by using funds made available under section 2210 of this title to cover the contingent costs in a manner that neither increases the burdens nor decreases the benefits under section 2210 of this title; and

(B) with respect to a covered incident outside the United States that is not a Price-Anderson incident, by allocating the contingent costs equitably, on the basis of risk, among the class of nuclear suppliers relieved by the Convention from the risk of potential liability resulting from any covered incident outside the United States.

(b) Definitions

In this section:

(1) Commission

The term "Commission" means the Nuclear Regulatory Commission.

(2) Contingent cost

The term "contingent cost" means the cost to the United States in the event of a covered incident the amount of which is equal to the amount of funds the United States is obligated to make available under paragraph 1(b) of Article III of the Convention.

(3) Convention

The term "Convention" means the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Covered incident

The term "covered incident" means a nuclear incident the occurrence of which results in a request for funds pursuant to Article VII of the Convention.

(5) Covered installation

The term "covered installation" means a nuclear installation at which the occurrence of a nuclear incident could result in a request for funds under Article VII of the Convention.

(6) Covered person

(A) In general

The term "covered person" means—

(i) a United States person; and

(ii) an individual or entity (including an agency or instrumentality of a foreign country) that—

(I) is located in the United States; or

(II) carries out an activity in the United States.

(B) Exclusions

The term "covered person" does not include—

(i) the United States; or

(ii) any agency or instrumentality of the United States.

(7) Nuclear supplier

The term "nuclear supplier" means a covered person (or a successor in interest of a covered person) that—

(A) supplies facilities, equipment, fuel, services, or technology pertaining to the design, construction, operation, or decommissioning of a covered installation; or

(B) transports nuclear materials that could result in a covered incident.

(8) Price-Anderson incident

The term "Price-Anderson incident" means a covered incident for which section 2210 of this title would make funds available to compensate for public liability (as defined in section 2014 of this title).

(9) Secretary

The term "Secretary" means the Secretary of Energy.

(10) United States

(A) In general

The term "United States" has the meaning given the term in section 2014 of this title.

(B) Inclusions

The term "United States" includes—

(i) the Commonwealth of Puerto Rico;

(ii) any other territory or possession of the United States;

(iii) the Canal Zone; and

(iv) the waters of the United States territorial sea under Presidential Proclamation Number 5928, dated December 27, 1988 (43 U.S.C. 1331 note).

(11) United States person

The term "United States person" means—

(A) any individual who is a resident, national, or citizen of the United States (other than an individual residing outside of the United States and employed by a person who is not a United States person); and

(B) any corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the laws of the United States.

(c) Use of Price-Anderson funds

(1) In general

Funds made available under section 2210 of this title shall be used to cover the contingent cost resulting from any Price-Anderson incident.

(2) Effect

The use of funds pursuant to paragraph (1) shall not reduce the limitation on public liability established under section 2210(e) of this title.

(d) Effect on amount of public liability

(1) In general

Funds made available to the United States under Article VII of the Convention with respect to a Price-Anderson incident shall be used to satisfy public liability resulting from the Price-Anderson incident.

(2) Amount

The amount of public liability allowable under section 2210 of this title relating to a Price-Anderson incident under paragraph (1) shall be increased by an amount equal to the difference between—

(A) the amount of funds made available for the Price-Anderson incident under Article VII of the Convention; and

(B) the amount of funds used under subsection (c) to cover the contingent cost resulting from the Price-Anderson incident.

(e) Retrospective risk pooling program

(1) In general

Except as provided under paragraph (2), each nuclear supplier shall participate in a retrospective risk pooling program in accordance with this section to cover the contingent cost resulting from a covered incident outside the United States that is not a Price-Anderson incident.

(2) Deferred payment

(A) In general

The obligation of a nuclear supplier to participate in the retrospective risk pooling program shall be deferred until the United States is called on to provide funds pursuant to Article VII of the Convention with respect to a covered incident that is not a Price-Anderson incident.

(B) Amount of deferred payment

The amount of a deferred payment of a nuclear supplier under subparagraph (A) shall be based on the risk-informed assessment formula determined under subparagraph (C).

(C) Risk-informed assessment formula

(i) In general

Not later than 3 years after December 19, 2007, and every 5 years thereafter, the Secretary

shall, by regulation, determine the risk-informed assessment formula for the allocation among nuclear suppliers of the contingent cost resulting from a covered incident that is not a Price-Anderson incident, taking into account risk factors such as—

(I) the nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(II) the quantity of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(III) the hazards associated with the supplied goods and services if the goods and services fail to achieve the intended purposes;

(IV) the hazards associated with the covered installation outside the United States to which the goods and services are supplied;

(V) the legal, regulatory, and financial infrastructure associated with the covered installation outside the United States to which the goods and services are supplied; and

(VI) the hazards associated with particular forms of transportation.

(ii) Factors for consideration

In determining the formula, the Secretary may—

(I) exclude—

(aa) goods and services with negligible risk;

(bb) classes of goods and services not intended specifically for use in a nuclear installation;

(cc) a nuclear supplier with a de minimis share of the contingent cost; and

(dd) a nuclear supplier no longer in existence for which there is no identifiable successor; and

(II) establish the period on which the risk assessment is based.

(iii) Application

In applying the formula, the Secretary shall not consider any covered installation or transportation for which funds would be available under section 2210 of this title.

(iv) Report

Not later than 5 years after December 19, 2007, and every 5 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on whether there is a need for continuation or amendment of this section, taking into account the effects of the implementation of the Convention on the United States nuclear industry and suppliers.

(f) Reporting

(1) Collection of information

(A) In general

The Secretary may collect information necessary for developing and implementing the formula for calculating the deferred payment of a nuclear supplier under subsection (e)(2).

(B) Provision of information

Each nuclear supplier and other appropriate persons shall make available to the Secretary such information, reports, records, documents, and other data as the Secretary determines, by regulation, to be necessary or appropriate to develop and implement the formula under subsection (e)(2)(C).

(2) Private insurance

The Secretary shall make available to nuclear suppliers, and insurers of nuclear suppliers, information to support the voluntary establishment and maintenance of private insurance against any risk for which nuclear suppliers may be required to pay deferred payments under this section.

(g) Effect on liability

Nothing in any other law (including regulations) limits liability for a covered incident to an amount equal to less than the amount prescribed in paragraph 1(a) of Article IV of the Convention, unless the law—

(1) specifically refers to this section; and

(2) explicitly repeals, alters, amends, modifies, impairs, displaces, or supersedes the effect of this subsection.

(h) Payments to and by the United States

(1) Action by nuclear suppliers

(A) Notification

In the case of a request for funds under Article VII of the Convention resulting from a covered incident that is not a Price-Anderson incident, the Secretary shall notify each nuclear supplier of the amount of the deferred payment required to be made by the nuclear supplier.

(B) Payments

(i) In general

Except as provided under clause (ii), not later than 60 days after receipt of a notification under subparagraph (A), a nuclear supplier shall pay to the general fund of the Treasury the deferred payment of the nuclear supplier required under subparagraph (A).

(ii) Annual payments

A nuclear supplier may elect to prorate payment of the deferred payment required under subparagraph (A) in 5 equal annual payments (including interest on the unpaid balance at the prime rate prevailing at the time the first payment is due).

(C) Vouchers

A nuclear supplier shall submit payment certification vouchers to the Secretary of the Treasury in accordance with section 3325 of title 31.

(2) Use of funds

(A) In general

Amounts paid into the Treasury under paragraph (1) shall be available to the Secretary of the Treasury, without further appropriation and without fiscal year limitation, for the purpose of making the contributions of public funds required to be made by the United States under the Convention.

(B) Action by Secretary of Treasury

The Secretary of the Treasury shall pay the contribution required under the Convention to the court of competent jurisdiction under Article XIII of the Convention with respect to the applicable covered incident.

(3) Failure to pay

If a nuclear supplier fails to make a payment required under this subsection, the Secretary may take appropriate action to recover from the nuclear supplier—

(A) the amount of the payment due from the nuclear supplier;

(B) any applicable interest on the payment; and

(C) a penalty of not more than twice the amount of the deferred payment due from the nuclear supplier.

(i) Limitation on judicial review; cause of action

(1) Limitation on judicial review

(A) In general

In any civil action arising under the Convention over which Article XIII of the Convention

grants jurisdiction to the courts of the United States, any appeal or review by writ of mandamus or otherwise with respect to a nuclear incident that is not a Price-Anderson incident shall be in accordance with chapter 83 of title 28, except that the appeal or review shall occur in the United States Court of Appeals for the District of Columbia Circuit.

(B) Supreme Court jurisdiction

Nothing in this paragraph affects the jurisdiction of the Supreme Court of the United States under chapter 81 of title 28.

(2) Cause of action

(A) In general

Subject to subparagraph (B), in any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, in addition to any other cause of action that may exist, an individual or entity shall have a cause of action against the operator to recover for nuclear damage suffered by the individual or entity.

(B) Requirement

Subparagraph (A) shall apply only if the individual or entity seeks a remedy for nuclear damage (as defined in Article I of the Convention) that was caused by a nuclear incident (as defined in Article I of the Convention) that is not a Price-Anderson incident.

(C) Savings provision

Nothing in this paragraph may be construed to limit, modify, extinguish, or otherwise affect any cause of action that would have existed in the absence of enactment of this paragraph.

(j) Right of recourse

This section does not provide to an operator of a covered installation any right of recourse under the Convention.

(k) Protection of sensitive United States information

Nothing in the Convention or this section requires the disclosure of—

(1) any data that, at any time, was Restricted Data (as defined in section 2014 of this title);

(2) information relating to intelligence sources or methods protected by section 3024(i) of title 50; or

(3) national security information classified under Executive Order 12958 ([former] 50 U.S.C. 435 note; relating to classified national security information) (or a successor Executive Order or regulation).

(l) Regulations

(1) In general

The Secretary or the Commission, as appropriate, may prescribe regulations to carry out section 2210 of this title and this section.

(2) Requirement

Rules prescribed under this subsection shall ensure, to the maximum extent practicable, that—

(A) the implementation of section 2210 of this title and this section is consistent and equitable; and

(B) the financial and operational burden on a Commission licensee in complying with section 2210 of this title is not greater as a result of the enactment of this section.

(3) Applicability of provision

Section 553 of title 5 shall apply with respect to the promulgation of regulations under this subsection.

(4) Effect of subsection

The authority provided under this subsection is in addition to, and does not impair or otherwise

affect, any other authority of the Secretary or the Commission to prescribe regulations.

(m) Effective date

This section shall take effect on December 19, 2007.

(Pub. L. 110–140, title IX, §934, Dec. 19, 2007, 121 Stat. 1741.)

EDITORIAL NOTES

REFERENCES IN TEXT

Presidential Proclamation Number 5928, referred to in subsec. (b)(10)(B)(iv), is set out as a note under section 1331 of Title 43, Public Lands.

Executive Order 12958, referred to in subsec. (k)(3), which was formerly set out as a note under section 435 (now section 3161) of Title 50, War and National Defense, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17374. Transparency in extractive industries resource payments

(a) Purpose

The purpose of this section is to—

(1) ensure greater United States energy security by combating corruption in the governments of foreign countries that receive revenues from the sale of their natural resources; and

(2) enhance the development of democracy and increase political and economic stability in such resource rich foreign countries.

(b) Statement of policy

It is the policy of the United States—

(1) to increase energy security by promoting anti-corruption initiatives in oil and natural gas rich countries; and

(2) to promote global energy security through promotion of programs such as the Extractive Industries Transparency Initiative (EITI) that seek to instill transparency and accountability into extractive industries resource payments.

(c) Sense of Congress

It is the sense of Congress that the United States should further global energy security and promote democratic development in resource-rich foreign countries by—

(1) encouraging further participation in the EITI by eligible countries and companies; and

(2) promoting the efficacy of the EITI program by ensuring a robust and candid review mechanism.

(d) Report

(1) Report required

Not later than 180 days after December 19, 2007, and annually thereafter, the Secretary of State, in consultation with the Secretary of Energy, shall submit to the appropriate congressional committees a report on progress made in promoting transparency in extractive industries resource payments.

(2) Matters to be included

The report required by paragraph (1) shall include a detailed description of United States

participation in the EITI, bilateral and multilateral diplomatic efforts to further participation in the EITI, and other United States initiatives to strengthen energy security, deter energy kleptocracy, and promote transparency in the extractive industries.

(e) Authorization of appropriations

There is authorized to be appropriated $3,000,000 for the purposes of United States contributions to the Multi-Donor Trust Fund of the EITI.

(Pub. L. 110–140, title IX, §935, Dec. 19, 2007, 121 Stat. 1748.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

SUBCHAPTER IX—SMART GRID

§17381. Statement of policy on modernization of electricity grid

It is the policy of the United States to support the modernization of the Nation's electricity transmission and distribution system to maintain a reliable and secure electricity infrastructure that can meet future demand growth and to achieve each of the following, which together characterize a Smart Grid:

(1) Increased use of digital information and controls technology to improve reliability, security, and efficiency of the electric grid.

(2) Dynamic optimization of grid operations and resources, with full cyber-security.

(3) Deployment and integration of distributed resources and generation, including renewable resources.

(4) Development and incorporation of demand response, demand-side resources, and energy-efficiency resources.

(5) Deployment of "smart" technologies (real-time, automated, interactive technologies that optimize the physical operation of appliances and consumer devices) for metering, communications concerning grid operations and status, and distribution automation.

(6) Integration of "smart" appliances and consumer devices.

(7) Deployment and integration of advanced electricity storage and peak-shaving technologies, including plug-in electric and hybrid electric vehicles, and thermal-storage air conditioning.

(8) Provision to consumers of timely information and control options.

(9) Development of standards for communication and interoperability of appliances and equipment connected to the electric grid, including the infrastructure serving the grid.

(10) Identification and lowering of unreasonable or unnecessary barriers to adoption of smart grid technologies, practices, and services.

(Pub. L. 110–140, title XIII, §1301, Dec. 19, 2007, 121 Stat. 1783.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17382. Smart grid system report

The Secretary, acting through the Assistant Secretary of the Office of Electricity Delivery and Energy Reliability (referred to in this section as the "OEDER") and through the Smart Grid Task Force established in section 17383 of this title, shall, after consulting with any interested individual or entity as appropriate, no later than 1 year after December 19, 2007, and every 2 years thereafter, report to Congress concerning the status of smart grid deployments nationwide and any regulatory or government barriers to continued deployment. The report shall provide the current status and prospects of smart grid development, including information on technology penetration, communications network capabilities, costs, and obstacles. It may include recommendations for State and Federal policies or actions helpful to facilitate the transition to a smart grid. To the extent appropriate, it should take a regional perspective. In preparing this report, the Secretary shall solicit advice and contributions from the Smart Grid Advisory Committee created in section 17383 of this title; from other involved Federal agencies including but not limited to the Federal Energy Regulatory Commission ("Commission"), the National Institute of Standards and Technology ("Institute"), and the Department of Homeland Security; and from other stakeholder groups not already represented on the Smart Grid Advisory Committee.

(Pub. L. 110–140, title XIII, §1302, Dec. 19, 2007, 121 Stat. 1784.)

EDITORIAL NOTES

CODIFICATION

December 19, 2007, referred to in text, was in the original "enactment" and was translated as meaning the date of enactment of Pub. L. 110–140 to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17383. Smart Grid Advisory Committee and Smart Grid Task Force

(a) Smart Grid Advisory Committee

(1) Establishment

The Secretary shall establish, within 90 days of December 19, 2007, a Smart Grid Advisory Committee (either as an independent entity or as a designated sub-part of a larger advisory committee on electricity matters). The Smart Grid Advisory Committee shall include eight or more members appointed by the Secretary who have sufficient experience and expertise to represent the full range of smart grid technologies and services, to represent both private and non-Federal public sector stakeholders. One member shall be appointed by the Secretary to Chair the Smart Grid Advisory Committee.

(2) Mission

The mission of the Smart Grid Advisory Committee shall be to advise the Secretary, the Assistant Secretary, and other relevant Federal officials concerning the development of smart grid technologies, the progress of a national transition to the use of smart-grid technologies and services, the evolution of widely-accepted technical and practical standards and protocols to allow interoperability and inter-communication among smart-grid capable devices, and the optimum means of using Federal incentive authority to encourage such progress.

(3) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Smart Grid Advisory

Committee.

(b) Smart Grid Task Force

(1) Establishment

The Assistant Secretary of the Office of Electricity Delivery and Energy Reliability shall establish, within 90 days of December 19, 2007, a Smart Grid Task Force composed of designated employees from the various divisions of that office who have responsibilities related to the transition to smart-grid technologies and practices. The Assistant Secretary or his designee shall be identified as the Director of the Smart Grid Task Force. The Chairman of the Federal Energy Regulatory Commission and the Director of the National Institute of Standards and Technology shall each designate at least one employee to participate on the Smart Grid Task Force. Other members may come from other agencies at the invitation of the Assistant Secretary or the nomination of the head of such other agency. The Smart Grid Task Force shall, without disrupting the work of the Divisions or Offices from which its members are drawn, provide an identifiable Federal entity to embody the Federal role in the national transition toward development and use of smart grid technologies.

(2) Mission

The mission of the Smart Grid Task Force shall be to insure awareness, coordination and integration of the diverse activities of the Office and elsewhere in the Federal Government related to smart-grid technologies and practices, including but not limited to: smart grid research and development; development of widely accepted smart-grid standards and protocols; the relationship of smart-grid technologies and practices to electric utility regulation; the relationship of smart-grid technologies and practices to infrastructure development, system reliability and security; and the relationship of smart-grid technologies and practices to other facets of electricity supply, demand, transmission, distribution, and policy. The Smart Grid Task Force shall collaborate with the Smart Grid Advisory Committee and other Federal agencies and offices. The Smart Grid Task Force shall meet at the call of its Director as necessary to accomplish its mission.

(c) Authorization

There are authorized to be appropriated for the purposes of this section such sums as are necessary to the Secretary to support the operations of the Smart Grid Advisory Committee and Smart Grid Task Force for each of fiscal years 2008 through 2020.

(Pub. L. 110–140, title XIII, §1303, Dec. 19, 2007, 121 Stat. 1784.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

§17384. Smart grid technology research, development, and demonstration

(a) Power grid digital information technology

The Secretary, in consultation with the Federal Energy Regulatory Commission and other appropriate agencies, electric utilities, the States, and other stakeholders, shall carry out a research, development, and demonstration program—

(1) to develop advanced techniques for measuring peak load reductions and energy-efficiency savings from smart metering, demand response, distributed generation, and electricity storage systems;

(2) to investigate means for demand response, distributed generation, and storage to provide ancillary services;

(3) to conduct research to advance the use of wide-area measurement and control networks, including data mining, visualization, advanced computing, and secure and dependable communications in a highly-distributed environment;

(4) to test new reliability technologies, including those concerning communications network capabilities, in a grid control room environment against a representative set of local outage and wide area blackout scenarios;

(5) to identify communications network capacity needed to implement advanced technologies.[1]

(6) to investigate the feasibility of a transition to time-of-use and real-time electricity pricing;

(7) to develop algorithms for use in electric transmission system software applications;

(8) to promote the use of underutilized electricity generation capacity in any substitution of electricity for liquid fuels in the transportation system of the United States; and

(9) in consultation with the Federal Energy Regulatory Commission, to propose interconnection protocols to enable electric utilities to access electricity stored in vehicles to help meet peak demand loads.

(b) Smart grid regional demonstration initiative

(1) In general

The Secretary shall establish a smart grid regional demonstration initiative (referred to in this subsection as the "Initiative") composed of demonstration projects focused on cost-effective, advanced technologies for use in power grid sensing, communications, analysis, power flow control, visualization, distribution automation, industrial control systems, dynamic line rating systems, grid redesign, and the integration of distributed energy resources.

(2) Goals

The goals of the Initiative shall be—

(A) to demonstrate the potential benefits of concentrated investments in advanced grid technologies on a regional grid;

(B) to facilitate the commercial transition from the current power transmission and distribution system technologies to advanced technologies;

(C) to facilitate the integration of advanced technologies in existing electric networks to improve system performance, power flow control, and reliability;

(D) to demonstrate protocols and standards that allow for the measurement and validation of the energy savings and fossil fuel emission reductions associated with the installation and use of energy efficiency and demand response technologies and practices;

(E) to investigate differences in each region and regulatory environment regarding best practices in implementing smart grid technologies; and

(F) to encourage the commercial application of advanced distribution automation technologies that exert intelligent control over electrical grid functions at the distribution level to improve system resilience.

(3) Demonstration projects

(A) In general

In carrying out the initiative,[2] the Secretary shall provide financial support to smart grid demonstration projects in urban, suburban, tribal, and rural areas, including areas where electric system assets are controlled by nonprofit entities and areas where electric system assets are controlled by investor-owned utilities.

(B) Cooperation

A demonstration project under subparagraph (A) shall be carried out in cooperation with the

electric utility that owns the grid facilities in the electricity control area in which the demonstration project is carried out.

(C) Federal share of cost of technology investments

The Secretary shall provide to an electric utility described in subparagraph (B) or to other parties financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid technology investments made by the electric utility or other party to carry out a demonstration project.

(D) Ineligibility for grants

No person or entity participating in any demonstration project conducted under this subsection shall be eligible for grants under section 17386 of this title for otherwise qualifying investments made as part of that demonstration project.

(E) Availability of data

The Secretary shall establish and maintain a smart grid information clearinghouse in a timely manner which will make data from smart grid demonstration projects and other sources available to the public. As a condition of receiving financial assistance under this subsection, a utility or other participant in a smart grid demonstration project shall provide such information as the Secretary may require to become available through the smart grid information clearinghouse in the form and within the timeframes as directed by the Secretary. The Secretary shall assure that business proprietary information and individual customer information is not included in the information made available through the clearinghouse.

(F) Open protocols and standards

The Secretary shall require as a condition of receiving funding under this subsection that demonstration projects utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate.

(c) Authorization of appropriations

There are authorized to be appropriated—

(1) to carry out subsection (a), such sums as are necessary for each of fiscal years 2008 through 2012; and

(2) to carry out subsection (b), such sums as may be necessary.

(Pub. L. 110–140, title XIII, §1304, Dec. 19, 2007, 121 Stat. 1786; Pub. L. 111–5, div. A, title IV, §405(1)–(4), Feb. 17, 2009, 123 Stat. 143, 144; Pub. L. 116–260, div. Z, title VIII, §8001, Dec. 27, 2020, 134 Stat. 2578.)

EDITORIAL NOTES

AMENDMENTS

2020—Subsec. (a). Pub. L. 116–260, §8001(1), inserted "research, development, and demonstration" before "program" in introductory provisions.

Subsec. (b)(1). Pub. L. 116–260, §8001(2)(A), amended par. (1) generally. Prior to amendment, text read as follows: "The Secretary shall establish a smart grid regional demonstration initiative (referred to in this subsection as the 'Initiative') composed of demonstration projects specifically focused on advanced technologies for use in power grid sensing, communications, analysis, and power flow control. The Secretary shall seek to leverage existing smart grid deployments."

Subsec. (b)(2)(F). Pub. L. 116–260, §8001(2)(B), added subpar. (F).

2009—Subsec. (b)(3)(A). Pub. L. 111–5, §405(1), amended subpar. (A) generally. Prior to amendment, text read as follows: "In carrying out the initiative, the Secretary shall carry out smart grid demonstration projects in up to 5 electricity control areas, including rural areas and at least 1 area in which the majority of generation and transmission assets are controlled by a tax-exempt entity."

Subsec. (b)(3)(C). Pub. L. 111–5, §405(2), amended subpar. (C) generally. Prior to amendment, text read as follows: "The Secretary shall provide to an electric utility described in subparagraph (B) financial assistance for use in paying an amount equal to not more than 50 percent of the cost of qualifying advanced grid

technology investments made by the electric utility to carry out a demonstration project."

Subsec. (b)(3)(E), (F). Pub. L. 111–5, §405(3), added subpars. (E) and (F).

Subsec. (c)(2). Pub. L. 111–5, §405(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "to carry out subsection (b), $100,000,000 for each of fiscal years 2008 through 2012."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] So in original. The period probably should be a semicolon.

[2] So in original. Probably should be "Initiative,".

§17384a. Smart grid modeling, visualization, architecture, and controls

(a) In general

Not later than 180 days after December 27, 2020, the Secretary shall establish a program of research, development, demonstration, and commercial application on electric grid modeling, sensing, visualization, architecture development, and advanced operation and controls.

(b) Modeling research and development

The Secretary shall support development of models of emerging technologies and systems to facilitate the secure and reliable design, planning, and operation of the electric grid for use by industry stakeholders. In particular, the Secretary shall support development of—

(1) models to analyze and predict the effects of adverse physical and cyber events on the electric grid;

(2) coupled models of electrical, physical, and cyber systems;

(3) models of existing and emerging technologies being deployed on the electric grid due to projected changes in the electric generation mix and loads, for a variety of regional characteristics; and

(4) integrated models of the communications, transmission, distribution, and other interdependent systems for existing, new, and emerging technologies.

(c) Situational awareness research and development

(1) In general

The Secretary shall support development of computational tools and technologies to improve sensing, monitoring, and visualization of the electric grid for real-time situational awareness and decision support tools that enable improved operation of the power system, including utility, non-utility, and customer grid-connected assets, for use by industry partners.

(2) Data use

In developing visualization capabilities under this section, the Secretary shall develop tools for industry stakeholders to use to analyze data collected from advanced measurement and monitoring technologies, including data from phasor measurement units and advanced metering units.

(3) Severe events

The Secretary shall prioritize enhancing cyber and physical situational awareness of the electric grid during adverse manmade and naturally-occurring events.

(d) Operation and controls research and development

The Secretary shall conduct research to develop improvements to the operation and controls of the electric grid, in coordination with industry partners. Such activities shall include—

(1) a training facility or facilities to allow grid operators to gain operational experience with advanced grid control concepts and technologies;

(2) development of cost-effective advanced operation and control concepts and technologies, such as adaptive islanding, dynamic line rating systems, power flow controllers, network topology optimization, smart circuit breakers, intelligent load shedding, and fault-tolerant control system architectures;

(3) development of real-time control concepts using artificial intelligence and machine learning for improved electric grid resilience; and

(4) utilization of advanced data analytics including load forecasting, power flow modeling, equipment failure prediction, resource optimization, risk analysis, and decision analysis.

(e) Interoperability research and development

The Secretary shall conduct research and development on tools and technologies that improve the interoperability and compatibility of new and emerging components, technologies, and systems with existing electric grid infrastructure.

(f) Underground transmission and distribution lines

In carrying out the program under subsection (a), the Secretary shall support research and development on underground transmission and distribution lines. This shall include research on—

(1) methods for lowering the costs of underground transmission and distribution lines, including through novel installation techniques and materials considerations;

(2) techniques to improve the lifespan of underground transmission and distribution lines;

(3) wireless sensors to improve safety of underground transmission and distribution lines and to predict, identify, detect, and transmit information about degradation and faults; and

(4) methods for improving the resilience and reliability of underground transmission and distribution lines, including technologies and techniques that can mitigate the impact of flooding, storm surge, and seasonal climate cycles on degradation of and damage to underground transmission and distribution lines.

(g) Grid architecture and scenario development

(1) In general

Subject to paragraph (3), the Secretary shall establish and facilitate a collaborative process to develop model grid architecture and a set of future scenarios for the electric grid to examine the impacts of different combinations of resources (including different quantities of distributed energy resources and large-scale, central generation) on the electric grid.

(2) Architecture

In supporting the development of model grid architectures, the Secretary shall—

(A) analyze a variety of grid architecture scenarios that range from minor upgrades to existing transmission grid infrastructure to scenarios that involve the replacement of significant portions of existing transmission grid infrastructure;

(B) analyze the effects of the increasing proliferation of renewable and other zero emissions energy generation sources, increasing use of distributed resources owned by non-utility entities, and the use of digital and automated controls not managed by grid operators;

(C) include a variety of new and emerging distribution grid technologies, including distributed energy resources, electric vehicle charging stations, distribution automation technologies, energy storage, and renewable energy sources;

(D) analyze the effects of local load balancing and other forms of decentralized control;

(E) analyze the effects of changes to grid architectures resulting from modernizing electric grid systems, including communications, controls, markets, consumer choice, emergency response, electrification, and cybersecurity concerns; and

(F) develop integrated grid architectures that incorporate system resilience for cyber, physical, and communications systems.

(3) Market structure

The grid architecture and scenarios developed under paragraph (1) shall, to the extent practicable, account for differences in market structure, including an examination of the potential for stranded costs in each type of market structure.

(h) Computing resources and data coordination research and development

In carrying out this section, the Secretary shall—

(1) leverage existing computing resources at the National Laboratories; and

(2) develop voluntary standards for data taxonomies and communication protocols in coordination with public and private sector stakeholders.

(i) Information sharing

None of the activities authorized in this section shall require private entities to share information or data with the Secretary.

(j) Resilience

In this section, the term "resilience" means the ability to withstand and reduce the magnitude or duration of disruptive events, which includes the capability to anticipate, absorb, adapt to, or rapidly recover from such an event, including from deliberate attacks, accidents, and naturally occurring threats or incidents.

(Pub. L. 110–140, title XIII, §1304A, as added Pub. L. 116–260, div. Z, title VIII, §8002, Dec. 27, 2020, 134 Stat. 2579.)

§17385. Smart grid interoperability framework

(a) Interoperability framework

The Director of the National Institute of Standards and Technology shall have primary responsibility to coordinate the development of a framework that includes protocols and model standards for information management to achieve interoperability of smart grid devices and systems. Such protocols and standards shall further align policy, business, and technology approaches in a manner that would enable all electric resources, including demand-side resources, to contribute to an efficient, reliable electricity network. In developing such protocols and standards—

(1) the Director shall seek input and cooperation from the Commission, OEDER and its Smart Grid Task Force, the Smart Grid Advisory Committee, other relevant Federal and State agencies; and

(2) the Director shall also solicit input and cooperation from private entities interested in such protocols and standards, including but not limited to the Gridwise Architecture Council, the International Electrical and Electronics Engineers, the National Electric Reliability Organization recognized by the Federal Energy Regulatory Commission, and National Electrical Manufacturer's Association.

(b) Scope of framework

The framework developed under subsection (a) shall be flexible, uniform and technology neutral, including but not limited to technologies for managing smart grid information, and designed—

(1) to accommodate traditional, centralized generation and transmission resources and consumer distributed resources, including distributed generation, renewable generation, energy storage, energy efficiency, and demand response and enabling devices and systems;

(2) to be flexible to incorporate—

(A) regional and organizational differences; and

(B) technological innovations;

(3) to consider the use of voluntary uniform standards for certain classes of mass-produced electric appliances and equipment for homes and businesses that enable customers, at their election and consistent with applicable State and Federal laws, and are manufactured with the ability to respond to electric grid emergencies and demand response signals by curtailing all, or a

portion of, the electrical power consumed by the appliances or equipment in response to an emergency or demand response signal, including through—

(A) load reduction to reduce total electrical demand;

(B) adjustment of load to provide grid ancillary services; and

(C) in the event of a reliability crisis that threatens an outage, short-term load shedding to help preserve the stability of the grid; and

(4) such voluntary standards should incorporate appropriate manufacturer lead time.[1]

(c) Timing of framework development

The Institute shall begin work pursuant to this section within 60 days of December 19, 2007. The Institute shall provide and publish an initial report on progress toward recommended or consensus standards and protocols within 1 year after December 19, 2007, further reports at such times as developments warrant in the judgment of the Institute, and a final report when the Institute determines that the work is completed or that a Federal role is no longer necessary.

(d) Standards for interoperability in Federal jurisdiction

At any time after the Institute's work has led to sufficient consensus in the Commission's judgment, the Commission shall institute a rulemaking proceeding to adopt such standards and protocols as may be necessary to insure smart-grid functionality and interoperability in interstate transmission of electric power, and regional and wholesale electricity markets.

(e) Authorization

There are authorized to be appropriated for the purposes of this section $5,000,000 to the Institute to support the activities required by this subsection [2] for each of fiscal years 2008 through 2012.

(Pub. L. 110–140, title XIII, §1305, Dec. 19, 2007, 121 Stat. 1787.)

EDITORIAL NOTES

CODIFICATION

December 19, 2007, referred to in subsec. (c), was in the original "enactment" and was translated as meaning the date of enactment of Pub. L. 110–140, to reflect the probable intent of Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

[1] So in original. Does not fit with subsec. (b) introductory provisions.

[2] So in original. Probably should be "section".

§17386. Federal matching fund for smart grid investment costs

(a) Matching fund

The Secretary shall establish a Smart Grid Investment Matching Grant Program to provide grants of up to one-half (50 percent) of qualifying Smart Grid investments.

(b) Qualifying investments

Qualifying Smart Grid investments may include any of the following made on or after November 15, 2021:

(1) In the case of appliances covered for purposes of establishing energy conservation standards

under part B of title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291 et seq.), the documented expenditures incurred by a manufacturer of such appliances associated with purchasing or designing, creating the ability to manufacture, and manufacturing and installing for one calendar year, internal devices that allow the appliance to engage in Smart Grid functions.

(2) In the case of specialized electricity-using equipment, including motors and drivers, installed in industrial or commercial applications, the documented expenditures incurred by its owner or its manufacturer of installing devices or modifying that equipment to engage in Smart Grid functions.

(3) In the case of transmission and distribution equipment fitted with monitoring and communications devices to enable smart grid functions, the documented expenditures incurred by the electric utility to purchase and install such monitoring and communications devices.

(4) In the case of metering devices, sensors, control devices, and other devices integrated with and attached to an electric utility system or retail distributor or marketer of electricity that are capable of engaging in Smart Grid functions, the documented expenditures incurred by the electric utility, distributor, or marketer and its customers to purchase and install such devices.

(5) In the case of software that enables devices or computers to engage in Smart Grid functions, the documented purchase costs of the software.

(6) In the case of entities that operate or coordinate operations of regional electric grids, the documented expenditures for purchasing and installing such equipment that allows Smart Grid functions to operate and be combined or coordinated among multiple electric utilities and between that region and other regions.

(7) In the case of persons or entities other than electric utilities owning and operating a distributed electricity generator, the documented expenditures of enabling that generator to be monitored, controlled, or otherwise integrated into grid operations and electricity flows on the grid utilizing Smart Grid functions.

(8) In the case of electric or hybrid-electric vehicles, the documented expenses for devices that allow the vehicle to engage in Smart Grid functions (but not the costs of electricity storage for the vehicle).

(9) In the case of data analytics that enable software to engage in Smart Grid functions, the documented purchase costs of the data analytics.

(10) In the case of buildings, the documented expenses for devices and software, including for installation, that allow buildings to engage in demand flexibility or Smart Grid functions.

(11) In the case of utility communications, operational fiber and wireless broadband communications networks to enable data flow between distribution system components.

(12) In the case of advanced transmission technologies such as dynamic line rating, flow control devices, advanced conductors, network topology optimization, or other hardware, software, and associated protocols applied to existing transmission facilities that increase the operational transfer capacity of a transmission network, the documented expenditures to purchase and install those advanced transmission technologies.

(13) In the case of extreme weather or natural disasters, the ability to redirect or shut off power to minimize blackouts and avoid further damage.

(14) The documented expenditures related to purchasing and implementing Smart Grid functions in such other cases as the Secretary shall identify.

(c) Investments not included

Qualifying Smart Grid investments do not include any of the following:

(1) Investments or expenditures for Smart Grid technologies, devices, or equipment that utilize specific tax credits or deductions under the Internal Revenue Code, as amended.

(2) Expenditures for electricity generation, transmission, or distribution infrastructure or equipment not directly related to enabling Smart Grid functions.

(3) After the final date for State consideration of the Smart Grid Information Standard under section 2621(d)(17) [1] of title 16, an investment that is not in compliance with such standard.

(4) After the development and publication by the Institute of protocols and model standards for interoperability of smart grid devices and technologies, an investment that fails to incorporate any

of such protocols or model standards.

(5) Expenditures for physical interconnection of generators or other devices to the grid except those that are directly related to enabling Smart Grid functions.

(6) Expenditures for ongoing salaries, benefits, or personnel costs not incurred in the initial installation, training, or start up of smart grid functions.

(7) Expenditures for travel, lodging, meals or other personal costs.

(8) Ongoing or routine operation, billing, customer relations, security, and maintenance expenditures.

(9) Such other expenditures that the Secretary determines not to be Qualifying Smart Grid Investments by reason of the lack of the ability to perform Smart Grid functions or lack of direct relationship to Smart Grid functions.

(d) Smart grid functions

The term "smart grid functions" means any of the following:

(1) The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, nature of use, storage, or other information relevant to device, grid, or utility operations, to or from or by means of the electric utility system, through one or a combination of devices and technologies.

(2) The ability to develop, store, send and receive digital information concerning electricity use, costs, prices, time of use, nature of use, storage, or other information relevant to device, grid, or utility operations to or from a computer or other control device.

(3) The ability to measure or monitor electricity use as a function of time of day, power quality characteristics such as voltage level, current, cycles per second, or source or type of generation and to store, synthesize or report that information by digital means.

(4) The ability to sense and localize disruptions or changes in power flows on the grid and communicate such information instantaneously and automatically for purposes of enabling automatic protective responses to sustain reliability and security of grid operations.

(5) The ability to detect, prevent, communicate with regard to, respond to, or recover from system security threats, including cyber-security threats and terrorism, using digital information, media, and devices.

(6) The ability of any appliance or machine to respond to such signals, measurements, or communications automatically or in a manner programmed by its owner or operator without independent human intervention.

(7) The ability to use digital information to operate functionalities on the electric utility grid that were previously electro-mechanical or manual.

(8) The ability to use digital controls to manage and modify electricity demand, enable congestion management, assist in voltage control, provide operating reserves, and provide frequency regulation.

(9) The ability to use data analytics and software-as-service to provide flexibility by improving the visibility of the electrical system to grid operators that can help quickly rebalance the electrical system with autonomous controls.

(10) The ability to facilitate the aggregation or integration of distributed energy resources to serve as assets for the grid.

(11) The ability to provide energy storage to meet fluctuating electricity demand, provide voltage support, and integrate intermittent generation sources, including vehicle-to-grid technologies.

(12) The ability of hardware, software, and associated protocols applied to existing transmission facilities to increase the operational transfer capacity of a transmission network.

(13) The ability to anticipate and mitigate impacts of extreme weather or natural disasters on grid resiliency.

(14) The ability to facilitate the integration of renewable energy resources, electric vehicle charging infrastructure, and vehicle-to-grid technologies.

(15) The ability to reliably meet increased demand from electric vehicles and the electrification of appliances and other sectors.

(16) Such other functions as the Secretary may identify as being necessary or useful to the operation of a Smart Grid.

(e) Procedures and rules

(1) The Secretary shall, within 60 days after February 17, 2009, by means of a notice of intent and subsequent solicitation of grant proposals—

(A) establish procedures by which applicants can obtain grants of not more than one-half of their documented costs;

(B) require as a condition of receiving funding under this subsection that demonstration projects utilize open protocols and standards (including Internet-based protocols and standards) if available and appropriate;

(C) establish procedures to ensure that there is no duplication or multiple payment for the same investment or costs, that the grant goes to the party making the actual expenditures for the qualifying Smart Grid investments, and that the grants made have a significant effect in encouraging and facilitating the development of a smart grid;

(D) establish procedures to ensure there will be public records of grants made, recipients, and qualifying Smart Grid investments which have received grants; and

(E) establish procedures to provide advance payment of moneys up to the full amount of the grant award.

(2) The Secretary shall have discretion and exercise reasonable judgment to deny grants for investments that do not qualify.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as are necessary for the administration of this section and the grants to be made pursuant to this section for fiscal years 2008 through 2012.

(Pub. L. 110–140, title XIII, §1306, Dec. 19, 2007, 121 Stat. 1789; Pub. L. 111–5, div. A, title IV, §405(5)–(8), Feb. 17, 2009, 123 Stat. 144; Pub. L. 117–58, div. D, title I, §40107(a), Nov. 15, 2021, 135 Stat. 940.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsec. (b)(1), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871. Part B of title III of the Act is classified generally to part A (§6291 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

Section 2621(d)(17) of title 16, referred to in subsec. (c)(3), was redesignated section 2621(d)(19) by Pub. L. 111–5, div. A, title IV, §408(a), Feb. 17, 2009, 123 Stat. 146.

AMENDMENTS

2021—Subsec. (b). Pub. L. 117–58, §40107(a)(1)(A), substituted "Novmeber 15, 2021" for "December 19, 2007" in introductory provisions.

Subsec. (b)(9) to (14). Pub. L. 117–58, §40107(a)(1)(B), (C), added pars. (9) to (13) and redesignated former par. (9) as (14).

Subsec. (d)(9) to (16). Pub. L. 117–58, §40107(a)(2), added pars. (9) to (15) and redesignated former par. (9) as (16).

2009—Subsec. (a). Pub. L. 111–5, §405(5), substituted "grants of up to one-half (50 percent)" for "reimbursement of one-fifth (20 percent)".

Subsec. (b)(9). Pub. L. 111–5, §405(6), struck out last sentence which read as follows: "In making such grants, the Secretary shall seek to reward innovation and early adaptation, even if success is not complete, rather than deployment of proven and commercially viable technologies."

Subsec. (c)(1). Pub. L. 111–5, §405(7), substituted "utilize" for "are eligible for".

Subsec. (e). Pub. L. 111–5, §405(8), amended subsec. (e) generally. Prior to amendment, text related to establishment of procedures by which applicants who have made qualifying Smart Grid investments can seek

and obtain reimbursement of one-fifth of documented expenditures.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as a note under section 1824 of Title 2, The Congress.

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

§17387. Integrated energy systems

(a) In general

Not later than 180 days after December 27, 2020, the Secretary shall establish a research, development, and demonstration program to develop cost-effective integrated energy systems, including—

(1) development of computer modeling to design different configurations of integrated energy systems and to optimize system operation;

(2) research on system integration needed to plan, design, build, and operate integrated energy systems, including interconnection requirements with the electric grid;

(3) development of integrated energy systems for various applications, including—

(A) thermal energy generation and storage for buildings and manufacturing;

(B) electricity storage coupled with energy generation;

(C) desalination;

(D) production of liquid and gaseous fuels; and

(E) production of chemicals such as ammonia and ethylene;

(4) development of testing facilities for integrated energy systems; and

(5) research on incorporation of various technologies for integrated energy systems, including nuclear energy, renewable energy, storage, and carbon capture, utilization, and sequestration technologies.

(b) Strategic plan

(1) In general

Not later than 1 year after December 27, 2020, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a strategic plan that identifies opportunities, challenges, and standards needed for the development and commercial application of integrated energy systems. The strategic plan shall include—

(A) analysis of the potential benefits of development of integrated electric systems on the electric grid;

(B) analysis of the potential contributions of integrated energy systems to different grid architecture scenarios;

(C) research and development goals for various integrated energy systems, including those identified in subsection (a);

(D) assessment of policy and market barriers to the adoption of integrated energy systems;

(E) analysis of the technical and economic feasibility of adoption of different integrated energy systems; and

(F) a 10-year roadmap to guide the program established under subsection (a).

(2) Updates

Not less than once every 3 years for the duration of this research program, the Secretary shall

submit an updated version of the strategic plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) Program implementation

In carrying out the research, development, demonstration, and commercial application aims of subsection (a), the Secretary shall—

(1) implement the recommendations set forth in the strategic plan in subsection (b);

(2) coordinate across all relevant program offices at the Department, including—

(A) the Office of Energy Efficiency and Renewable Energy;

(B) the Office of Nuclear Energy; and

(C) the Office of Fossil Energy;

(3) leverage existing programs and resources of the Department; and

(4) prioritize activities that accelerate the development of integrated electricity generation, storage, and distribution systems with net zero greenhouse gas emissions.

(d) Integrated energy system defined

The term "integrated energy system" means a system composed of 2 or more co-located or jointly operated sub-systems of energy generation, energy storage, or other energy technologies.

(Pub. L. 110–140, title XIII, §1310, as added Pub. L. 116–260, div. Z, title VIII, §8003, Dec. 27, 2020, 134 Stat. 2581.)

§17388. Advisory committee

(a) In general

Not later than 180 days after December 27, 2020, the Secretary shall designate an existing advisory committee to advise the Secretary on the authorization of research, development, and demonstration projects under sections 17384 and 17384a of this title.

(b) Responsibility

The Secretary shall annually solicit from the advisory committee—

(1) comments to identify grid modernization technology needs;

(2) an assessment of the progress of the research activities on grid modernization; and

(3) assistance in annually updating grid modernization technology roadmaps.

(Pub. L. 110–140, title XIII, §1311, as added Pub. L. 116–260, div. Z, title VIII, §8005, Dec. 27, 2020, 134 Stat. 2585.)

§17389. Technology demonstration on the distribution grid

(a) In general

The Secretary shall establish a grant program to carry out eligible projects related to the modernization of the electric grid, including the application of technologies to improve observability, advanced controls, and prediction of system performance on the distribution system.

(b) Eligible projects

To be eligible for a grant under subsection (a), a project shall—

(1) be designed to improve the performance and efficiency of the future electric grid, while ensuring the continued provision of safe, secure, reliable, and affordable power; and

(2) demonstrate—

(A) secure integration and management of two or more energy resources, including distributed energy generation, combined heat and power, micro-grids, energy storage, electric

vehicles, energy efficiency, demand response, and intelligent loads; and

(B) secure integration and interoperability of communications and information technologies.

(Pub. L. 116–260, div. Z, title VIII, §8007, Dec. 27, 2020, 134 Stat. 2586.)

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

APPLICATION

Provisions of section 3212 of this title applicable to construction, alteration, or repair work of demonstration projects funded by grants or contracts authorized under this section, see section 9006(b) of div. Z of Pub. L. 116–260, set out as a note under section 16237 of this title.

§17390. Voluntary model pathways

(a) Establishment of voluntary model pathways

(1) Establishment

Not later than 90 days after December 27, 2020, the Secretary of Energy (in this section referred to as the "Secretary"), in consultation with the steering committee established under paragraph (3), shall initiate the development of voluntary model pathways for modernizing the electric grid through a collaborative, public-private effort that—

(A) produces illustrative policy pathways encompassing a diverse range of technologies that can be adapted for State and regional applications by regulators and policymakers;

(B) facilitates the modernization of the electric grid and associated communications networks to achieve the objectives described in paragraph (2);

(C) ensures a reliable, resilient, affordable, safe, and secure electric grid; and

(D) acknowledges and accounts for different priorities, electric systems, and rate structures across States and regions.

(2) Objectives

The pathways established under paragraph (1) shall facilitate achievement of as many of the following objectives as practicable:

(A) Near real-time situational awareness of the electric system.

(B) Data visualization.

(C) Advanced monitoring and control of the advanced electric grid.

(D) Enhanced certainty of policies for investment in the electric grid.

(E) Increased innovation.

(F) Greater consumer empowerment.

(G) Enhanced grid resilience, reliability, and robustness.

(H) Improved—

(i) integration of distributed energy resources;

(ii) interoperability of the electric system; and

(iii) predictive modeling and capacity forecasting.

(I) Reduced cost of service for consumers.

(J) Diversification of generation sources.

(3) Steering committee

Not later than 90 days after December 27, 2020, the Secretary shall establish a steering committee to help develop the pathways under paragraph (1), to be composed of members appointed by the Secretary, consisting of persons with appropriate expertise representing a diverse range of interests in the public, private, and academic sectors, including representatives of—

(A) the Federal Energy Regulatory Commission;

(B) the National Laboratories;

(C) States;
(D) State regulatory authorities;
(E) transmission organizations;
(F) representatives of all sectors of the electric power industry;
(G) institutions of higher education;
(H) independent research institutes; and
(I) other entities.

(b) Technical assistance

The Secretary may provide technical assistance to States, Indian Tribes, or units of local government to adopt or implement one or more elements of the pathways developed under subsection (a)(1), including on a pilot basis.

(Pub. L. 116–260, div. Z, title VIII, §8008, Dec. 27, 2020, 134 Stat. 2586.)

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

§17391. Voluntary state, regional, and local electricity distribution planning

(a) In general

On the request of a State, regional organization, or electric utility, the Secretary of Energy shall provide assistance to States, regional organizations, and electric utilities to facilitate the development of State, regional, and local electricity distribution plans by—

(1) conducting a resource assessment and analysis of future demand and distribution requirements; and

(2) developing open source tools for State, regional, and local planning and operations.

(b) Risk and security analysis

The assessment under subsection (a)(1) shall include—

(1) the evaluation of the physical security, cybersecurity, and associated communications needs of an advanced distribution management system and the integration of distributed energy resources; and

(2) advanced use of grid architecture to analyze risks in an all-hazards approach that includes communications infrastructure, control systems architecture, and power systems architecture.

(c) Designation

The information collected for the assessment and analysis under subsection (a)(1)—

(1) shall be considered to be critical electric infrastructure information under section 824o–1 of title 16; and

(2) shall only be released in compliance with regulations implementing that section.

(d) Technical assistance

For the purpose of assisting in the development of State and regional electricity distribution plans, the Secretary shall provide technical assistance to—

(1) States;
(2) regional reliability entities; and
(3) other distribution asset owners and operators.

(e) Withdrawal

A State or any entity that has requested technical assistance under this section may withdraw the request for technical assistance at any time, and on such withdrawal, the Secretary shall terminate all assistance efforts.

(f) Effect

Nothing in this section authorizes the Secretary to require any State, regional organization, regional reliability entity, asset owner, or asset operator to adopt any model, tool, plan, analysis, or assessment.

(Pub. L. 116–260, div. Z, title VIII, §8010, Dec. 27, 2020, 134 Stat. 2588.)

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

§17392. Micro-grid and integrated micro-grid systems program

(a) Definitions

In this section:

(1) Integrated micro-grid system

The term "integrated micro-grid system" means a micro-grid system that—

(A) comprises generation from both conventional and renewable energy resources; and

(B) may use grid-scale energy storage.

(2) Isolated community

The term "isolated community" means a community that is powered by a stand-alone electric generation and distribution system without the economic and reliability benefits of connection to a regional electric grid.

(3) Micro-grid system

The term "micro-grid system" means a localized grid that operates autonomously, regardless of whether the grid can operate in connection with another grid.

(4) Rural electric cooperative

The term "rural electric cooperative" means an electric cooperative (as defined in section 796 of title 16) that sells electric energy to persons in rural areas.

(5) Strategy

The term "strategy" means the strategy developed pursuant to subsection (b)(2)(B).

(b) Program

(1) Establishment

The Secretary of Energy (in this section referred to as the "Secretary") shall establish a program to promote the development of—

(A) integrated micro-grid systems for isolated communities; and

(B) micro-grid systems to increase the resilience of critical infrastructure.

(2) Requirements

The program established under paragraph (1) shall—

(A) develop a feasibility assessment for—

(i) integrated micro-grid systems in isolated communities; and

(ii) micro-grid systems to enhance the resilience of critical infrastructure;

(B) develop an implementation strategy, in accordance with paragraph (3), to promote the development of integrated micro-grid systems for isolated communities, particularly for those communities exposed to extreme weather conditions and high energy costs, including electricity, space heating and cooling, and transportation;

(C) develop an implementation strategy to promote the development of micro-grid systems that increase the resilience of critical infrastructure; and

(D) carry out cost-shared demonstration projects, based upon the strategies developed under

subparagraph (B) that include the development of physical and cybersecurity plans to take appropriate measures to protect and secure the electric grid.

(3) Requirements for strategy

In developing the strategy under paragraph (2)(B), the Secretary shall consider—

(A) opportunities for improving the efficiency of existing integrated micro-grid systems;

(B) the capacity of the local workforce to operate, maintain, and repair a integrated micro-grid system as well as opportunities to improve that capacity;

(C) leveraging existing capacity within local or regional research organizations, such as organizations based at institutions of higher education, to support development of integrated micro-grid systems, including by testing novel components and systems prior to field deployment;

(D) the need for basic infrastructure to develop, deploy, and sustain a integrated micro-grid system;

(E) input of traditional knowledge from local leaders of isolated communities in the development of a integrated micro-grid system;

(F) the impact of integrated micro-grid systems on defense, homeland security, economic development, and environmental interests;

(G) opportunities to leverage existing interagency coordination efforts and recommendations for new interagency coordination efforts to minimize unnecessary overhead, mobilization, and other project costs; and

(H) any other criteria the Secretary determines appropriate.

(c) Collaboration

The program established under subsection (b)(1) shall be carried out in collaboration with relevant stakeholders, including, as appropriate—

(1) States;

(2) Indian Tribes;

(3) regional entities and regulators;

(4) units of local government;

(5) institutions of higher education; and

(6) private sector entities.

(d) Report

Not later than 180 days after December 27, 2020, and annually thereafter until calendar year 2029, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the efforts to implement the program established under subsection (b)(1) and the status of the strategy developed under subsection (b)(2)(B).

(e) Barriers and benefits to micro-grid systems

(1) Report

Not later than 270 days after December 27, 2020, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the benefits of, and barriers to, implementing resilient micro-grid systems that are—

(A)(i) owned or operated by an isolated community, rural electric cooperative, or municipal government; or

(ii) operated on behalf of a municipal government or rural electric cooperative; and

(B) designed to maximize the use of—

(i) energy-generation facilities owned or operated by isolated communities; or

(ii) a municipal or rural electric cooperative energy-generation facility.

(2) Grants to overcome barriers

The Secretary shall award grants of not more than $500,000 to not fewer than 20 municipal

governments, rural electric cooperatives, or isolated communities, up to a total of $15,000,000, each year to assist those municipal governments, rural electric cooperatives, and isolated communities in overcoming the barriers identified in the report under paragraph (1).

(Pub. L. 116–260, div. Z, title VIII, §8011, Dec. 27, 2020, 134 Stat. 2589.)

CODIFICATION

Section was enacted as part of the Energy Act of 2020, and not as part of the Energy Independence and Security Act of 2007 which comprises this chapter.

CHAPTER 153—COMMUNITY SAFETY THROUGH RECIDIVISM PREVENTION

Sec.

§17501. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17501 was editorially reclassified as section 60501 of Title 34, Crime Control and Law Enforcement.

§17502. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17502 was editorially reclassified as section 60502 of Title 34, Crime Control and Law

Enforcement.

§17503. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17503 was editorially reclassified as section 60503 of Title 34, Crime Control and Law Enforcement.

§17504. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17504 was editorially reclassified as section 60504 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER I—NEW AND INNOVATIVE PROGRAMS TO IMPROVE OFFENDER REENTRY SERVICES

§17511. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17511 was editorially reclassified as section 60511 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—ENHANCED DRUG TREATMENT AND MENTORING GRANT PROGRAMS

PART A—DRUG TREATMENT

§17521. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17521 was editorially reclassified as section 60521 of Title 34, Crime Control and Law Enforcement.

PART B—MENTORING

§17531. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17531 was editorially reclassified as section 60531 of Title 34, Crime Control and Law Enforcement.

§17532. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17532 was editorially reclassified as section 60532 of Title 34, Crime Control and Law Enforcement, which was subsequently repealed by Pub. L. 115–391, title V, §504(a), Dec. 21, 2018, 132 Stat. 5233.

§17533. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17533 was editorially reclassified as section 60533 of Title 34, Crime Control and Law Enforcement.

§17534. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17534 was editorially reclassified as section 60534 of Title 34, Crime Control and Law Enforcement.

PART C—ADMINISTRATION OF JUSTICE REFORMS

SUBPART 1—IMPROVING FEDERAL OFFENDER REENTRY

§17541. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17541 was editorially reclassified as section 60541 of Title 34, Crime Control and Law Enforcement.

SUBPART 2—REENTRY RESEARCH

§17551. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17551 was editorially reclassified as section 60551 of Title 34, Crime Control and Law Enforcement.

§17552. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17552 was editorially reclassified as section 60552 of Title 34, Crime Control and Law Enforcement.

§17553. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17553 was editorially reclassified as section 60553 of Title 34, Crime Control and Law Enforcement.

§17554. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17554 was editorially reclassified as section 60554 of Title 34, Crime Control and Law Enforcement, which was subsequently repealed by Pub. L. 115–391, title V, §504(d), Dec. 21, 2018, 132 Stat. 5233.

§17555. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17555 was editorially reclassified as section 60555 of Title 34, Crime Control and Law Enforcement.

CHAPTER 154—COMBATING CHILD EXPLOITATION

Sec.

§17601. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17601 was editorially reclassified as section 21101 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

§17611. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17611 was editorially reclassified as section 21111 of Title 34, Crime Control and Law Enforcement.

§17612. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17612 was editorially reclassified as section 21112 of Title 34, Crime Control and Law Enforcement.

§17613. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17613 was editorially reclassified as section 21113 of Title 34, Crime Control and Law Enforcement.

§17614. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17614 was editorially reclassified as section 21114 of Title 34, Crime Control and Law Enforcement.

§17615. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17615 was editorially reclassified as section 21115 of Title 34, Crime Control and Law Enforcement.

§17616. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17616 was editorially reclassified as section 21116 of Title 34, Crime Control and Law Enforcement.

§17617. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17617 was editorially reclassified as section 21117 of Title 34, Crime Control and Law Enforcement.

SUBCHAPTER II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

§17631. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17631 was editorially reclassified as section 21131 of Title 34, Crime Control and Law Enforcement.

CHAPTER 155—AERONAUTICS AND SPACE ACTIVITIES

§§17701, 17702. Transferred

EDITORIAL NOTES

CODIFICATION

Section 17701, Pub. L. 110–422, §2, Oct. 15, 2008, 122 Stat. 4781, which related to congressional findings on the 50th anniversary of the establishment of the National Aeronautics and Space Administration, was transferred and is set out as a note under section 20102 of Title 51, National and Commercial Space Programs.

Section 17702, Pub. L. 110–422, §3, Oct. 15, 2008, 122 Stat. 4782, which related to definitions, was transferred and is set out as a note under section 10101 of Title 51.

SUBCHAPTER I—EARTH SCIENCE

§17711. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title II, §201, Oct. 15, 2008, 122 Stat. 4784, related to goal for NASA's Earth Science program. See section 60501 of Title 51, National and Commercial Space Programs.

§§17712, 17713. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section 17712, Pub. L. 110–422, title II, §204, Oct. 15, 2008, 122 Stat. 4785, which related to transitioning experimental research into operational services, was repealed in part and omitted in part. Subsecs. (b), (c), and (d) were repealed and reenacted as subsecs. (a), (b), and (c), respectively, of section 60502 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a), which provided sense of Congress regarding such transitioning, was omitted from the Code following the enactment of Title 51.

Section 17713, Pub. L. 110–422, title II, §206, Oct. 15, 2008, 122 Stat. 4785, which related to reauthorization of Glory Mission examining effect of aerosols and solar energy on climate, was repealed in part and omitted in part. Subsec. (a) was repealed and reenacted as section 60503 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (b), which required baseline report no later than 90 days after Oct. 15, 2008, was omitted from the Code following the enactment of Title 51.

§17714. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title II, §208, Oct. 15, 2008, 122 Stat. 4786, related to cooperative activities with NOAA to study tornadoes and other severe storms. See section 60504 of Title 51, National and Commercial Space Programs.

SUBCHAPTER II—AERONAUTICS

§§17721, 17722. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 17721, Pub. L. 110–422, title III, §302, Oct. 15, 2008, 122 Stat. 4786, related to environmentally friendly aircraft research and development initiative. See section 40702 of Title 51, National and Commercial Space Programs.

Section 17722, Pub. L. 110–422, title III, §303, Oct. 15, 2008, 122 Stat. 4787, related to research alignment in fundamental aeronautics research program. See section 40703 of Title 51.

§17723. Repealed or Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title III, §304, Oct. 15, 2008, 122 Stat. 4787, which related to research program to determine perceived impact of sonic booms, was repealed in part and transferred in part. Subsecs. (b) and (c) were repealed and reenacted as section 40704 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a) was transferred and is set out as a note under section 40704 of Title 51.

§17724. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title III, §307, Oct. 15, 2008, 122 Stat. 4788, related to funding for research and development activities in support of other mission directorates. See section 40104 of Title 51, National and Commercial Space Programs.

SUBCHAPTER III—EXPLORATION INITIATIVE

§17731. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title IV, §403, Oct. 15, 2008, 122 Stat. 4789, related to stepping stone approach to exploration. See section 70504 of Title 51, National and Commercial Space Programs.

§17732. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section 17732, Pub. L. 110–422, title IV, §404, Oct. 15, 2008, 122 Stat. 4789, which related to

establishment of a lunar outpost, was repealed in part and omitted in part. Subsecs. (a) and (b) were repealed and reenacted as section 70505 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (c), providing sense of Congress relating to use of commercial services in support of lunar outpost activities, was omitted from the Code following the enactment of Title 51.

§17733. Repealed or Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title IV, §405, Oct. 15, 2008, 122 Stat. 4789, which related to exploration technology development, was repealed in part and transferred in part. Subsec. (b) was repealed and reenacted as section 70506 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a) was transferred and is set out as a note under section 70506 of Title 51.

§17734. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title IV, §407, Oct. 15, 2008, 122 Stat. 4790, related to discussions of common docking system standard among spacefaring nations to facilitate exploration crew rescue. See section 71301 of Title 51, National and Commercial Space Programs.

SUBCHAPTER IV—SPACE SCIENCE

§§17741, 17742. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 17741, Pub. L. 110–422, title V, §501, Oct. 15, 2008, 122 Stat. 4791, related to long-term technology development program for space and Earth science. See section 70507 of Title 51, National and Commercial Space Programs.

Section 17742, Pub. L. 110–422, title V, §502, Oct. 15, 2008, 122 Stat. 4791, provided for future servicing of observatory-class scientific spacecraft. See section 70508 of Title 51.

SUBCHAPTER V—SPACE OPERATIONS

PART A—INTERNATIONAL SPACE STATION

§17751. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VI, §601, Oct. 15, 2008, 122 Stat. 4793, which related to plan to support operation and utilization of the International Space Station beyond fiscal year 2015, was repealed in part and omitted in part. Subsec. (a) was repealed and reenacted as section 70907 of Title 51, National and Commercial

Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (b), which required Administrator to submit a plan to congressional committees not later than nine months after Oct. 15, 2008, was omitted from the Code following the enactment of Title 51.

§17752. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title VI, §602, Oct. 15, 2008, 122 Stat. 4795, related to International Space Station National Laboratory Advisory Committee. See section 70906 of Title 51, National and Commercial Space Programs.

§17753. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VI, §603, Oct. 15, 2008, 122 Stat. 4796, which related to contingency plan for cargo resupply of the International Space Station, and required contingency plan to be delivered to congressional committees no later than one year after Oct. 15, 2008, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

PART B—SPACE SHUTTLE

§17761. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VI, §613, Oct. 15, 2008, 122 Stat. 4799, which related to Space Shuttle transition and disposition of program-related assets, and provided for Space Shuttle Transition Liaison Office, was transferred and is set out as a note under section 70501 of Title 51, National and Commercial Space Programs.

PART C—LAUNCH SERVICES

§17771. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VI, §621, Oct. 15, 2008, 122 Stat. 4801, which related to Launch Services strategy, was transferred and is set out as a note under section 50903 of Title 51, National and Commercial Space Programs.

SUBCHAPTER VI—EDUCATION

§17781. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VII, §704, Oct. 15, 2008, 122 Stat. 4802, which related to enhancement of NASA's educational role, was repealed in part and omitted in part. Subsec. (b) was repealed and reenacted as subsec. (d) of section 40903, and subsec. (c) was repealed and reenacted as section 40311, of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a), which provided sense of Congress regarding educational and agency use of the International Space Station National Laboratory, was omitted from the Code following the enactment of Title 51.

SUBCHAPTER VII—NEAR-EARTH OBJECTS

§17791. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VIII, §801, Oct. 15, 2008, 122 Stat. 4803, which reaffirmed policy on surveying near-Earth asteroids and comets, was repealed in part and omitted in part. Subsec. (a) was repealed and reenacted as section 71101 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (b), which provided sense of Congress regarding the policy and its benefits, was omitted from the Code following the enactment of Title 51.

§17792. Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title VIII, §802, Oct. 15, 2008, 122 Stat. 4803, which related to Congressional findings regarding threat of collision of potentially hazardous near-Earth object with Earth, was transferred and is set out as a note under section 71101 of Title 51, National and Commercial Space Programs.

§§17793 to 17795. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 17793, Pub. L. 110–422, title VIII, §803, Oct. 15, 2008, 122 Stat. 4803, related to requests for specific mission information. See section 71102 of Title 51, National and Commercial Space Programs.

Section 17794, Pub. L. 110–422, title VIII, §804, Oct. 15, 2008, 122 Stat. 4804, established policy with respect to threats posed by near-Earth objects. See section 71103 of Title 51.

Section 17795, Pub. L. 110–422, title VIII, §805, Oct. 15, 2008, 122 Stat. 4804, related to required planetary radar capability. See section 71104 of Title 51.

SUBCHAPTER VIII—COMMERCIAL INITIATIVES

§17801. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section, Pub. L. 110–422, title IX, §902, Oct. 15, 2008, 122 Stat. 4805, related to commercial crew transfer and crew rescue services for the International Space Station. See section 50111(b) of Title 51, National and Commercial Space Programs.

SUBCHAPTER IX—REVITALIZATION OF NASA INSTITUTIONAL CAPABILITIES

§§17811, 17812. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section 17811, Pub. L. 110–422, title X, §1002, Oct. 15, 2008, 122 Stat. 4806, which related to maintenance and upgrade of NASA Center facilities, was repealed in part and omitted in part. Subsec. (a) was repealed and reenacted as section 31502 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (b), which required determination of maintenance and upgrade backlog at NASA Centers and facilities, and subsec. (c), which required report to Congress to be delivered concurrently with fiscal 2011 budget request, were omitted from the Code following the enactment of Title 51.

Section 17812, Pub. L. 110–422, title X, §1003, Oct. 15, 2008, 122 Stat. 4807, which related to assessment of NASA laboratory capabilities, was repealed in part and omitted in part. Subsec. (a) was repealed and reenacted as section 31503 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (b), which required independent external review of NASA laboratories and report to congressional committees no later than 18 months after Oct. 15, 2008, was omitted from the Code following the enactment of Title 51.

SUBCHAPTER X—OTHER PROVISIONS

§17821. Repealed or Transferred

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title XI, §1102, Oct. 15, 2008, 122 Stat. 4808, which related to initiation of discussions on development of framework for space traffic management, was repealed in part and transferred in part. Subsec. (b) was repealed and reenacted as section 71302 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a), which provided congressional finding of need for space traffic management, was transferred and is set out as a note under section 71302 of Title 51.

§§17822 to 17824. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 17822, Pub. L. 110–422, title XI, §1103, Oct. 15, 2008, 122 Stat. 4808, related to astronaut health care. See section 31302 of Title 51, National and Commercial Space Programs.

Section 17823, Pub. L. 110–422, title XI, §1104, Oct. 15, 2008, 122 Stat. 4809, related to National Academies decadal surveys. See section 20305 of Title 51.

Section 17824, Pub. L. 110–422, title XI, §1107, Oct. 15, 2008, 122 Stat. 4810, related to NASA outreach program to promote business competitiveness through space and aeronautics technologies. See section 30305 of Title 51.

§17825. Repealed or Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title XI, §1109, Oct. 15, 2008, 122 Stat. 4811, which related to protection of scientific credibility, integrity, and communication within NASA, was repealed in part and omitted in part. Subsec. (c) was repealed and reenacted as section 60506 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444, which Act enacted Title 51. Subsec. (a), which provided sense of Congress regarding NASA's posture toward scientific research, and subsec. (b), which directed Comptroller General to initiate study within 60 days after Oct. 15, 2008, complete it within 270 days, and report to Congress, were omitted from the Code following the enactment of Title 51.

§17826. Omitted

EDITORIAL NOTES

CODIFICATION

Section, Pub. L. 110–422, title XI, §1111, Oct. 15, 2008, 122 Stat. 4811, which required a plan and inventory of natural methane stocks and fluxes in the polar region of the United States within 12 months after Oct. 15, 2008, was omitted from the Code following the enactment of Title 51, National and Commercial Space Programs, by Pub. L. 111–314.

§§17827 to 17829. Repealed. Pub. L. 111–314, §6, Dec. 18, 2010, 124 Stat. 3444

Section 17827, Pub. L. 110–422, title XI, §1112, Oct. 15, 2008, 122 Stat. 4811, provided an exception to alternative fuel procurement requirement. See section 30310 of Title 51, National and Commercial Space Programs.

Section 17828, Pub. L. 110–422, title XI, §1116, Oct. 15, 2008, 122 Stat. 4813, related to cooperative unmanned aerial vehicle activities. See section 31504 of Title 51.

Section 17829, Pub. L. 110–422, title XI, §1117, Oct. 15, 2008, 122 Stat. 4813, related to development of enhanced-use lease policy. See section 31505 of Title 51.

CHAPTER 156—HEALTH INFORMATION TECHNOLOGY

SUBCHAPTER I—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SUBCHAPTER I—APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

§17901. Coordination of Federal activities with adopted standards and implementation specifications

(a) Spending on health information technology systems

As each agency (as defined by the Director of the Office of Management and Budget, in consultation with the Secretary of Health and Human Services) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 300jj–14 of this title, as added by section 13101.[1]

(b) Federal information collection activities

With respect to a standard or implementation specification adopted under section 300jj–14 of this title, as added by section 13101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

(c) Application of definitions

The definitions contained in section 300jj of this title, as added by section 13101,[1] shall apply for purposes of this subchapter.

(Pub. L. 111–5, div. A, title XIII, §13111, Feb. 17, 2009, 123 Stat. 242.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13101, referred to in text, means section 13101 of div. A of Pub. L. 111–5.

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

§17902. Application to private entities

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 300jj–14 of this title, as added by section 13101.[1]

(Pub. L. 111–5, div. A, title XIII, §13112, Feb. 17, 2009, 123 Stat. 243.)

EDITORIAL NOTES

REFERENCES IN TEXT

Executive Order issued on August 22, 2006, referred to in text, is Ex. Ord. No. 13410, Aug. 22, 2006, 71 F.R. 51089, which is set out as a note under section 300u of this title.

Section 13101, referred to in text, means section 13101 of div. A of Pub. L. 111–5.

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

§17903. Study and reports

(a) Report on adoption of nationwide system

Not later than 2 years after February 17, 2009, and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report that—

(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information;

(2) describes barriers to the adoption of such a nationwide system; and

(3) contains recommendations to achieve full implementation of such a nationwide system.

(b) Reimbursement incentive study and report

(1) Study

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

(2) Report

Not later than 2 years after February 17, 2009, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on the study carried out under paragraph (1).

(c) Aging services technology study and report

(1) In general

The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) Matters to be studied

The study under paragraph (1) shall include—

(A) an evaluation of—

(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

(ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of—

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) Report

Not later than 24 months after February 17, 2009, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).

(4) Definitions

For purposes of this subsection:

(A) Aging services technology

The term "aging services technology" means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.

(B) Senior

The term "senior" has such meaning as specified by the Secretary.

(Pub. L. 111–5, div. A, title XIII, §13113, Feb. 17, 2009, 123 Stat. 243.)

SUBCHAPTER II—TESTING OF HEALTH INFORMATION TECHNOLOGY

§17911. National Institute for Standards and Technology testing

(a) Pilot testing of standards and implementation specifications

In coordination with the HIT Standards Committee established under section 300jj–13 [1] of this title, as added by section 13101,[1] with respect to the development of standards and implementation specifications under such section, the Director of the National Institute for Standards and

Technology shall test such standards and implementation specifications, as appropriate, in order to assure the efficient implementation and use of such standards and implementation specifications.

(b) Voluntary testing program

In coordination with the HIT Standards Committee established under section 300jj–13 [1] of this title, as added by section 13101,[1] with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

(Pub. L. 111–5, div. A, title XIII, §13201, Feb. 17, 2009, 123 Stat. 244.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 300jj–13 of this title, referred to in text, which related to the establishment of the HIT Standards Committee, was repealed by Pub. L. 114–255, div. A, title IV, §4003(e)(1), Dec. 13, 2016, 130 Stat. 1168.

Section 13101, referred to in text, means section 13101 of div. A of Pub. L. 111–5.

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

§17912. Research and development programs

(a) Health Care Information Enterprise Integration Research Centers

(1) In general

The Director of the National Institute of Standards and Technology, in consultation with the Director of the National Science Foundation and other appropriate Federal agencies, shall establish a program of assistance to institutions of higher education (or consortia thereof which may include nonprofit entities and Federal Government laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

(2) Review; competition

Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(3) Purpose

The purposes of the Centers described in paragraph (1) shall be—

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) Research areas

Research areas may include—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) Applications

An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information technology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) National information technology research and development program

The Networking and Information Technology Research and Development Program established by section 5511 of title 15 shall include Federal research and development programs related to health information technology.

(Pub. L. 111–5, div. A, title XIII, §13202, Feb. 17, 2009, 123 Stat. 245; Pub. L. 114–329, title I, §105(s), Jan. 6, 2017, 130 Stat. 2985.)

EDITORIAL NOTES

AMENDMENTS

2017—Subsec. (b). Pub. L. 114–329 substituted "Networking and Information Technology Research and Development Program" for "National High-Performance Computing Program".

SUBCHAPTER III—PRIVACY

§17921. Definitions

In this subchapter, except as specified otherwise:

(1) Breach

(A) In general

The term "breach" means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information.

(B) Exceptions

The term "breach" does not include—

(i) any unintentional acquisition, access, or use of protected health information by an employee or individual acting under the authority of a covered entity or business associate if—

(I) such acquisition, access, or use was made in good faith and within the course and scope of the employment or other professional relationship of such employee or individual, respectively, with the covered entity or business associate; and

(II) such information is not further acquired, accessed, used, or disclosed by any person;

or

(ii) any inadvertent disclosure from an individual who is otherwise authorized to access protected health information at a facility operated by a covered entity or business associate to another similarly situated individual at [1] same facility; and

(iii) any such information received as a result of such disclosure is not further acquired, accessed, used, or disclosed without authorization by any person.

(2) Business associate

The term "business associate" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(3) Covered entity

The term "covered entity" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(4) Disclose

The terms "disclose" and "disclosure" have the meaning given the term "disclosure" in section 160.103 of title 45, Code of Federal Regulations.

(5) Electronic health record

The term "electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

(6) Health care operations

The term "health care operation" has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(7) Health care provider

The term "health care provider" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(8) Health plan

The term "health plan" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(9) National Coordinator

The term "National Coordinator" means the head of the Office of the National Coordinator for Health Information Technology established under section 300jj–11(a) of this title, as added by section 13101.[2]

(10) Payment

The term "payment" has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(11) Personal health record

The term "personal health record" means an electronic record of PHR identifiable health information (as defined in section 17937(f)(2) of this title) on an individual that can be drawn from multiple sources and that is managed, shared, and controlled by or primarily for the individual.

(12) Protected health information

The term "protected health information" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(13) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(14) Security

The term "security" has the meaning given such term in section 164.304 of title 45, Code of Federal Regulations.

(15) State

The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(16) Treatment

The term "treatment" has the meaning given such term in section 164.501 of title 45, Code of Federal Regulations.

(17) Use

The term "use" has the meaning given such term in section 160.103 of title 45, Code of Federal Regulations.

(18) Vendor of personal health records

The term "vendor of personal health records" means an entity, other than a covered entity (as defined in paragraph (3)), that offers or maintains a personal health record.

(Pub. L. 111–5, div. A, title XIII, §13400, Feb. 17, 2009, 123 Stat. 258.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

Section 13101, referred to in par. (9), means section 13101 of div. A of Pub. L. 111–5.

[1] So in original. Probably should be followed by "the".

[2] See References in Text note below.

PART A—IMPROVED PRIVACY PROVISIONS AND SECURITY PROVISIONS

§17931. Application of security provisions and penalties to business associates of covered entities; annual guidance on security provisions

(a) Application of security provisions

Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations, shall apply to a business associate of a covered entity in the same manner that such sections apply to the covered entity. The additional requirements of this title [1] that relate to security and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) Application of civil and criminal penalties

In the case of a business associate that violates any security provision specified in subsection (a), sections 1320d–5 and 1320d–6 of this title shall apply to the business associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security

provision.

(c) Annual guidance

For the first year beginning after February 17, 2009, and annually thereafter, the Secretary of Health and Human Services shall, after consultation with stakeholders, annually issue guidance on the most effective and appropriate technical safeguards for use in carrying out the sections referred to in subsection (a) and the security standards in subpart C of part 164 of title 45, Code of Federal Regulations, including the use of standards developed under section 300jj–12(b)(2)(B)(vi) [1] of this title, as added by section 13101 of this Act, as such provisions are in effect as of the date before February 17, 2009.

(Pub. L. 111–5, div. A, title XIII, §13401, Feb. 17, 2009, 123 Stat. 260.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (a), is title XIII of div. A of Pub. L. 111–5, which enacted this chapter and subchapter XXVIII (§300jj et seq.) of chapter 6A this title, amended sections 1320d, 1320d–5, and 1320d–6 of this title, and enacted provisions set out as a note under this section and section 201 of this title. For complete classification of title XIII to the Code, see Short Title of 2009 Amendment note set out under section 201 of this title and Tables.

Section 300jj–12(b)(2)(B)(vi) of this title, referred to in subsec. (c), was repealed by Pub. L. 114–255, div. A, title IV, §4003(e)(1), Dec. 13, 2016, 130 Stat. 1168. Similar provisions as pertaining to the HIT Advisory Committee are contained in section 300jj–12(b)(2)(C)(vii) of this title as enacted by Pub. L. 114–255.

Section 13101 of this Act, referred to in subsec. (c), means section 13101 of div. A of Pub. L. 111–5.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 111–5, div. A, title XIII, §13423, Feb. 17, 2009, 123 Stat. 276, provided that: "Except as otherwise specifically provided, the provisions of part I [probably means part 1 (§§13401–13411) of subtitle D of title XIII of div. A of Pub. L. 111–5, enacting this part and amending sections 1320d–5 and 1320d–6 of this title] shall take effect on the date that is 12 months after the date of the enactment of this title [Feb. 17, 2009]."

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

§17932. Notification in the case of breach

(a) In general

A covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information (as defined in subsection (h)(1)) shall, in the case of a breach of such information that is discovered by the covered entity, notify each individual whose unsecured protected health information has been, or is reasonably believed by the covered entity to have been, accessed, acquired, or disclosed as a result of such breach.

(b) Notification of covered entity by business associate

A business associate of a covered entity that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured protected health information shall, following the discovery of a breach of such information, notify the covered entity of such breach. Such notice shall include the identification of each individual whose unsecured protected health information has been, or is reasonably believed by the business associate to have been, accessed, acquired, or disclosed during such breach.

(c) Breaches treated as discovered

For purposes of this section, a breach shall be treated as discovered by a covered entity or by a business associate as of the first day on which such breach is known to such entity or associate, respectively, (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of such entity or associate, respectively) or should reasonably have been known to such entity or associate (or person) to have occurred.

(d) Timeliness of notification

(1) In general

Subject to subsection (g), all notifications required under this section shall be made without unreasonable delay and in no case later than 60 calendar days after the discovery of a breach by the covered entity involved (or business associate involved in the case of a notification required under subsection (b)).

(2) Burden of proof

The covered entity involved (or business associate involved in the case of a notification required under subsection (b)), shall have the burden of demonstrating that all notifications were made as required under this part, including evidence demonstrating the necessity of any delay.

(e) Methods of notice

(1) Individual notice

Notice required under this section to be provided to an individual, with respect to a breach, shall be provided promptly and in the following form:

(A) Written notification by first-class mail to the individual (or the next of kin of the individual if the individual is deceased) at the last known address of the individual or the next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. The notification may be provided in one or more mailings as information is available.

(B) In the case in which there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes direct written (or, if specified by the individual under subparagraph (A), electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are 10 or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting for a period determined by the Secretary on the home page of the Web site of the covered entity involved or notice in major print or broadcast media, including major media in geographic areas where the individuals affected by the breach likely reside. Such a notice in media or web posting will include a toll-free phone number where an individual can learn whether or not the individual's unsecured protected health information is possibly included in the breach.

(C) In any case deemed by the covered entity involved to require urgency because of possible imminent misuse of unsecured protected health information, the covered entity, in addition to notice provided under subparagraph (A), may provide information to individuals by telephone or other means, as appropriate.

(2) Media notice

Notice shall be provided to prominent media outlets serving a State or jurisdiction, following the discovery of a breach described in subsection (a), if the unsecured protected health information of more than 500 residents of such State or jurisdiction is, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(3) Notice to Secretary

Notice shall be provided to the Secretary by covered entities of unsecured protected health information that has been acquired or disclosed in a breach. If the breach was with respect to 500 or more individuals than [1] such notice must be provided immediately. If the breach was with

respect to less than 500 individuals, the covered entity may maintain a log of any such breach occurring and annually submit such a log to the Secretary documenting such breaches occurring during the year involved.

(4) Posting on HHS public website

The Secretary shall make available to the public on the Internet website of the Department of Health and Human Services a list that identifies each covered entity involved in a breach described in subsection (a) in which the unsecured protected health information of more than 500 individuals is acquired or disclosed.

(f) Content of notification

Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following:

(1) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.

(2) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).

(3) The steps individuals should take to protect themselves from potential harm resulting from the breach.

(4) A brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.

(5) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

(g) Delay of notification authorized for law enforcement purposes

If a law enforcement official determines that a notification, notice, or posting required under this section would impede a criminal investigation or cause damage to national security, such notification, notice, or posting shall be delayed in the same manner as provided under section 164.528(a)(2) of title 45, Code of Federal Regulations, in the case of a disclosure covered under such section.

(h) Unsecured protected health information

(1) Definition

(A) In general

Subject to subparagraph (B), for purposes of this section, the term "unsecured protected health information" means protected health information that is not secured through the use of a technology or methodology specified by the Secretary in the guidance issued under paragraph (2).

(B) Exception in case timely guidance not issued

In the case that the Secretary does not issue guidance under paragraph (2) by the date specified in such paragraph, for purposes of this section, the term "unsecured protected health information" shall mean protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(2) Guidance

For purposes of paragraph (1) and section 17937(f)(3) of this title, not later than the date that is 60 days after February 17, 2009, the Secretary shall, after consultation with stakeholders, issue (and annually update) guidance specifying the technologies and methodologies that render protected health information unusable, unreadable, or indecipherable to unauthorized individuals, including the use of standards developed under section 300jj–12(b)(2)(B)(vi) [2] of this title, as added by section 13101 of this Act.

(i) Report to Congress on breaches

(1) In general

Not later than 12 months after February 17, 2009, and annually thereafter, the Secretary shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the information described in paragraph (2) regarding breaches for which notice was provided to the Secretary under subsection (e)(3).

(2) Information

The information described in this paragraph regarding breaches specified in paragraph (1) shall include—

(A) the number and nature of such breaches; and

(B) actions taken in response to such breaches.

(j) Regulations; effective date

To carry out this section, the Secretary of Health and Human Services shall promulgate interim final regulations by not later than the date that is 180 days after February 17, 2009. The provisions of this section shall apply to breaches that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(Pub. L. 111–5, div. A, title XIII, §13402, Feb. 17, 2009, 123 Stat. 260.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 300jj–12(b)(2)(B)(vi) of this title, referred to in subsec. (h)(2), was repealed by Pub. L. 114–255, div. A, title IV, §4003(e)(1), Dec. 13, 2016, 130 Stat. 1168. Similar provisions as pertaining to the HIT Advisory Committee are contained in section 300jj–12(b)(2)(C)(vii) of this title as enacted by Pub. L. 114–255.

Section 13101 of this Act, referred to in subsec. (h)(2), means section 13101 of div. A of Pub. L. 111–5.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

[1] *So in orginal. Probably should be "then".*

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

§17933. Education on health information privacy

(a) Regional office privacy advisors

Not later than 6 months after February 17, 2009, the Secretary shall designate an individual in each regional office of the Department of Health and Human Services to offer guidance and education to covered entities, business associates, and individuals on their rights and responsibilities related to Federal privacy and security requirements for protected health information.

(b) Education initiative on uses of health information

Not later than 12 months after February 17, 2009, the Office for Civil Rights within the Department of Health and Human Services shall develop and maintain a multi-faceted national

education initiative to enhance public transparency regarding the uses of protected health information, including programs to educate individuals about the potential uses of their protected health information, the effects of such uses, and the rights of individuals with respect to such uses. Such programs shall be conducted in a variety of languages and present information in a clear and understandable manner.

(Pub. L. 111–5, div. A, title XIII, §13403, Feb. 17, 2009, 123 Stat. 263.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

§17934. Application of privacy provisions and penalties to business associates of covered entities

(a) Application of contract requirements

In the case of a business associate of a covered entity that obtains or creates protected health information pursuant to a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations, with such covered entity, the business associate may use and disclose such protected health information only if such use or disclosure, respectively, is in compliance with each applicable requirement of section 164.504(e) of such title. The additional requirements of this subchapter that relate to privacy and that are made applicable with respect to covered entities shall also be applicable to such a business associate and shall be incorporated into the business associate agreement between the business associate and the covered entity.

(b) Application of knowledge elements associated with contracts

Section 164.504(e)(1)(ii) of title 45, Code of Federal Regulations, shall apply to a business associate described in subsection (a), with respect to compliance with such subsection, in the same manner that such section applies to a covered entity, with respect to compliance with the standards in sections 164.502(e) and 164.504(e) of such title, except that in applying such section 164.504(e)(1)(ii) each reference to the business associate, with respect to a contract, shall be treated as a reference to the covered entity involved in such contract.

(c) Application of civil and criminal penalties

In the case of a business associate that violates any provision of subsection (a) or (b), the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d–5, 1320d–6) shall apply to the business associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act [42 U.S.C. 1320d et seq.].

(Pub. L. 111–5, div. A, title XIII, §13404, Feb. 17, 2009, 123 Stat. 264.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

§17935. Restrictions on certain disclosures and sales of health information; accounting of certain protected health information disclosures; access to certain information in electronic format

(a) Requested restrictions on certain disclosures of health information

In the case that an individual requests under paragraph (a)(1)(i)(A) of section 164.522 of title 45, Code of Federal Regulations, that a covered entity restrict the disclosure of the protected health information of the individual, notwithstanding paragraph (a)(1)(ii) of such section, the covered entity must comply with the requested restriction if—

(1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and

(2) the protected health information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

(b) Disclosures required to be limited to the limited data set or the minimum necessary

(1) In general

(A) In general

Subject to subparagraph (B), a covered entity shall be treated as being in compliance with section 164.502(b)(1) of title 45, Code of Federal Regulations, with respect to the use, disclosure, or request of protected health information described in such section, only if the covered entity limits such protected health information, to the extent practicable, to the limited data set (as defined in section 164.514(e)(2) of such title) or, if needed by such entity, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

(B) Guidance

Not later than 18 months after February 17, 2009, the Secretary shall issue guidance on what constitutes "minimum necessary" for purposes of subpart E of part 164 of title 45, Code of Federal Regulation.[1] In issuing such guidance the Secretary shall take into consideration the guidance under section 17953(c) of this title and the information necessary to improve patient outcomes and to detect, prevent, and manage chronic disease.

(C) Sunset

Subparagraph (A) shall not apply on and after the effective date on which the Secretary issues the guidance under subparagraph (B).

(2) Determination of minimum necessary

For purposes of paragraph (1), in the case of the disclosure of protected health information, the covered entity or business associate disclosing such information shall determine what constitutes the minimum necessary to accomplish the intended purpose of such disclosure.

(3) Application of exceptions

The exceptions described in section 164.502(b)(2) of title 45, Code of Federal Regulations, shall apply to the requirement under paragraph (1) as of the effective date described in section 13423 [2] in the same manner that such exceptions apply to section 164.502(b)(1) of such title before such date.

(4) Rule of construction

Nothing in this subsection shall be construed as affecting the use, disclosure, or request of protected health information that has been de-identified.

(c) Accounting of certain protected health information disclosures required if covered entity uses electronic health record

(1) In general

In applying section 164.528 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information—

(A) the exception under paragraph (a)(1)(i) of such section shall not apply to disclosures through an electronic health record made by such entity of such information; and

(B) an individual shall have a right to receive an accounting of disclosures described in such paragraph of such information made by such covered entity during only the three years prior to the date on which the accounting is requested.

(2) Regulations

The Secretary shall promulgate regulations on what information shall be collected about each disclosure referred to in paragraph (1), not later than 6 months after the date on which the Secretary adopts standards on accounting for disclosure described in the [3] section 300jj–12(b)(2)(B)(iv) of this title, as added by section 13101.[2] Such regulations shall only require such information to be collected through an electronic health record in a manner that takes into account the interests of the individuals in learning the circumstances under which their protected health information is being disclosed and takes into account the administrative burden of accounting for such disclosures.

(3) Process

In response to an [4] request from an individual for an accounting, a covered entity shall elect to provide either an—

(A) accounting, as specified under paragraph (1), for disclosures of protected health information that are made by such covered entity and by a business associate acting on behalf of the covered entity; or

(B) accounting, as specified under paragraph (1), for disclosures that are made by such covered entity and provide a list of all business associates acting on behalf of the covered entity, including contact information for such associates (such as mailing address, phone, and email address).

A business associate included on a list under subparagraph (B) shall provide an accounting of disclosures (as required under paragraph (1) for a covered entity) made by the business associate upon a request made by an individual directly to the business associate for such an accounting.

(4) Effective date

(A) Current users of electronic records

In the case of a covered entity insofar as it acquired an electronic health record as of January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such a record on and after January 1, 2014.

(B) Others

In the case of a covered entity insofar as it acquires an electronic health record after January 1, 2009, paragraph (1) shall apply to disclosures, with respect to protected health information, made by the covered entity from such record on and after the later of the following:

(i) January 1, 2011; or

(ii) the date that it acquires an electronic health record.

(C) Later date

The Secretary may set an effective date that is later that [5] the date specified under subparagraph (A) or (B) if the Secretary determines that such later date is necessary, but in no case may the date specified under—

(i) subparagraph (A) be later than 2016; or

(ii) subparagraph (B) be later than 2013.

(d) Prohibition on sale of electronic health records or protected health information

(1) In general

Except as provided in paragraph (2), a covered entity or business associate shall not directly or indirectly receive remuneration in exchange for any protected health information of an individual unless the covered entity obtained from the individual, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization that includes, in accordance with such section, a specification of whether the protected health information can be further exchanged for remuneration by the entity receiving protected health information of that individual.

(2) Exceptions

Paragraph (1) shall not apply in the following cases:

(A) The purpose of the exchange is for public health activities (as described in section 164.512(b) of title 45, Code of Federal Regulations).

(B) The purpose of the exchange is for research (as described in sections 164.501 and 164.512(i) of title 45, Code of Federal Regulations) and the price charged reflects the costs of preparation and transmittal of the data for such purpose.

(C) The purpose of the exchange is for the treatment of the individual, subject to any regulation that the Secretary may promulgate to prevent protected health information from inappropriate access, use, or disclosure.

(D) The purpose of the exchange is the health care operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations in section 164.501 of title 45, Code of Federal Regulations.

(E) The purpose of the exchange is for remuneration that is provided by a covered entity to a business associate for activities involving the exchange of protected health information that the business associate undertakes on behalf of and at the specific request of the covered entity pursuant to a business associate agreement.

(F) The purpose of the exchange is to provide an individual with a copy of the individual's protected health information pursuant to section 164.524 of title 45, Code of Federal Regulations.

(G) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate as the exceptions provided in subparagraphs (A) through (F).

(3) Regulations

Not later than 18 months after February 17, 2009, the Secretary shall promulgate regulations to carry out this subsection. In promulgating such regulations, the Secretary—

(A) shall evaluate the impact of restricting the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, on research or public health activities, including those conducted by or for the use of the Food and Drug Administration; and

(B) may further restrict the exception described in paragraph (2)(A) to require that the price charged for the purposes described in such paragraph reflects the costs of the preparation and transmittal of the data for such purpose, if the Secretary finds that such further restriction will not impede such research or public health activities.

(4) Effective date

Paragraph (1) shall apply to exchanges occurring on or after the date that is 6 months after the date of the promulgation of final regulations implementing this subsection.

(e) Access to certain information in electronic format

In applying section 164.524 of title 45, Code of Federal Regulations, in the case that a covered entity uses or maintains an electronic health record with respect to protected health information of an individual—

(1) the individual shall have a right to obtain from such covered entity a copy of such information in an electronic format and, if the individual chooses, to direct the covered entity to transmit such copy directly to an entity or person designated by the individual, provided that any such choice is clear, conspicuous, and specific;

(2) if the individual makes a request to a business associate for access to, or a copy of, protected health information about the individual, or if an individual makes a request to a business associate to grant such access to, or transmit such copy directly to, a person or entity designated by the individual, a business associate may provide the individual with such access or copy, which may be in an electronic form, or grant or transmit such access or copy to such person or entity designated by the individual; and

(3) notwithstanding paragraph (c)(4) of such section, any fee that the covered entity may impose for providing such individual with a copy of such information (or a summary or explanation of such information) if such copy (or summary or explanation) is in an electronic form shall not be greater than the entity's labor costs in responding to the request for the copy (or summary or explanation).

(Pub. L. 111–5, div. A, title XIII, §13405, Feb. 17, 2009, 123 Stat. 264; Pub. L. 114–255, div. A, title IV, §4006(b), Dec. 13, 2016, 130 Stat. 1183.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13423, referred to in subsec. (b)(3), means section 13423 of div. A of Pub. L. 111–5, which is set out as an Effective Date note under section 17931 of this title.

Section 300jj–12(b)(2)(B)(iv) of this title, as added by section 13101, referred to in subsec. (c)(2), means section 300jj–12(b)(2)(B)(iv) of this title as added by section 13101 of div. A of Pub. L. 111–5. Section 300jj–12 of this title was repealed by Pub. L. 114–255, div. A, title IV, §4003(e)(1), Dec. 13, 2016, 130 Stat. 1168. Similar provisions as pertaining to the HIT Advisory Committee are contained in section 300jj–12(b)(2)(B)(ii) of this title as enacted by Pub. L. 114–255.

AMENDMENTS

2016—Subsec. (e)(2), (3). Pub. L. 114–255 added par. (2) and redesignated former par. (2) as (3).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

[1] So in original. Probably should be "Regulations."

[2] See References in Text note below.

[3] So in original.

[4] So in original. Probably should be "a".

[5] So in original. Probably should be "than".

§17936. Conditions on certain contacts as part of health care operations

(a) Marketing

(1) In general

A communication by a covered entity or business associate that is about a product or service and that encourages recipients of the communication to purchase or use the product or service shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations, unless the communication is made as described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of such title.

(2) Payment for certain communications

A communication by a covered entity or business associate that is described in subparagraph (i), (ii), or (iii) of paragraph (1) of the definition of marketing in section 164.501 of title 45, Code of Federal Regulations, shall not be considered a health care operation for purposes of subpart E of part 164 of title 45, Code of Federal Regulations if the covered entity receives or has received direct or indirect payment in exchange for making such communication, except where—

(A)(i) such communication describes only a drug or biologic that is currently being prescribed for the recipient of the communication; and

(ii) any payment received by such covered entity in exchange for making a communication described in clause (i) is reasonable in amount;

(B) each of the following conditions apply—

(i) the communication is made by the covered entity; and

(ii) the covered entity making such communication obtains from the recipient of the communication, in accordance with section 164.508 of title 45, Code of Federal Regulations, a valid authorization (as described in paragraph (b) of such section) with respect to such communication; or

(C) each of the following conditions apply—

(i) the communication is made by a business associate on behalf of the covered entity; and

(ii) the communication is consistent with the written contract (or other written arrangement described in section 164.502(e)(2) of such title) between such business associate and covered entity.

(3) Reasonable in amount defined

For purposes of paragraph (2), the term "reasonable in amount" shall have the meaning given such term by the Secretary by regulation.

(4) Direct or indirect payment

For purposes of paragraph (2), the term "direct or indirect payment" shall not include any payment for treatment (as defined in section 164.501 of title 45, Code of Federal Regulations) of an individual.

(b) Opportunity to opt out of fundraising

The Secretary shall by rule provide that any written fundraising communication that is a healthcare operation as defined under section 164.501 of title 45, Code of Federal Regulations, shall, in a clear and conspicuous manner, provide an opportunity for the recipient of the communications to elect not to receive any further such communication. When an individual elects not to receive any further such communication, such election shall be treated as a revocation of authorization under section 164.508 of title 45, Code of Federal Regulations.

(c) Effective date

This section shall apply to written communications occurring on or after the effective date specified under section 13423.[1]

(Pub. L. 111–5, div. A, title XIII, §13406, Feb. 17, 2009, 123 Stat. 268.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 13423, referred to in subsec. (c), means section 13423 of div. A of Pub. L. 111–5, which is set out as an Effective Date note under section 17931 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

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

§17937. Temporary breach notification requirement for vendors of personal health records and other non-HIPAA covered entities

(a) In general

In accordance with subsection (c), each vendor of personal health records, following the discovery of a breach of security of unsecured PHR identifiable health information that is in a personal health record maintained or offered by such vendor, and each entity described in clause (ii), (iii), or (iv) of section 17953(b)(1)(A) of this title, following the discovery of a breach of security of such information that is obtained through a product or service provided by such entity, shall—

(1) notify each individual who is a citizen or resident of the United States whose unsecured PHR identifiable health information was acquired by an unauthorized person as a result of such a breach of security; and

(2) notify the Federal Trade Commission.

(b) Notification by third party service providers

A third party service provider that provides services to a vendor of personal health records or to an entity described in clause (ii), (iii).[1] or (iv) of section 17953(b)(1)(A) of this title in connection with the offering or maintenance of a personal health record or a related product or service and that accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses unsecured PHR identifiable health information in such a record as a result of such services shall, following the discovery of a breach of security of such information, notify such vendor or entity, respectively, of such breach. Such notice shall include the identification of each individual whose unsecured PHR identifiable health information has been, or is reasonably believed to have been, accessed, acquired, or disclosed during such breach.

(c) Application of requirements for timeliness, method, and content of notifications

Subsections (c), (d), (e), and (f) of section 17932 of this title shall apply to a notification required under subsection (a) and a vendor of personal health records, an entity described in subsection (a) and a third party service provider described in subsection (b), with respect to a breach of security under subsection (a) of unsecured PHR identifiable health information in such records maintained or offered by such vendor, in a manner specified by the Federal Trade Commission.

(d) Notification of the Secretary

Upon receipt of a notification of a breach of security under subsection (a)(2), the Federal Trade Commission shall notify the Secretary of such breach.

(e) Enforcement

A violation of subsection (a) or (b) shall be treated as an unfair and deceptive act or practice in violation of a regulation under section 57a(a)(1)(B) of title 15 regarding unfair or deceptive acts or

practices.

(f) Definitions

For purposes of this section:

(1) Breach of security

The term "breach of security" means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual.

(2) PHR identifiable health information

The term "PHR identifiable health information" means individually identifiable health information, as defined in section 1320d(6) of this title, and includes, with respect to an individual, information—

(A) that is provided by or on behalf of the individual; and

(B) that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) Unsecured PHR identifiable health information

(A) In general

Subject to subparagraph (B), the term "unsecured PHR identifiable health information" means PHR identifiable health information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under section 17932(h)(2) of this title.

(B) Exception in case timely guidance not issued

In the case that the Secretary does not issue guidance under section 17932(h)(2) of this title by the date specified in such section, for purposes of this section, the term "unsecured PHR identifiable health information" shall mean PHR identifiable health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and that is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

(g) Regulations; effective date; sunset

(1) Regulations; effective date

To carry out this section, the Federal Trade Commission shall promulgate interim final regulations by not later than the date that is 180 days after February 17, 2009. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) Sunset

If Congress enacts new legislation establishing requirements for notification in the case of a breach of security, that apply to entities that are not covered entities or business associates, the provisions of this section shall not apply to breaches of security discovered on or after the effective date of regulations implementing such legislation.

(Pub. L. 111–5, div. A, title XIII, §13407, Feb. 17, 2009, 123 Stat. 269.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

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

§17938. Business associate contracts required for certain entities

Each organization, with respect to a covered entity, that provides data transmission of protected health information to such entity (or its business associate) and that requires access on a routine basis to such protected health information, such as a Health Information Exchange Organization, Regional Health Information Organization, E-prescribing Gateway, or each vendor that contracts with a covered entity to allow that covered entity to offer a personal health record to patients as part of its electronic health record, is required to enter into a written contract (or other written arrangement) described in section 164.502(e)(2) of title 45, Code of Federal Regulations and a written contract (or other arrangement) described in section 164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subchapter and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of February 17, 2009.

(Pub. L. 111–5, div. A, title XIII, §13408, Feb. 17, 2009, 123 Stat. 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

§17939. Improved enforcement

(a) In general

(1) Omitted

(2) Enforcement under Social Security Act

Any violation by a covered entity under thus [1] subchapter is subject to enforcement and penalties under section [2] 1176 and 1177 of the Social Security Act [42 U.S.C. 1320d–5, 1320d–6].

(b) Effective date; regulations

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after February 17, 2009.

(2) Not later than 18 months after February 17, 2009, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) Distribution of certain civil monetary penalties collected

(1) In general

Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this subchapter or section 1176 of the Social Security Act (42 U.S.C. 1320d–5) insofar as such section relates to privacy or security shall be transferred to the Office for Civil Rights of the Department of Health

and Human Services to be used for purposes of enforcing the provisions of this subchapter and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of February 17, 2009.

(2) GAO report

Not later than 18 months after February 17, 2009, the Comptroller General shall submit to the Secretary a report including recommendations for a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(3) Establishment of methodology to distribute percentage of CMPS collected to harmed individuals

Not later than 3 years after February 17, 2009, the Secretary shall establish by regulation and based on the recommendations submitted under paragraph (2), a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) Application of methodology

The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) Tiered increase in amount of civil monetary penalties

(1) to (3) Omitted

(4) Effective date

The amendments made by this subsection shall apply to violations occurring after February 17, 2009.

(e) Enforcement through State attorneys general

(1), (2) Omitted

(3) Effective date

The amendments made by this subsection shall apply to violations occurring after February 17, 2009.

(Pub. L. 111–5, div. A, title XIII, §13410, Feb. 17, 2009, 123 Stat. 271.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(2) and (c)(1), was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

For reference to "the amendments made by subsection (a)" in subsec. (b)(1) and "the amendments made by this subsection" in subsecs. (d)(4) and (e)(3), see Codification note below.

CODIFICATION

Section is comprised of section 13410 of Pub. L. 111–5. Subsecs. (a)(1), (d)(1)–(3), (e)(1), (2), and (f) of section 13410 of Pub. L. 111–5 amended section 1320d–5 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

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

[2] *So in original. Probably should be "sections".*

§17940. Audits

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements of this subchapter and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of February 17, 2009, comply with such requirements.

(Pub. L. 111–5, div. A, title XIII, §13411, Feb. 17, 2009, 123 Stat. 276.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111–5, set out as a note under section 17931 of this title.

§17941. Recognition of security practices

(a) In general

Consistent with the authority of the Secretary under sections 1320d–5 and 1320d–6 of this title, when making determinations relating to fines under such section 1320d–5 (as amended by section 13410 of Pub. L. 111–5) or such section 1320d–6, decreasing the length and extent of an audit under section 17940 of this title, or remedies otherwise agreed to by the Secretary, the Secretary shall consider whether the covered entity or business associate has adequately demonstrated that it had, for not less than the previous 12 months, recognized security practices in place that may—

(1) mitigate fines under section 1320d–5 of this title (as amended by section 13410 of Pub. L. 111–5);

(2) result in the early, favorable termination of an audit under section 17940 of this title; and

(3) mitigate the remedies that would otherwise be agreed to in any agreement with respect to resolving potential violations of the HIPAA Security rule (part 160 of title 45 Code of Federal Regulations and subparts A and C of part 164 of such title) between the covered entity or business associate and the Department of Health and Human Services.

(b) Definition and miscellaneous provisions

(1) Recognized security practices

The term "recognized security practices" means the standards, guidelines, best practices, methodologies, procedures, and processes developed under section 272(c)(15) of title 15, the approaches promulgated under section 1533(d) of title 6, and other programs and processes that address cybersecurity and that are developed, recognized, or promulgated through regulations under other statutory authorities. Such practices shall be determined by the covered entity or business associate, consistent with the HIPAA Security rule (part 160 of title 45 Code of Federal Regulations and subparts A and C of part 164 of such title).

(2) Limitation

Nothing in this section shall be construed as providing the Secretary authority to increase fines under section 1320d–5 of this title (as amended by section 13410 of Pub. L. 111–5), or the length, extent or quantity of audits under section 17940 of this title, due to a lack of compliance with the recognized security practices.

(3) No liability for nonparticipation

Subject to paragraph (4), nothing in this section shall be construed to subject a covered entity or business associate to liability for electing not to engage in the recognized security practices defined by this section.

(4) Rule of construction

Nothing in this section shall be construed to limit the Secretary's authority to enforce the HIPAA Security rule (part 160 of title 45 Code of Federal Regulations and subparts A and C of part 164 of such title), or to supersede or conflict with an entity or business associate's obligations under the HIPAA Security rule.

(Pub. L. 111–5, div. A, title XIII, §13412, as added Pub. L. 116–321, §1, Jan. 5, 2021, 134 Stat. 5072.)

PART B—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

§17951. Relationship to other laws

(a) Application of HIPAA State preemption

Section 1178 of the Social Security Act (42 U.S.C. 1320d–7) shall apply to a provision or requirement under this subchapter in the same manner that such section applies to a provision or requirement under part C of title XI of such Act [42 U.S.C. 1320d et seq.] or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act [42 U.S.C. 1320d–1 to 1320d–3].

(b) Health Insurance Portability and Accountability Act of 1996

The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subchapter. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subchapter.

(c) Construction

Nothing in this subchapter shall constitute a waiver of any privilege otherwise applicable to an individual with respect to the protected health information of such individual.

(Pub. L. 111–5, div. A, title XIII, §13421, Feb. 17, 2009, 123 Stat. 276.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For

complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b), is Pub. L. 104–191, Aug. 21, 1996, 110 Stat. 1936. Section 262(a) of the Act enacted sections 1320d to 1320d–8 of this title. Section 264 of the Act is set out as a note under section 1320d–2 of this title. For complete classification of this Act to the Code, see Short Title of 1996 Amendments note set out under section 201 of this title and Tables.

§17952. Regulatory references

Each reference in this subchapter to a provision of the Code of Federal Regulations refers to such provision as in effect on February 17, 2009 (or to the most recent update of such provision).

(Pub. L. 111–5, div. A, title XIII, §13422, Feb. 17, 2009, 123 Stat. 276.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

§17953. Studies, reports, guidance

(a) Report on compliance

(1) In general

For the first year beginning after February 17, 2009, and annually thereafter, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report concerning complaints of alleged violations of law, including the provisions of this subchapter as well as the provisions of subparts C and E of part 164 of title 45, Code of Federal Regulations, (as such provisions are in effect as of February 17, 2009) relating to privacy and security of health information that are received by the Secretary during the year for which the report is being prepared. Each such report shall include, with respect to such complaints received during the year—

(A) the number of such complaints;

(B) the number of such complaints resolved informally, a summary of the types of such complaints so resolved, and the number of covered entities that received technical assistance from the Secretary during such year in order to achieve compliance with such provisions and the types of such technical assistance provided;

(C) the number of such complaints that have resulted in the imposition of civil monetary penalties or have been resolved through monetary settlements, including the nature of the complaints involved and the amount paid in each penalty or settlement;

(D) the number of compliance reviews conducted and the outcome of each such review;

(E) the number of subpoenas or inquiries issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 17940 of this title.

(2) Availability to public

Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) Study and report on application of privacy and security requirements to non-HIPAA

covered entities

(1) Study

Not later than one year after February 17, 2009, the Secretary, in consultation with the Federal Trade Commission, shall conduct a study, and submit a report under paragraph (2), on privacy and security requirements for entities that are not covered entities or business associates as of February 17, 2009, including—

(A) requirements relating to security, privacy, and notification in the case of a breach of security or privacy (including the applicability of an exemption to notification in the case of individually identifiable health information that has been rendered unusable, unreadable, or indecipherable through technologies or methodologies recognized by appropriate professional organization or standard setting bodies to provide effective security for the information) that should be applied to—

(i) vendors of personal health records;

(ii) entities that offer products or services through the website of a vendor of personal health records;

(iii) entities that are not covered entities and that offer products or services through the websites of covered entities that offer individuals personal health records;

(iv) entities that are not covered entities and that access information in a personal health record or send information to a personal health record; and

(v) third party service providers used by a vendor or entity described in clause (i), (ii), (iii), or (iv) to assist in providing personal health record products or services;

(B) a determination of which Federal government agency is best equipped to enforce such requirements recommended to be applied to such vendors, entities, and service providers under subparagraph (A); and

(C) a timeframe for implementing regulations based on such findings.

(2) Report

The Secretary shall submit to the Committee on Finance, the Committee on Health, Education, Labor, and Pensions, and the Committee on Commerce of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the findings of the study under paragraph (1) and shall include in such report recommendations on the privacy and security requirements described in such paragraph.

(c) Guidance on implementation specification to de-identify protected health information

Not later than 12 months after February 17, 2009, the Secretary shall, in consultation with stakeholders, issue guidance on how best to implement the requirements for the de-identification of protected health information under section 164.514(b) of title 45, Code of Federal Regulations.

(d) GAO report on treatment disclosures

Not later than one year after February 17, 2009, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report on the best practices related to the disclosure among health care providers of protected health information of an individual for purposes of treatment of such individual. Such report shall include an examination of the best practices implemented by States and by other entities, such as health information exchanges and regional health information organizations, an examination of the extent to which such best practices are successful with respect to the quality of the resulting health care provided to the individual and with respect to the ability of the health care provider to manage such best practices, and an examination of the use of electronic informed consent for disclosing protected health information for treatment, payment, and health care operations.

(e) Report required

Not later than 5 years after February 17, 2009, the Government Accountability Office shall submit

to Congress and the Secretary of Health and Human Services a report on the impact of any of the provisions of this Act on health insurance premiums, overall health care costs, adoption of electronic health records by providers, and reduction in medical errors and other quality improvements.

(f) Study

The Secretary shall study the definition of "psychotherapy notes" in section 164.501 of title 45, Code of Federal Regulations, with regard to including test data that is related to direct responses, scores, items, forms, protocols, manuals, or other materials that are part of a mental health evaluation, as determined by the mental health professional providing treatment or evaluation in such definitions and may, based on such study, issue regulations to revise such definition.

(Pub. L. 111–5, div. A, title XIII, §13424, Feb. 17, 2009, 123 Stat. 276.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(1), was in the original "this subtitle", meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

This Act, referred to in subsec. (e), means div. A of Pub. L. 111–5, Feb. 17, 2009, 123 Stat. 116, see section 4 of Pub. L. 111–5, set out as a note under section 1 of Title 1, General Provisions. For complete classification of div. A to the Code, see Tables.

CHAPTER 157—QUALITY, AFFORDABLE HEALTH CARE FOR ALL AMERICANS

SUBCHAPTER I—IMMEDIATE ACTIONS TO PRESERVE AND EXPAND COVERAGE

Sec.

SUBCHAPTER I—IMMEDIATE ACTIONS TO PRESERVE AND EXPAND COVERAGE

§18001. Immediate access to insurance for uninsured individuals with a preexisting condition

(a) In general

Not later than 90 days after March 23, 2010, the Secretary shall establish a temporary high risk health insurance pool program to provide health insurance coverage for eligible individuals during the period beginning on the date on which such program is established and ending on January 1, 2014.

(b) Administration

(1) In general

The Secretary may carry out the program under this section directly or through contracts to eligible entities.

(2) Eligible entities

To be eligible for a contract under paragraph (1), an entity shall—

(A) be a State or nonprofit private entity;

(B) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require; and

(C) agree to utilize contract funding to establish and administer a qualified high risk pool for eligible individuals.

(3) Maintenance of effort

To be eligible to enter into a contract with the Secretary under this subsection, a State shall agree not to reduce the annual amount the State expended for the operation of one or more State high risk pools during the year preceding the year in which such contract is entered into.

(c) Qualified high risk pool

(1) In general

Amounts made available under this section shall be used to establish a qualified high risk pool that meets the requirements of paragraph (2).

(2) Requirements

A qualified high risk pool meets the requirements of this paragraph if such pool—

(A) provides to all eligible individuals health insurance coverage that does not impose any preexisting condition exclusion with respect to such coverage;

(B) provides health insurance coverage—

(i) in which the issuer's share of the total allowed costs of benefits provided under such coverage is not less than 65 percent of such costs; and

(ii) that has an out of pocket limit not greater than the applicable amount described in section 223(c)(2) of title 26 for the year involved, except that the Secretary may modify such limit if necessary to ensure the pool meets the actuarial value limit under clause (i);

(C) ensures that with respect to the premium rate charged for health insurance coverage offered to eligible individuals through the high risk pool, such rate shall—

(i) except as provided in clause (ii), vary only as provided for under section 300gg of this title (as amended by this Act and notwithstanding the date on which such amendments take effect);

(ii) vary on the basis of age by a factor of not greater than 4 to 1; and

(iii) be established at a standard rate for a standard population; and

(D) meets any other requirements determined appropriate by the Secretary.

(d) Eligible individual

An individual shall be deemed to be an eligible individual for purposes of this section if such individual—

(1) is a citizen or national of the United States or is lawfully present in the United States (as determined in accordance with section 18081 of this title);

(2) has not been covered under creditable coverage (as defined in section 300gg(c)(1) of this title as in effect on March 23, 2010) during the 6-month period prior to the date on which such individual is applying for coverage through the high risk pool; and

(3) has a pre-existing condition, as determined in a manner consistent with guidance issued by the Secretary.

(e) Protection against dumping risk by insurers

(1) In general

The Secretary shall establish criteria for determining whether health insurance issuers and employment-based health plans have discouraged an individual from remaining enrolled in prior coverage based on that individual's health status.

(2) Sanctions

An issuer or employment-based health plan shall be responsible for reimbursing the program under this section for the medical expenses incurred by the program for an individual who, based on criteria established by the Secretary, the Secretary finds was encouraged by the issuer to disenroll from health benefits coverage prior to enrolling in coverage through the program. The criteria shall include at least the following circumstances:

(A) In the case of prior coverage obtained through an employer, the provision by the employer, group health plan, or the issuer of money or other financial consideration for disenrolling from the coverage.

(B) In the case of prior coverage obtained directly from an issuer or under an employment-based health plan—

(i) the provision by the issuer or plan of money or other financial consideration for disenrolling from the coverage; or

(ii) in the case of an individual whose premium for the prior coverage exceeded the premium required by the program (adjusted based on the age factors applied to the prior coverage)—

(I) the prior coverage is a policy that is no longer being actively marketed (as defined by the Secretary) by the issuer; or

(II) the prior coverage is a policy for which duration of coverage form [1] issue or health status are factors that can be considered in determining premiums at renewal.

(3) Construction

Nothing in this subsection shall be construed as constituting exclusive remedies for violations of criteria established under paragraph (1) or as preventing States from applying or enforcing such paragraph or other provisions under law with respect to health insurance issuers.

(f) Oversight

The Secretary shall establish—

(1) an appeals process to enable individuals to appeal a determination under this section; and

(2) procedures to protect against waste, fraud, and abuse.

(g) Funding; termination of authority

(1) In general

There is appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, $5,000,000,000 to pay claims against (and the administrative costs of) the high risk pool under this section that are in excess of the amount of premiums collected from eligible individuals enrolled in the high risk pool. Such funds shall be available without fiscal year limitation.

(2) Insufficient funds

If the Secretary estimates for any fiscal year that the aggregate amounts available for the payment of the expenses of the high risk pool will be less than the actual amount of such expenses, the Secretary shall make such adjustments as are necessary to eliminate such deficit.

(3) Termination of authority

(A) In general

Except as provided in subparagraph (B), coverage of eligible individuals under a high risk pool in a State shall terminate on January 1, 2014.

(B) Transition to Exchange

The Secretary shall develop procedures to provide for the transition of eligible individuals enrolled in health insurance coverage offered through a high risk pool established under this section into qualified health plans offered through an Exchange. Such procedures shall ensure that there is no lapse in coverage with respect to the individual and may extend coverage after the termination of the risk pool involved, if the Secretary determines necessary to avoid such a lapse.

(4) Limitations

The Secretary has the authority to stop taking applications for participation in the program under this section to comply with the funding limitation provided for in paragraph (1).

(5) Relation to State laws

The standards established under this section shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to qualified high risk pools which are established in accordance with this section.

(Pub. L. 111–148, title I, §1101, Mar. 23, 2010, 124 Stat. 141.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(2)(C)(i), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The date on which such amendments take effect, referred to in subsec. (c)(2)(C)(i), is the date on which the amendments by Pub. L. 111–148 to section 300gg of this title take effect, which is Jan. 1, 2014. See section 1255 of Pub. L. 111–148, set out as an Effective Date note under section 300gg of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–235, div. M, §1, Dec. 16, 2014, 128 Stat. 2767, provided that: "This division [enacting section 18014 of this title] may be cited as the 'Expatriate Health Coverage Clarification Act of 2014'."

SHORT TITLE

Pub. L. 111–148, §1(a), Mar. 23, 2010, 124 Stat. 119, provided that: "This Act [see Tables for classification] may be cited as the 'Patient Protection and Affordable Care Act'."

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 13765

Ex. Ord. No. 13765, Jan. 20, 2017, 82 F.R. 8351, which related to minimizing the economic burden of the Patient Protection and Affordable Care Act (Pub. L. 111–148) pending repeal, was revoked by Ex. Ord. No. 14009, §4(a), Jan. 28, 2021, 86 F.R. 7794, set out below.

EXECUTIVE ORDER NO. 13813

Ex. Ord. No. 13813, Oct. 12, 2017, 82 F.R. 48385, which related to promoting association health plans, short-term, limited-duration insurance, and health reimbursement arrangements, was revoked by Ex. Ord. No. 13009, §4(a), Jan. 28, 2021, 86 F.R. 7794, set out below.

EX. ORD. NO. 13877. IMPROVING PRICE AND QUALITY TRANSPARENCY IN AMERICAN HEALTHCARE TO PUT PATIENTS FIRST

Ex. Ord. No. 13877, June 24, 2019, 84 F.R. 30849, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. My Administration seeks to enhance the ability of patients to choose the healthcare that is best for them. To make fully informed decisions about their healthcare, patients must know the price and quality of a good or service in advance. With the predominant role that third-party payers and Government programs play in the American healthcare system, however, patients often lack both access to useful price and quality information and the incentives to find low-cost, high-quality care. Opaque pricing structures may benefit powerful special interest groups, such as large hospital systems and insurance companies, but they generally leave patients and taxpayers worse off than would a more transparent system.

Pursuant to Executive Order 13813 of October 12, 2017 (Promoting Healthcare Choice and Competition Across the United States) [set out above], my Administration issued a report entitled "Reforming America's Healthcare System Through Choice and Competition." The report recommends developing price and quality transparency initiatives to ensure that healthcare patients can make well-informed decisions about their care. In particular, the report describes the characteristics of the most effective price transparency efforts: they distinguish between the charges that providers bill and the rates negotiated between payers and providers; they give patients proper incentives to seek information about the price of healthcare services; and they provide useful price comparisons for "shoppable" services (common services offered by multiple providers through the market, which patients can research and compare before making informed choices based on price and quality).

Shoppable services make up a significant share of the healthcare market, which means that increasing transparency among these services will have a broad effect on increasing competition in the healthcare system as a whole. One study, cited by the Council of Economic Advisers in its 2019 Annual Report, examined a sample of the highest-spending categories of medical cases requiring inpatient and outpatient care. Of the categories of medical cases requiring inpatient care, 73 percent of the 100 highest-spending categories were shoppable. Among the categories of medical cases requiring outpatient care, 90 percent of the 300 highest-spending categories were shoppable. Another study demonstrated that the ability of patients to price-shop imaging services, a particularly fungible and shoppable set of healthcare services, was associated with a per-service savings of up to approximately 19 percent.

Improving transparency in healthcare will also further protect patients from harmful practices such as surprise billing, which occurs when patients receive unexpected bills at highly inflated prices from out-of-network providers they had no opportunity to select in advance. On May 9, 2019, I announced principles to guide efforts to address surprise billing. The principles outline how patients scheduling appointments to receive facility-based care should have access to pricing information related to the providers and services they may need, and the out-of-pocket costs they may incur. Having access to this type of information in advance of care can help patients avoid excessive charges.

Making meaningful price and quality information more broadly available to more Americans will protect patients and increase competition, innovation, and value in the healthcare system.

SEC. 2. *Policy*. It is the policy of the Federal Government to ensure that patients are engaged with their healthcare decisions and have the information requisite for choosing the healthcare they want and need. The Federal Government aims to eliminate unnecessary barriers to price and quality transparency; to increase the availability of meaningful price and quality information for patients; to enhance patients' control over their own healthcare resources, including through tax-preferred medical accounts; and to protect patients from surprise medical bills.

SEC. 3. *Informing Patients About Actual Prices*. (a) Within 60 days of the date of this order [June 24, 2019], the Secretary of Health and Human Services shall propose a regulation, consistent with applicable law, to require hospitals to publicly post standard charge information, including charges and information based on negotiated rates and for common or shoppable items and services, in an easy-to-understand, consumer-friendly, and machine-readable format using consensus-based data standards that will meaningfully inform patients' decision making and allow patients to compare prices across hospitals. The regulation should require the posting of standard charge information for services, supplies, or fees billed by the hospital or provided by employees of the hospital. The regulation should also require hospitals to regularly update the posted information and establish a monitoring mechanism for the Secretary to ensure compliance with the posting requirement, as needed.

(b) Within 90 days of the date of this order, the Secretaries of Health and Human Services, the Treasury, and Labor shall issue an advance notice of proposed rulemaking, consistent with applicable law, soliciting

comment on a proposal to require healthcare providers, health insurance issuers, and self-insured group health plans to provide or facilitate access to information about expected out-of-pocket costs for items or services to patients before they receive care.

(c) Within 180 days of the date of this order, the Secretary of Health and Human Services, in consultation with the Attorney General and the Federal Trade Commission, shall issue a report describing the manners in which the Federal Government or the private sector are impeding healthcare price and quality transparency for patients, and providing recommendations for eliminating these impediments in a way that promotes competition. The report should describe why, under current conditions, lower-cost providers generally avoid healthcare advertising.

SEC. 4. *Establishing a Health Quality Roadmap*. Within 180 days of the date of this order, the Secretaries of Health and Human Services, Defense, and Veterans Affairs shall develop a Health Quality Roadmap (Roadmap) that aims to align and improve reporting on data and quality measures across Medicare, Medicaid, the Children's Health Insurance Program, the Health Insurance Marketplace, the Military Health System, and the Veterans Affairs Health System. The Roadmap shall include a strategy for establishing, adopting, and publishing common quality measurements; aligning inpatient and outpatient measures; and eliminating low-value or counterproductive measures.

SEC. 5. *Increasing Access to Data to Make Healthcare Information More Transparent and Useful to Patients*. Within 180 days of the date of this order, the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury, Defense, Labor, and Veterans Affairs, and the Director of the Office of Personnel Management, shall increase access to de-identified claims data from taxpayer-funded healthcare programs and group health plans for researchers, innovators, providers, and entrepreneurs, in a manner that is consistent with applicable law and that ensures patient privacy and security. Providing access to this data will facilitate the development of tools that empower patients to be better informed as they make decisions related to healthcare goods and services. Access to this data will also enable researchers and entrepreneurs to locate inefficiencies and opportunities for improvement, such as patterns of performance of medical procedures that are outside the recommended standards of care. Such data may be derived from the Transformed Medicaid Statistical Information System (T-MSIS) and other sources. As part of this process, the Secretary of Health and Human Services shall make a list of priority datasets that, if de-identified, could advance the policies set forth by this order, and shall report to the President on proposed plans for future release of these priority datasets and on any barriers to their release.

SEC. 6. *Empowering Patients by Enhancing Control Over Their Healthcare Resources*. (a) Within 120 days of the date of this order, the Secretary of the Treasury, to the extent consistent with law, shall issue guidance to expand the ability of patients to select high-deductible health plans that can be used alongside a health savings account, and that cover low-cost preventive care, before the deductible, for medical care that helps maintain health status for individuals with chronic conditions.

(b) Within 180 days of the date of this order, the Secretary of the Treasury, to the extent consistent with law, shall propose regulations to treat expenses related to certain types of arrangements, potentially including direct primary care arrangements and healthcare sharing ministries, as eligible medical expenses under section 213(d) of title 26, United States Code.

(c) Within 180 days of the date of this order, the Secretary of the Treasury, to the extent consistent with law, shall issue guidance to increase the amount of funds that can carry over without penalty at the end of the year for flexible spending arrangements.

SEC. 7. *Addressing Surprise Medical Billing*. Within 180 days of the date of this order, the Secretary of Health and Human Services shall submit a report to the President on additional steps my Administration may take to implement the principles on surprise medical billing announced on May 9, 2019.

SEC. 8. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 13951. AN AMERICA-FIRST HEALTHCARE PLAN

Ex. Ord. No. 13951, Sept. 24, 2020, 85 F.R. 62179, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose*. Since January 20, 2017, my Administration has been committed to the goal of bringing great healthcare to the American people and putting patients first. To that end, my Administration has taken monumental steps to improve the efficiency and quality of healthcare in the United States.

(a) My Administration has been committed to restoring choice and control to the American patient.

On December 22, 2017, I signed into law the repeal of the burdensome individual-mandate penalty, liberating millions of low-income Americans from a tax that penalized them for not purchasing health-insurance coverage they did not want or could not afford. Through Executive Order 13813 of October 12, 2017 (Promoting Healthcare Choice and Competition Across the United States) [set out above], my Administration has expanded coverage options for millions of Americans in several ways. My Administration increased the availability of renewable short-term, limited-duration healthcare plans, providing options that are up to 60 percent cheaper than the least expensive alternatives under the Patient Protection and Affordable Care Act (ACA) [Pub. L. 111–148] and are projected to cover 500,000 individuals who would otherwise be uninsured. My Administration expanded health reimbursement arrangements, which have been projected by the Department of the Treasury to reach 800,000 businesses and over 11 million employees and to expand coverage to more than 800,000 individuals who would otherwise be uninsured. My Administration also issued a rule to increase the availability of association health plans for small businesses, which, upon implementation of the rule, are projected to cover up to 400,000 previously uninsured individuals for on average 30 percent less cost.

As set forth in the Economic Report of the President (February 2020), my Administration's expansion of health savings accounts will further help millions of Americans pay for health expenditures by allowing them to save more of their own money free from Federal taxation, and will especially help Americans with chronic conditions who now have more flexibility to enroll in plans that fit their complicated care needs and can be paired with a tax-advantaged account.

At the beginning of the current COVID–19 pandemic, my Administration acted to dramatically increase the accessibility and availability of telehealth services for Medicare beneficiaries, enabling millions of individuals to use these services. Pursuant to Executive Order 13941 of August 3, 2020 (Improving Rural Health and Telehealth Access) [42 U.S.C. 254c note], the Secretary of Health and Human Services will make permanent many of the new policies that improve the accessibility and availability of telehealth services. In addition, pursuant to that order, the Secretary of Health and Human Services and the Secretary of Agriculture will develop and implement a strategy to improve the physical and communications healthcare infrastructure available to rural Americans.

Through our State Relief and Empowerment Waivers, my Administration has given States additional health-insurance flexibility, which has expanded health-insurance coverage options for consumers and lowered costs for patients. These waivers allow States to move away from the ACA's rigid structure and are estimated to have lowered premiums by approximately 11 percent in Wisconsin, 20 percent in Minnesota, and 43 percent in Maryland. Due to actions my Administration took, like the State Relief and Empowerment Waivers, after years of dwindling choices and escalating prices, plan options for consumers increased and for 2019, for the first time ever, benchmark premiums actually decreased on Healthcare.gov. For 2020, the average benchmark premium dropped by nearly 4 percent.

After the prior Administration spent tens of billions of dollars creating electronic health records systems unable to accurately or effectively record and communicate patient data, my Administration has paved the way for a new wave of innovation to allow patients to safely send their own medical records to care providers of their choosing. My Patients over Paperwork initiative has cut red tape for doctors and nurses so they can spend more time with their patients, which the Centers for Medicare and Medicaid Services (CMS) within the Department of Health and Human Services (HHS) has estimated to save over 40 million hours of wasted time for providers and suppliers between 2017 and 2021.

(b) My Administration has been ceaseless in its efforts to lower costs to make healthcare more affordable for American patients.

Under my tenure, prescription drugs saw their largest annual price decrease in nearly half a century. For three consecutive years, we have approved a record number of generic drugs. The Council of Economic Advisers has estimated that these approvals saved patients $26 billion in the first 18 months of my Administration alone. As part of the Further Consolidated Appropriations Act, 2020 [Pub. L. 116–94], I signed into law the Creating and Restoring Equal Access to Equivalent Samples Act [see 21 U.S.C. 355–2], which will pave the way for even more generic drugs and is projected to save taxpayers $3.3 billion from 2019 to 2029.

CMS has acted to offer Medicare beneficiaries prescription drug plans with the option of insulin capped at

$35 in out-of-pocket expenses for a 30-day supply. We are also reducing Government payments to overcharging hospitals participating in the 340B Drug Pricing Program by instead paying rates that more accurately reflect the hospitals' acquisition costs, which CMS estimated would save Medicare beneficiaries $320 million on copayments for drugs alone.

As a result of Executive Order 13937 of July 24, 2020 (Access to Affordable Life-Saving Medications) [42 U.S.C. 254b note], low-income Americans who receive care from a federally qualified health center will have access to insulin and injectable epinephrine at prices lower than ever before. Under Executive Order 13938 of July 24, 2020 (Increasing Drug Importation to Lower Prices for American Patients) [21 U.S.C. 384 note], my Administration will be the first to complete a rulemaking to authorize the safe importation of certain lower-cost prescription drugs from Canada. Pursuant to Executive Order 13939 of July 24, 2020 (Lowering Prices for Patients by Eliminating Kickbacks to Middlemen) [42 U.S.C. 1320a–7b note], my Administration is taking action to eliminate wasteful payments to middlemen by passing drug discounts through to patients at the pharmacy counter without increasing premiums for beneficiaries or cost to Federal taxpayers. And my Administration is taking action to ensure that Medicare patients receive the lowest price that drug companies offer comparable foreign nations through Executive Order 13948 of September 13, 2020 (Lowering Drug Prices by Putting America First) [42 U.S.C. 1395u note].

As part of the Further Consolidated Appropriations Act, 2020, I also signed into law the repeal of the medical device tax, the annual fee on health-insurance providers, and the "Cadillac" tax on certain employer-sponsored health insurance, which threatened to dramatically increase the cost of healthcare for working families.

My Administration is transforming the black-box hospital and insurance pricing systems to be transparent about price and quality. Regardless of health-insurance coverage, two-thirds of adults in America still worry about the threat of unexpected medical bills. This fear is the result of a system under which individuals and employers are unable to see how insurance companies, pharmacy benefit managers, insurance brokers, and providers are or will be paid. One major culprit is the practice of "surprise billing," in which a patient receives unexpected bills at highly inflated prices from providers who are not part of the patient's insurance network, even if the patient was treated at a hospital that was part of the patient's network. Patients can receive these bills despite having no opportunity to select around an out-of-network provider in advance.

On May 9, 2019, I announced four principles to guide congressional efforts to prohibit exorbitant bills resulting from patients' accidentally or unknowingly receiving services from out-of-network physicians. Unfortunately, the Congress has failed to act, and patients remain vulnerable to surprise billing.

In the absence of congressional action, my Administration has already taken strong and decisive action to make healthcare prices more transparent. On June 24, 2019, I signed Executive Order 13877 (Improving Price and Quality Transparency in American Healthcare to Put Patients First) [set out above], directing certain agencies—for the first time ever—to make sure patients have access to meaningful price and quality information prior to the delivery of care. Beginning January 1, 2021, hospitals will be required to publish their real price for every service, and publicly display in a consumer-friendly, easy-to-understand format the prices of at least 300 different common services that are able to be shopped for in advance.

We have also taken some concrete steps to eliminate surprise out-of-network bills. For example, on April 10, 2020, my Administration required providers to certify, as a condition of receiving supplemental COVID–19 funding, that they would not seek to collect out-of-pocket expenses from a patient for treatment related to COVID–19 in an amount greater than what the patient would have otherwise been required to pay for care by an in-network provider. These initiatives have made important progress, although additional efforts are necessary.

Not all hospitals allow for surprise bills. But many do. Unfortunately, surprise billing has become sufficiently pervasive that the fear of receiving a surprise bill may dissuade patients from seeking appropriate care. And research suggests a correlation between hospitals that frequently allow surprise billing and increases in hospital admissions and imaging procedures, putting patients at risk of receiving unnecessary services, which can lead to physical harm and threatens the long-term financial sustainability of Medicare.

Efforts to limit surprise billing and increase the number of providers participating in the same insurance network as the hospital in which they work would correspondingly streamline the ability of patients to receive care and reduce time spent on billing disputes.

On May 15, 2020, HHS released the Health Quality Roadmap to empower patients to make fully informed decisions about their healthcare by facilitating the availability of appropriate and meaningful price and quality information. These transformative actions will arm patients with the tools to be active and effective shoppers for healthcare services, enabling them to identify high-value providers and services, and ultimately place downward pressure on prices.

My Administration has cracked down on waste, fraud, and abuse that direct valuable taxpayer resources

away from those who need them most. My Administration implemented a "site neutral" payment system between hospital outpatient departments and physicians' offices, to ensure Medicare beneficiaries are charged the same price for the same service regardless of where it takes place, which CMS estimates will save them approximately $160 million in co-payments for 2020. We also changed the rules to enable Government watchdogs to proactively identify and stop perpetrators of fraud before money goes out the door.

(c) My Administration has been dedicated to providing better care for all Americans.

This includes a steadfast commitment to always protecting individuals with pre-existing conditions and ensuring they have access to the high-quality healthcare they deserve. No American should have to risk going without health insurance based on a health history that he or she cannot change.

In an attempt to justify the ACA, the previous Administration claimed that, absent action by the Congress, up to 129 million (later updated to 133 million) non-elderly people with what it described as pre-existing conditions were in danger of being denied health-insurance coverage. According to the previous Administration, however, only 2.7 percent of such individuals actually gained access to health insurance through the ACA, given existing laws and programs already in place to cover them. For example, the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104–191] has long protected individuals with pre-existing conditions, including individuals covered by group health plans and individuals who had such coverage but lost it.

The ACA produced multiple other failures. The average insurance premium in the individual market more than doubled from 2013 to 2017, and those who have not received generous Federal subsidies have struggled to maintain coverage. For those who have managed to maintain coverage, many have experienced a substantial rise in deductibles, limited choice of insurers, and limited provider networks that exclude their doctors and the facilities best suited to care for them.

Additionally, approximately 30 million Americans remain uninsured, notwithstanding the previous Administration's promises that the ACA would address this intractable problem. On top of these disappointing results, Federal taxpayers and, unfortunately, future generations of American workers, have been left with an enormous bill. The ACA's Medicaid expansion and subsidies for the individual market are projected by the Congressional Budget Office to cost more than $1.8 trillion over the next decade.

The ACA is neither the best nor the only way to ensure that Americans who suffer from pre-existing conditions have access to health-insurance coverage. I have agreed with the States challenging the ACA, who have won in the Federal district court and court of appeals, that the ACA, as amended, exceeds the power of the Congress. The ACA was flawed from its inception and should be struck down. However, access to health insurance despite underlying health conditions should be maintained, even if the Supreme Court invalidates the unconstitutional, and largely harmful, ACA.

My Administration has always been committed to ensuring that patients with pre-existing conditions can obtain affordable healthcare, to lowering healthcare costs, to improving quality of care, and to enabling individuals to choose the healthcare that meets their needs. For example, when the COVID–19 pandemic hit, my Administration implemented a program to provide any individual without health-insurance coverage access to necessary COVID–19-related testing and treatment.

My commitment to improving care across our country expands vastly beyond the rules governing health insurance. On July 10, 2019, I signed Executive Order 13879 (Advancing American Kidney Health) [42 U.S.C. 280g–6 note] to improve care for the hundreds of thousands of Americans suffering from end-stage renal disease. Pursuant to that order, my Administration launched a program to encourage home dialysis and promote transplants for patients, and expects to enroll approximately 120,000 Medicare beneficiaries with end-stage renal disease in the program. We also have removed financial barriers to living organ donation by adding additional financial support for living donors, such as by reimbursing expenses for lost wages, child care, and elder care. HHS, together with the American Society of Nephrology, issued two phases of awards through KidneyX's Redesign Dialysis Price Competition to work toward the creation of an artificial kidney.

My Administration has taken unprecedented action to improve the quality of and access to care for individuals with HIV, as part of our goal of ending the epidemic of HIV in the United States by 2030. HHS has awarded at least $226 million to expand access to HIV care, treatment, medication, and prevention services, focused on 48 counties, Washington, DC, and San Juan, Puerto Rico, where more than 50 percent of new HIV diagnoses occurred in 2016 and 2017, as well as seven States with a substantial rural HIV rate. We secured a historic donation of a groundbreaking HIV preventive medication that is available at no cost to eligible patients.

My Administration has started a transformation in healthcare in rural America. This includes a new effort, pursuant to my directive in Executive Order 13941, to support small hospitals and health clinics in rural communities in transitioning from volume-based Medicare and Medicaid reimbursement, which has failed rural communities that struggle with a lack of patient volume, and toward value-based payment mechanisms

that are tailored to meet the needs of their communities. We updated Medicare payment policies to address a problem in the program's payment calculation that has historically disadvantaged rural hospitals, and released a Rural Action Plan to incorporate recommendations from experts and leaders across the Federal Government. We have also dedicated a special focus on improving care offered through the Indian Health Service (IHS) within HHS, including by creating the Office of Quality, implementing an increase in annual funding for IHS by $243 million from 2019 to 2020, and expanding nationwide IHS's successful Alaska Community Health Aide Program.

My Administration has additionally demonstrated an incredible dedication to protecting and improving care for those most in need, including senior citizens, those with substance use disorders, and those to whom our Nation owes the greatest debt: our veterans.

I have protected the viability of the Medicare program. For example, on February 9, 2018, I signed into law the repeal of the Independent Payment Advisory Board, which would have been a group of unelected bureaucrats created by the ACA, designed to be insulated from the will of America's elected leaders for the purpose of cutting the spending of this important program. On October 3, 2019, I signed Executive Order 13890 (Protecting and Improving Medicare for Our Nation's Seniors) [42 U.S.C. 1395 note prec.], to modernize the Medicare program and continue its viability. According to CMS estimates, seniors have saved $2.65 billion in lower Medicare premiums under my Administration while benefiting from more choices. For example, the average monthly Medicare Advantage premium has declined an estimated 28 percent since 2017, and Medicare Advantage has included about 1,200 more plan options since 2018. New Medicare Advantage supplemental benefits have helped seniors stay safe in their homes, improved respite care for caregivers, and provided transportation, more in-home support services and assistance, and non-opioid pain management alternatives like therapeutic massages. Medicare Part D premiums are at their lowest level in their history, with the average basic premium declining 13.5 percent since 2016.

My Administration has directed unprecedented attention on the substance use disorder epidemic, with a focus on reducing overdose deaths from prescription opioids and the deadly synthetic opioid fentanyl. On October 24, 2018, I signed the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act [Pub. L. 115–271], enabling the expenditure of billions of dollars of funding for important programs to support prevention and recovery. My Administration has provided approximately $22.5 billion from 2017 to 2020 to address the opioid crisis and improve access to prevention, treatment, and recovery services. We saw a 34 percent decrease in total opioids dispensed monthly by pharmacies between 2017 and 2019, an approximate increase of 64 percent in the number of Americans who receive medication-assisted treatment for opioid use disorder since 2016, and a 484 percent increase in naloxone prescriptions since 2017. Data show that drug overdose deaths fell nationwide for the first time in decades between 2017 and 2018, with many of the hardest-hit States leading the way.

Improving care for our Nation's veterans has been a priority since the beginning of my Administration. On June 6, 2018, I signed the [John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson] VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018 [Pub. L. 115–182], which authorized billions of dollars to improve options for veterans to receive care outside of Department of Veterans Affairs (VA) healthcare providers. Since taking effect, the VA estimates that more than 2.4 million veterans have benefited from more than 6.5 million referrals to the 725,000 private healthcare providers with which the VA is now working. On June 23, 2017, I signed the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 [Pub. L. 115–41] to hold our civil servants accountable for maintaining the best quality of care possible for our Nation's veterans by giving the Secretary of Veterans Affairs more power to discipline employees and shorten an appeals process that can last years. On March 5, 2019, I signed Executive Order 13861 (National Roadmap to Empower Veterans and End Suicide) [Mar. 5, 2019, 84 F.R. 8585] to ensure that the Federal Government leads a collective effort to prevent suicide among our veterans.

I have used scientific research to focus on areas most pressing for the health of Americans. On September 19, 2019, I signed Executive Order 13887 (Modernizing Influenza Vaccines in the United States to Promote National Security and Public Health) [42 U.S.C. 247d–7e note], recognizing the threat that pandemic influenza continues to represent and putting forward a plan to prepare for future influenza pandemics. To modernize influenza vaccines and promote national security and public health, HHS issued a 6-year, $226 million contract to retain and increase capacity to produce recombinant influenza vaccine domestically, and the National Institute of Allergy and Infectious Diseases, part of the National Institutes of Health within HHS, initiated the Collaborative Influenza Vaccine Innovation Centers program.

Investments my Administration has made in scientific research will help tackle some of our most pressing medical challenges and pay dividends for generations to come. This includes working to increase funding for Alzheimer's disease research by billions of dollars since 2017 and a plan to invest more than $500 million

over the next decade to improve pediatric cancer research. On December 18, 2018, I signed the Sickle Cell Disease and Other Heritable Blood Disorders Research, Surveillance, Prevention, and Treatment Act of 2018 [Pub. L. 115–327, see 42 U.S.C. 300b–5] to provide support for research into sickle cell disease, which disproportionately impacts African Americans and Hispanics, and to authorize programs relating to sickle cell disease surveillance, prevention, and treatment.

On May 30, 2018, I signed the Trickett Wendler, Frank Mongiello, Jordan McLinn, and Matthew Bellina Right to Try Act of 2017 [Pub. L. 115–176, see 21 U.S.C. 360bbb–0a], which gives terminally ill patients the right to access certain treatments without being blocked by onerous Federal regulations.

In response to the COVID–19 pandemic, my Administration launched Operation Warp Speed, a groundbreaking effort of the Federal Government to engage with the private sector to quickly develop and deliver safe and effective vaccines, therapeutics, and diagnostics for COVID–19. On August 6, 2020, I signed Executive Order 13944 (Combating Public Health Emergencies and Strengthening National Security by Ensuring Essential Medicines, Medical Countermeasures, and Critical Inputs Are Made in the United States) [42 U.S.C. 247d–6b note], to protect Americans through reduced dependence on foreign manufacturers for essential medicines and other items and to strengthen the Nation's Public Health Industrial Base.

Taken together, these extraordinary reforms constitute an ongoing effort to improve American healthcare by putting patients first and delivering continuous innovation. And this effort will continue to succeed because of my Administration's commitment to delivering great healthcare with more choices, better care, and lower costs for all Americans.

SEC. 2. *Policy*. It has been and will continue to be the policy of the United States to give Americans seeking healthcare more choice, lower costs, and better care and to ensure that Americans with pre-existing conditions can obtain the insurance of their choice at affordable rates.

SEC. 3. *Giving Americans More Choice in Healthcare*. The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services shall maintain and build upon existing actions to expand access to and options for affordable healthcare.

SEC. 4. *Lowering Healthcare Costs for Americans*. (a) The Secretary of Health and Human Services, in coordination with the Commissioner of Food and Drugs, shall maintain and build upon existing actions to expand access to affordable medicines, including accelerating the approvals of new generic and biosimilar drugs and facilitating the safe importation of affordable prescription drugs from abroad.

(b) The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services shall maintain and build upon existing actions to ensure consumers have access to meaningful price and quality information prior to the delivery of care.

(i) Recognizing that both chambers of the Congress have made substantial progress towards a solution to end surprise billing, the Secretary of Health and Human Services shall work with the Congress to reach a legislative solution by December 31, 2020.

(ii) In the event a legislative solution is not reached by December 31, 2020, the Secretary of Health and Human Services shall take administrative action to prevent a patient from receiving a bill for out-of-pocket expenses that the patient could not have reasonably foreseen.

(iii) Within 180 days of the date of this order [Sept. 24, 2020], the Secretary of Health and Human Services shall update the Medicare.gov Hospital Compare website to inform beneficiaries of hospital billing quality, including:

(A) whether the hospital is in compliance with the Hospital Price Transparency Final Rule, as amended (84 Fed. Reg. 65524), effective January 1, 2021;

(B) whether, upon discharge, the hospital provides patients with a receipt that includes a list of itemized services received during a hospital stay; and

(C) how often the hospital pursues legal action against patients, including to garnish wages, to place a lien on a patient's home, or to withdraw money from a patient's income tax refund.

(c) The Secretary of Health and Human Services, in coordination with the Administrator of CMS, shall maintain and build upon existing actions to reduce waste, fraud, and abuse in the healthcare system.

SEC. 5. *Providing Better Care to Americans*. (a) The Secretary of Health and Human Services and the Secretary of Veterans Affairs shall maintain and build upon existing actions to improve quality in the delivery of care for veterans.

(b) The Secretary of Health and Human Services shall continue to promote medical innovations to find novel and improved treatments for COVID–19, Alzheimer's disease, sickle cell disease, pediatric cancer, and other conditions threatening the well-being of Americans.

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary,

administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 14009. STRENGTHENING MEDICAID AND THE AFFORDABLE CARE ACT

Ex. Ord. No. 14009, Jan. 28, 2021, 86 F.R. 7793, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. In the 10 years since its enactment, the [Patient Protection and] Affordable Care Act (ACA) [Pub. L. 111–148] has reduced the number of uninsured Americans by more than 20 million, extended critical consumer protections to more than 100 million people, and strengthened and improved the Nation's healthcare system. At the same time, millions of people who are potentially eligible for coverage under the ACA or other laws remain uninsured, and obtaining insurance benefits is more difficult than necessary. For these reasons, it is the policy of my Administration to protect and strengthen Medicaid and the ACA and to make high-quality healthcare accessible and affordable for every American.

SEC. 2. *Special Enrollment Period*. The coronavirus disease 2019 (COVID–19) pandemic has triggered a historic public health and economic crisis. In January of 2020, as the COVID–19 pandemic was spreading, the Secretary of Health and Human Services declared a public health emergency. In March of 2020, the President declared a national emergency. Although almost a year has passed, the emergency continues—over 5 million Americans have contracted the disease in January 2021, and thousands are dying every week. Over 30 million Americans remain uninsured, preventing many from obtaining necessary health services and treatment. Black, Latino, and Native American persons are more likely to be uninsured, and communities of color have been especially hard hit by both the COVID–19 pandemic and the economic downturn. In light of the exceptional circumstances caused by the ongoing COVID–19 pandemic, the Secretary of Health and Human Services shall consider establishing a Special Enrollment Period for uninsured and under-insured Americans to seek coverage through the Federally Facilitated Marketplace, pursuant to existing authorities, including sections 18031 and 18041 of title 42, United States Code, and section 155.420(d)(9) of title 45, Code of Federal Regulations, and consistent with applicable law.

SEC. 3. *Immediate Review of Agency Actions*. (a) The Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and the heads of all other executive departments and agencies with authorities and responsibilities related to Medicaid and the ACA (collectively, heads of agencies) shall, as soon as practicable, review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) to determine whether such agency actions are inconsistent with the policy set forth in section 1 of this order. As part of this review, the heads of agencies shall examine the following:

(i) policies or practices that may undermine protections for people with pre-existing conditions, including complications related to COVID–19, under the ACA;

(ii) demonstrations and waivers, as well as demonstration and waiver policies, that may reduce coverage under or otherwise undermine Medicaid or the ACA;

(iii) policies or practices that may undermine the Health Insurance Marketplace or the individual, small group, or large group markets for health insurance in the United States;

(iv) policies or practices that may present unnecessary barriers to individuals and families attempting to access Medicaid or ACA coverage, including for mid-year enrollment; and

(v) policies or practices that may reduce the affordability of coverage or financial assistance for coverage, including for dependents.

(b) Heads of agencies shall, as soon as practicable and as appropriate and consistent with applicable law, consider whether to suspend, revise, or rescind—and, as applicable, publish for notice and comment proposed rules suspending, revising, or rescinding—those agency actions identified as inconsistent with the policy set forth in section 1 of this order.

(c) Heads of agencies shall, as soon as practicable and as appropriate and consistent with applicable law, consider whether to take any additional agency actions to more fully enforce the policy set forth in section 1 of this order.

SEC. 4. *Revocation of Certain Presidential Actions and Review of Associated Agency Actions*. (a) Executive Order 13765 of January 20, 2017 (Minimizing the Economic Burden of the Patient Protection and

Affordable Care Act Pending Repeal) [formerly set out above], and Executive Order 13813 of October 12, 2017 (Promoting Healthcare Choice and Competition Across the United States) [formerly set out above], are revoked.

(b) As part of the review required under section 3 of this order, heads of agencies shall identify existing agency actions related to or arising from Executive Orders 13765 and 13813. Heads of agencies shall, as soon as practicable, consider whether to suspend, revise, or rescind—and, as applicable, publish for notice and comment proposed rules suspending, revising, or rescinding—any such agency actions, as appropriate and consistent with applicable law and the policy set forth in section 1 of this order.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

J.R. BIDEN, JR.

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

§18002. Reinsurance for early retirees

(a) Administration

(1) In general

Not later than 90 days after March 23, 2010, the Secretary shall establish a temporary reinsurance program to provide reimbursement to participating employment-based plans for a portion of the cost of providing health insurance coverage to early retirees (and to the eligible spouses, surviving spouses, and dependents of such retirees) during the period beginning on the date on which such program is established and ending on January 1, 2014.

(2) Reference

In this section:

(A) Health benefits

The term "health benefits" means medical, surgical, hospital, prescription drug, and such other benefits as shall be determined by the Secretary, whether self-funded, or delivered through the purchase of insurance or otherwise.

(B) Employment-based plan

The term "employment-based plan" means a group benefits plan providing health benefits that—

(i) is—

(I) maintained by one or more current or former employers (including without limitation any State or local government or political subdivision thereof or any agency or instrumentality of any of the foregoing), employee organization, a voluntary employees' beneficiary association, or a committee or board of individuals appointed to administer such plan; or

(II) a multiemployer plan (as defined in section 1002(37) of title 29); and

(ii) provides health benefits to early retirees.

(C) Early retirees

The term "early retirees" means individuals who are age 55 and older but are not eligible for coverage under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], and who are not

active employees of an employer maintaining, or currently contributing to, the employment-based plan or of any employer that has made substantial contributions to fund such plan.

(b) Participation

(1) Employment-based plan eligibility

A participating employment-based plan is an employment-based plan that—

(A) meets the requirements of paragraph (2) with respect to health benefits provided under the plan; and

(B) submits to the Secretary an application for participation in the program, at such time, in such manner, and containing such information as the Secretary shall require.

(2) Employment-based health benefits

An employment-based plan meets the requirements of this paragraph if the plan—

(A) implements programs and procedures to generate cost-savings with respect to participants with chronic and high-cost conditions;

(B) provides documentation of the actual cost of medical claims involved; and

(C) is certified by the Secretary.

(c) Payments

(1) Submission of claims

(A) In general

A participating employment-based plan shall submit claims for reimbursement to the Secretary which shall contain documentation of the actual costs of the items and services for which each claim is being submitted.

(B) Basis for claims

Claims submitted under subparagraph (A) shall be based on the actual amount expended by the participating employment-based plan involved within the plan year for the health benefits provided to an early retiree or the spouse, surviving spouse, or dependent of such retiree. In determining the amount of a claim for purposes of this subsection, the participating employment-based plan shall take into account any negotiated price concessions (such as discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations) obtained by such plan with respect to such health benefit. For purposes of determining the amount of any such claim, the costs paid by the early retiree or the retiree's spouse, surviving spouse, or dependent in the form of deductibles, co-payments, or co-insurance shall be included in the amounts paid by the participating employment-based plan.

(2) Program payments

If the Secretary determines that a participating employment-based plan has submitted a valid claim under paragraph (1), the Secretary shall reimburse such plan for 80 percent of that portion of the costs attributable to such claim that exceed $15,000, subject to the limits contained in paragraph (3).

(3) Limit

To be eligible for reimbursement under the program, a claim submitted by a participating employment-based plan shall not be less than $15,000 nor greater than $90,000. Such amounts shall be adjusted each fiscal year based on the percentage increase in the Medical Care Component of the Consumer Price Index for all urban consumers (rounded to the nearest multiple of $1,000) for the year involved.

(4) Use of payments

Amounts paid to a participating employment-based plan under this subsection shall be used to lower costs for the plan. Such payments may be used to reduce premium costs for an entity described in subsection (a)(2)(B)(i) or to reduce premium contributions, co-payments, deductibles,

co-insurance, or other out-of-pocket costs for plan participants. Such payments shall not be used as general revenues for an entity described in subsection (a)(2)(B)(i). The Secretary shall develop a mechanism to monitor the appropriate use of such payments by such entities.

(5) Payments not treated as income

Payments received under this subsection shall not be included in determining the gross income of an entity described in subsection (a)(2)(B)(i) that is maintaining or currently contributing to a participating employment-based plan.

(6) Appeals

The Secretary shall establish—

(A) an appeals process to permit participating employment-based plans to appeal a determination of the Secretary with respect to claims submitted under this section; and

(B) procedures to protect against fraud, waste, and abuse under the program.

(d) Audits

The Secretary shall conduct annual audits of claims data submitted by participating employment-based plans under this section to ensure that such plans are in compliance with the requirements of this section.

(e) Funding

There is appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, $5,000,000,000 to carry out the program under this section. Such funds shall be available without fiscal year limitation.

(f) Limitation

The Secretary has the authority to stop taking applications for participation in the program based on the availability of funding under subsection (e).

(Pub. L. 111–148, title I, §1102, title X, §10102(a), Mar. 23, 2010, 124 Stat. 143, 892.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(2)(B). Pub. L. 111–148, §10102(a)(1), substituted "group benefits plan providing health benefits" for "group health benefits plan" in introductory provisions.

Subsec. (a)(2)(B)(i)(I). Pub. L. 111–148, §10102(a)(2), inserted "or any agency or instrumentality of any of the foregoing" after "political subdivision thereof".

§18003. Immediate information that allows consumers to identify affordable coverage options

(a) Internet portal to affordable coverage options

(1) Immediate establishment

Not later than July 1, 2010, the Secretary, in consultation with the States, shall establish a mechanism, including an Internet website, through which a resident of, or small business in, any State may identify affordable health insurance coverage options in that State.

(2) Connecting to affordable coverage

An Internet website established under paragraph (1) shall, to the extent practicable, provide ways for residents of, and small businesses in, any State to receive information on at least the

following coverage options:

(A) Health insurance coverage offered by health insurance issuers, other than coverage that provides reimbursement only for the treatment or mitigation of—

(i) a single disease or condition; or

(ii) an unreasonably limited set of diseases or conditions (as determined by the Secretary).

(B) Medicaid coverage under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(C) Coverage under title XXI of the Social Security Act [42 U.S.C. 1397aa et seq.].

(D) A State health benefits high risk pool, to the extent that such high risk pool is offered in such State; and

(E) Coverage under a high risk pool under section 18001 of this title.

(F) Coverage within the small group market for small businesses and their employees, including reinsurance for early retirees under section 18002 of this title, tax credits available under section 45R of title 26 (as added by section 1421), and other information specifically for small businesses regarding affordable health care options.

(b) Enhancing comparative purchasing options

(1) In general

Not later than 60 days after March 23, 2010, the Secretary shall develop a standardized format to be used for the presentation of information relating to the coverage options described in subsection (a)(2). Such format shall, at a minimum, require the inclusion of information on the percentage of total premium revenue expended on nonclinical costs (as reported under section 300gg–18(a) of this title), eligibility, availability, premium rates, and cost sharing with respect to such coverage options and be consistent with the standards adopted for the uniform explanation of coverage as provided for in section 300gg–15 of this title.

(2) Use of format

The Secretary shall utilize the format developed under paragraph (1) in compiling information concerning coverage options on the Internet website established under subsection (a).

(c) Authority to contract

The Secretary may carry out this section through contracts entered into with qualified entities.

(Pub. L. 111–148, title I, §1103, title X, §10102(b), Mar. 23, 2010, 124 Stat. 146, 892.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(B), (C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 1421, referred to in subsec. (a)(2)(F), means section 1421 of Pub. L. 111–148.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–148, §10102(b)(1), which directed insertion of ", or small business in," after "residents of any", was executed by making the insertion after "resident of" to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 111–148, §10102(b)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows:

"An Internet website established under paragraph (1) shall, to the extent practicable, provide ways for residents of any State to receive information on at least the following coverage options:

"(A) Health insurance coverage offered by health insurance issuers, other than coverage that provides reimbursement only for the treatment or mitigation of—

"(i) a single disease or condition; or

"(ii) an unreasonably limited set of diseases or conditions (as determined by the Secretary);

"(B) Medicaid coverage under title XIX of the Social Security Act.
"(C) Coverage under title XXI of the Social Security Act.
"(D) A State health benefits high risk pool, to the extent that such high risk pool is offered in such State; and
"(E) Coverage under a high risk pool under section 18001 of this title."

SUBCHAPTER II—OTHER PROVISIONS

§18011. Preservation of right to maintain existing coverage

(a) No changes to existing coverage

(1) In general

Nothing in this Act (or an amendment made by this Act) shall be construed to require that an individual terminate coverage under a group health plan or health insurance coverage in which such individual was enrolled on March 23, 2010.

(2) Continuation of coverage

Except as provided in paragraph (3), with respect to a group health plan or health insurance coverage in which an individual was enrolled on March 23, 2010, this subtitle and subtitle A (and the amendments made by such subtitles) shall not apply to such plan or coverage, regardless of whether the individual renews such coverage after March 23, 2010.

(3) Application of certain provisions

The provisions of sections 2715 [42 U.S.C. 300gg–15] and 2718 [42 U.S.C. 300gg–18] of the Public Health Service Act (as added by subtitle A) shall apply to grandfathered health plans for plan years beginning on or after March 23, 2010.

(4) Application of certain provisions

(A) In general

The following provisions of the Public Health Service Act [42 U.S.C. 201 et seq.] (as added by this title) [1] shall apply to grandfathered health plans for plan years beginning with the first plan year to which such provisions would otherwise apply:

(i) Section 2708 [42 U.S.C. 300gg–7] (relating to excessive waiting periods).
(ii) Those provisions of section 2711 [42 U.S.C. 300gg–11] relating to lifetime limits.
(iii) Section 2712 [42 U.S.C. 300gg–12] (relating to rescissions).
(iv) Section 2714 [42 U.S.C. 300gg–14] (relating to extension of dependent coverage).

(B) Provisions applicable only to group health plans

(i) Provisions described

Those provisions of section 2711 [42 U.S.C. 300gg–11] relating to annual limits and the provisions of section 2704 [42 U.S.C. 300gg–3] (relating to pre-existing condition exclusions) of the Public Health Service Act (as added by this subtitle) shall apply to grandfathered health plans that are group health plans for plan years beginning with the first plan year to which such provisions otherwise apply.

(ii) Adult child coverage

For plan years beginning before January 1, 2014, the provisions of section 2714 of the Public Health Service Act [42 U.S.C. 300gg–14] (as added by this subtitle) shall apply in the case of an adult child with respect to a grandfathered health plan that is a group health plan only if such adult child is not eligible to enroll in an eligible employer-sponsored health plan (as defined in section 5000A(f)(2) of title 26) other than such grandfathered health plan.

(5) Application of additional provisions

Sections 300gg–111, 300gg–112, and 300gg–117 of this title shall apply to grandfathered health plans for plan years beginning on or after January 1, 2022.

(b) Allowance for family members to join current coverage

With respect to a group health plan or health insurance coverage in which an individual was enrolled on March 23, 2010, and which is renewed after such date, family members of such individual shall be permitted to enroll in such plan or coverage if such enrollment is permitted under the terms of the plan in effect as of March 23, 2010.

(c) Allowance for new employees to join current plan

A group health plan that provides coverage on March 23, 2010, may provide for the enrolling of new employees (and their families) in such plan, and this subtitle and subtitle A (and the amendments made by such subtitles) shall not apply with respect to such plan and such new employees (and their families).

(d) Effect on collective bargaining agreements

In the case of health insurance coverage maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers that was ratified before March 23, 2010, the provisions of this subtitle and subtitle A (and the amendments made by such subtitles) shall not apply until the date on which the last of the collective bargaining agreements relating to the coverage terminates. Any coverage amendment made pursuant to a collective bargaining agreement relating to the coverage which amends the coverage solely to conform to any requirement added by this subtitle or subtitle A (or amendments) shall not be treated as a termination of such collective bargaining agreement.

(e) Definition

In this title,[1] the term "grandfathered health plan" means any group health plan or health insurance coverage to which this section applies.

(Pub. L. 111–148, title I, §1251, title X, §10103(d), Mar. 23, 2010, 124 Stat. 161, 895; Pub. L. 111–152, title II, §2301(a), Mar. 30, 2010, 124 Stat. 1081; Pub. L. 116–260, div. BB, title I, §102(d)(2), Dec. 27, 2020, 134 Stat. 2797.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

This subtitle, referred to in subsecs. (a)(2), (4)(B), (c), and (d), is subtitle C (§§1201–1255) of title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 154, which enacted this subchapter and sections 300gg to 300gg–2 and 300gg–4 to 300gg–7 of this title, transferred section 300gg of this title to section 300gg–3 of this title, amended sections 300gg–1 and 300gg–4 of this title, and enacted provisions set out as a note under section 300gg of this title. For complete classification of subtitle C to the Code, see Tables.

Subtitle A, referred to in subsecs. (a)(2), (3), (c), and (d), is subtitle A (§§1001–1004) of title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted sections 300gg–11 to 300gg–19, 300gg–93, and 300gg–94 of this title, transferred sections 300gg–4 to 300gg–7 and 300gg–13 of this title to sections 300gg–25 to 300gg–28 and 300gg–9 of this title, respectively, amended sections 300gg–11, 300gg–12, and 300gg–21 to 300gg–23 of this title, and enacted provisions set out as a note under section 300gg–11 of this title. For complete classification of subtitle A to the Code, see Tables.

The Public Health Service Act, referred to in subsec. (a)(4)(A), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

This title, referred to in subsecs. (a)(4)(A) and (e), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

AMENDMENTS

2020—Subsec. (a)(5). Pub. L. 116–260 added par. (5).

2010—Subsec. (a)(2). Pub. L. 111–148, §10103(d)(1), substituted "Except as provided in paragraph (3), with" for "With".

Subsec. (a)(3). Pub. L. 111–148, §10103(d)(2), added par. (3).

Subsec. (a)(4). Pub. L. 111–152 added par. (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116–260 applicable with respect to plan years beginning on or after Jan. 1, 2022, see section 102(e) of div. BB of Pub. L. 116–260, set out as a note under section 8902 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Mar. 23, 2010, see section 1255(1) of Pub. L. 111–148, set out as a note under section 300gg of this title.

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

§18012. Rating reforms must apply uniformly to all health insurance issuers and group health plans

Any standard or requirement adopted by a State pursuant to this title,[1] or any amendment made by this title,[1] shall be applied uniformly to all health plans in each insurance market to which the standard and requirements apply. The preceding sentence shall also apply to a State standard or requirement relating to the standard or requirement required by this title [1] (or any such amendment) that is not the same as the standard or requirement but that is not preempted under section 18041(d) of this title.

(Pub. L. 111–148, title I, §1252, Mar. 23, 2010, 124 Stat. 162.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111–148, set out as a note under section 300gg of this title.

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

§18013. Annual report on self-insured plans

Not later than 1 year after March 23, 2010, and annually thereafter, the Secretary of Labor shall prepare an aggregate annual report, using data collected from the Annual Return/Report of Employee Benefit Plan (Department of Labor Form 5500), that shall include general information on

self-insured group health plans (including plan type, number of participants, benefits offered, funding arrangements, and benefit arrangements) as well as data from the financial filings of self-insured employers (including information on assets, liabilities, contributions, investments, and expenses). The Secretary shall submit such reports to the appropriate committees of Congress.

(Pub. L. 111–148, title I, §1253, as added Pub. L. 111–148, title X, §10103(f)(2), Mar. 23, 2010, 124 Stat. 895.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1253 of Pub. L. 111–148 was renumbered section 1255 and is set out as a note under section 300gg of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111–148, set out as a note under section 300gg of this title.

§18014. Treatment of expatriate health plans under ACA

(a) In general

Subject to subsection (b), the provisions of (including any amendment made by) the Patient Protection and Affordable Care Act (Public Law 111–148) and of title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152) shall not apply with respect to—

(1) expatriate health plans;

(2) employers with respect to such plans, solely in their capacity as plan sponsors for such plans; or

(3) expatriate health insurance issuers with respect to coverage offered by such issuers under such plans.

(b) Minimum essential coverage and reporting requirements

(1) In general

For the purpose of section 5000A(f) of title 26, and any other section of title 26 that incorporates the definition of minimum essential coverage under such section 5000A(f) by reference:

(A) An expatriate health plan offered to primary enrollees who are described in subsections (d)(3)(A) and (d)(3)(B) of this section shall be treated as an eligible employer sponsored plan under 5000A(f)(2) of such title.

(B) An expatriate health plan offered to primary enrollees who are described in subsection (d)(3)(C) of this section shall be treated as a plan in the individual market under section 5000A(f)(1)(C) of such title. This subparagraph shall apply solely for the purposes of sections 36B, 5000A, and 6055 of such title.

(2) Exception

Subsection (a) shall not apply with respect to section 6055 of title 26, or sections 4980H and 6056 of such title in the case of an applicable large employer (as defined in section 4980H of such title), except that statements furnished to individuals may be provided through electronic media and the primary insured shall be deemed to have consented to receive the statements under such sections in electronic form, unless the individual explicitly refuses such consent. Notwithstanding subsection (a), section 4980I [1] of title 26 shall continue to apply with respect to applicable

employer-sponsored coverage (as defined in such section) of a qualified expatriate described in subsection (d)(3)(A)(i) who is assigned (rather than transferred) to work in the United States.

(c) Qualified expatriates, spouses, and dependents not United States health risk

(1) In general

For purposes of section 9010 [1] of the Patient Protection and Affordable Care Act (26 U.S.C. 4001 note prec.), for calendar years after 2015, a qualified expatriate (and any spouse, dependent, or any other individual enrolled in the plan) enrolled in an expatriate health plan shall not be considered a United States health risk.

(2) Special rule

Notwithstanding paragraph (1), the fee under section 9010 [1] of such Act for each of calendar years 2014 and 2015 with respect to any expatriate health insurance issuer shall be the amount which bears the same ratio to the fee amount determined by the Secretary of the Treasury with respect to such issuer under such section for each such year (determined without regard to this paragraph) as—

(A) the amount of premiums taken into account under such section with respect to such issuer for each such year, less the amount of premiums for expatriate health plans taken into account under such section with respect to such issuer for each such year, bears to

(B) the amount of premiums taken into account under such section with respect to such issuer for each such year.

(d) Definitions

In this section:

(1) Expatriate health insurance issuer

The term "expatriate health insurance issuer" means a health insurance issuer that issues expatriate health plans.

(2) Expatriate health plan

The term "expatriate health plan" means a group health plan, health insurance coverage offered in connection with a group health plan, or health insurance coverage offered to a group of individuals described in paragraph (3)(C) (which may include spouses, dependents, and other individuals enrolled in the plan) that meets each of the following standards:

(A) Substantially all of the primary enrollees in such plan or coverage are qualified expatriates with respect to such plan or coverage. In applying the previous sentence, an individual shall not be considered a primary enrollee if the individual is not a national of the United States and the individual resides in the country of which the individual is a citizen.

(B) Substantially all of the benefits provided under the plan or coverage are not excepted benefits described in section 9832(c) of title 26.

(C) The plan or coverage provides coverage for inpatient hospital services, outpatient facility services, physician services, and emergency services (comparable to such emergency services coverage described in and offered under section 8903(1) of title 5 for plan year 2009)—

(i) in the case of individuals described in paragraph (3)(A), both in the United States and in the country or countries from which the individual was transferred or assigned (accounting for flexibility needed with existing coverage), and such other country or countries as the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor, may designate (after taking into account the barriers and prohibitions to providing health care services in the countries as designated);

(ii) in the case of individuals described in paragraph (3)(B), in the country or countries in which the individual is present in connection with the individual's employment, and such other country or countries as the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor, may designate; or

(iii) in the case of individuals described in paragraph (3)(C), in the country or countries as

the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor, may designate.

(D) The plan sponsor reasonably believes that the benefits provided by the expatriate health plan satisfy a standard at least actuarially equivalent to the level provided for in section 36B(c)(2)(C)(ii) of title 26.

(E) If the plan or coverage provides dependent coverage of children, the plan or coverage makes such dependent coverage available for adult children until the adult child turns 26 years of age, unless such individual is the child of a child receiving dependent coverage.

(F) The plan or coverage—

(i) is issued by an expatriate health plan issuer, or administered by an administrator, that together with any other person in the expatriate health plan issuer's or administrator's controlled group (as described in section 9010 [1] of the Patient Protection and Affordable Care Act (and the regulations promulgated thereunder)), has licenses to sell insurance in more than two countries, and, with respect to such plan, coverage, or company in the controlled group—

(I) maintains network provider agreements that provide for direct claims payments, directly or through third party contracts, with health care providers in eight or more countries;

(II) maintains call centers, directly or through third party contracts, in three or more countries and accepts calls from customers in eight or more languages;

(III) processes (in the aggregate together with other plans or coverage it issues or administers) at least $1,000,000 in claims in foreign currency equivalents each year;

(IV) makes available (directly or through third party contracts) global evacuation/repatriation coverage; and

(V) maintains legal and compliance resources in three or more countries; and

(ii) offers reimbursements for items or services under such plan or coverage in the local currency in eight or more countries.

(G) The plan or coverage, and the plan sponsor or expatriate health insurance issuer with respect to such plan or coverage, satisfies the provisions of title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.), chapter 100 of title 26, and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.), which would otherwise apply to such a plan or coverage, and sponsor or issuer, if not for the enactment of the Patient Protection and Affordable Care Act and title I and subtitle B of title II of the Health Care and Education Reconciliation Act of 2010.

(3) Qualified expatriate

The term "qualified expatriate" means a primary insured, or individual otherwise described in subparagraph (C)—

(A)(i) whose skills, qualifications, job duties, or expertise is of a type that has caused his or her employer to transfer or assign him or her to the United States for a specific and temporary purpose or assignment tied to his or her employment; and

(ii) in connection with such transfer or assignment, is reasonably determined by the plan sponsor to require access to health insurance and other related services and support in multiple countries, and is offered other multinational benefits on a periodic basis (such as tax equalization, compensation for cross border moving expenses, or compensation to enable the expatriate to return to their home country);

(B) who is working outside of the United States for a period of at least 180 days in a consecutive 12-month period that overlaps with the plan year; or

(C) who is a member of a group of similarly situated individuals—

(i) that is formed for the purpose of traveling or relocating internationally in service of one or more of the purposes listed in section 501(c)(3) or 501(c)(4) of title 26, or similarly

situated organizations or groups (such as students or religious missionaries);

(ii) that is not formed primarily for the sale of health insurance coverage; and

(iii) that the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor, determines requires access to health insurance and other related services and support in multiple countries.

(4) United States

The term "United States" means the 50 States, the District of Columbia, and Puerto Rico.

(5) Miscellaneous terms

(A) Group health plan; health insurance coverage; health insurance issuer; plan sponsor

The terms "group health plan", "health insurance coverage", "health insurance issuer", and "plan sponsor" have the meanings given those terms in section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91).

(B) Transfer

The term "transfer" means an employer has transferred an employee to perform services for a branch of the same employer or a parent, affiliate, franchise, or subsidiary thereof.

(e) Regulations

The Secretary of the Treasury, the Secretary of Health and Human Services, and the Secretary of Labor may promulgate regulations necessary to carry out this Act, including such rules as may be necessary to prevent inappropriate expansion of the application of the exclusions under this Act from applicable laws and regulations, and to amend existing annual reporting requirements or procedures to include applicable qualified expatriate health insurers' total number of expatriate plan enrollees.

(f) Effective date

Unless otherwise specified, this Act shall take effect on December 16, 2014, and shall apply only to expatriate health plans issued or renewed on or after July 1, 2015.

(Pub. L. 113–235, div. M, §3, Dec. 16, 2014, 128 Stat. 2768.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in subsecs. (a), (c), and (d)(2)(F)(i), (G), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. Section 9010 of the Act was set out as a note preceding section 4001 of Title 26, Internal Revenue Code, prior to repeal by Pub. L. 116–94, div. N, title I, §502(a), Dec. 20, 2019, 133 Stat. 3119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The Health Care and Education Reconciliation Act of 2010, referred to in subsecs. (a) and (d)(2)(G), is Pub. L. 111–152, Mar. 30, 2010, 124 Stat. 1029. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1305 of this title and Tables.

Section 4980I of title 26, referred to in subsec. (b)(2), was repealed by Pub. L. 116–94, div. N, title I, §503(a), Dec. 20, 2019, 133 Stat. 3119.

The Public Health Service Act, referred to in subsec. (d)(2)(G), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. Title XXVII of the Act is classified generally to subchapter XXV (§300gg et seq.) of chapter 6A. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (d)(2)(G), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 832. Part 7 of subtitle B of title I of the Act is classified generally to part 7 (§1181 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

This Act, referred to in subsecs. (e) and (f), is div. M of Pub. L. 113–235, Dec. 16, 2014, 128 Stat. 2767, known as the Expatriate Health Coverage Clarification Act of 2014. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 18001 of this title and Tables.

CODIFICATION

Section was enacted as part of the Expatriate Health Coverage Clarification Act of 2014, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of title I of the Patient Protection and Affordable Care Act which enacted this chapter.

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

SUBCHAPTER III—AVAILABLE COVERAGE CHOICES FOR ALL AMERICANS

PART A—ESTABLISHMENT OF QUALIFIED HEALTH PLANS

§18021. Qualified health plan defined

(a) Qualified health plan

In this title: [1]

(1) In general

The term "qualified health plan" means a health plan that—

(A) has in effect a certification (which may include a seal or other indication of approval) that such plan meets the criteria for certification described in section 18031(c) of this title issued or recognized by each Exchange through which such plan is offered;

(B) provides the essential health benefits package described in section 18022(a) of this title; and

(C) is offered by a health insurance issuer that—

(i) is licensed and in good standing to offer health insurance coverage in each State in which such issuer offers health insurance coverage under this title; [1]

(ii) agrees to offer at least one qualified health plan in the silver level and at least one plan in the gold level in each such Exchange;

(iii) agrees to charge the same premium rate for each qualified health plan of the issuer without regard to whether the plan is offered through an Exchange or whether the plan is offered directly from the issuer or through an agent; and

(iv) complies with the regulations developed by the Secretary under section 18031(d) of this title and such other requirements as an applicable Exchange may establish.

(2) Inclusion of CO–OP plans and multi-State qualified health plans

Any reference in this title [1] to a qualified health plan shall be deemed to include a qualified health plan offered through the CO–OP program under section 18042 of this title, and a multi-State plan under section 18054 of this title, unless specifically provided for otherwise.

(3) Treatment of qualified direct primary care medical home plans

The Secretary of Health and Human Services shall permit a qualified health plan to provide coverage through a qualified direct primary care medical home plan that meets criteria established by the Secretary, so long as the qualified health plan meets all requirements that are otherwise applicable and the services covered by the medical home plan are coordinated with the entity offering the qualified health plan.

(4) Variation based on rating area

A qualified health plan, including a multi-State qualified health plan, may as appropriate vary premiums by rating area (as defined in section 300gg(a)(2) of this title).

(b) Terms relating to health plans

In this title: [1]

(1) Health plan

(A) In general

The term "health plan" means health insurance coverage and a group health plan.

(B) Exception for self-insured plans and MEWAs

Except to the extent specifically provided by this title,[1] the term "health plan" shall not include a group health plan or multiple employer welfare arrangement to the extent the plan or arrangement is not subject to State insurance regulation under section 1144 of title 29.

(2) Health insurance coverage and issuer

The terms "health insurance coverage" and "health insurance issuer" have the meanings given such terms by section 300gg–91(b) of this title.

(3) Group health plan

The term "group health plan" has the meaning given such term by section 300gg–91(a) of this title.

(Pub. L. 111–148, title I, §1301, title X, §10104(a), Mar. 23, 2010, 124 Stat. 162, 896.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, where footnoted in text, is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

AMENDMENTS

2010—Subsec. (a)(2) to (4). Pub. L. 111–148, §10104(a), added pars. (2) to (4) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "Any reference in this title to a qualified health plan shall be deemed to include a qualified health plan offered through the CO-OP program under section 18042 of this title or a community health insurance option under section 18043 of this title, unless specifically provided for otherwise."

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

§18022. Essential health benefits requirements

(a) Essential health benefits package

In this title,[1] the term "essential health benefits package" means, with respect to any health plan, coverage that—

(1) provides for the essential health benefits defined by the Secretary under subsection (b);

(2) limits cost-sharing for such coverage in accordance with subsection (c); and

(3) subject to subsection (e), provides either the bronze, silver, gold, or platinum level of coverage described in subsection (d).

(b) Essential health benefits

(1) In general

Subject to paragraph (2), the Secretary shall define the essential health benefits, except that such benefits shall include at least the following general categories and the items and services covered within the categories:

(A) Ambulatory patient services.

(B) Emergency services.
(C) Hospitalization.
(D) Maternity and newborn care.
(E) Mental health and substance use disorder services, including behavioral health treatment.
(F) Prescription drugs.
(G) Rehabilitative and habilitative services and devices.
(H) Laboratory services.
(I) Preventive and wellness services and chronic disease management.
(J) Pediatric services, including oral and vision care.

(2) Limitation

(A) In general

The Secretary shall ensure that the scope of the essential health benefits under paragraph (1) is equal to the scope of benefits provided under a typical employer plan, as determined by the Secretary. To inform this determination, the Secretary of Labor shall conduct a survey of employer-sponsored coverage to determine the benefits typically covered by employers, including multiemployer plans, and provide a report on such survey to the Secretary.

(B) Certification

In defining the essential health benefits described in paragraph (1), and in revising the benefits under paragraph (4)(H), the Secretary shall submit a report to the appropriate committees of Congress containing a certification from the Chief Actuary of the Centers for Medicare & Medicaid Services that such essential health benefits meet the limitation described in paragraph (2).

(3) Notice and hearing

In defining the essential health benefits described in paragraph (1), and in revising the benefits under paragraph (4)(H), the Secretary shall provide notice and an opportunity for public comment.

(4) Required elements for consideration

In defining the essential health benefits under paragraph (1), the Secretary shall—

(A) ensure that such essential health benefits reflect an appropriate balance among the categories described in such subsection,[2] so that benefits are not unduly weighted toward any category;

(B) not make coverage decisions, determine reimbursement rates, establish incentive programs, or design benefits in ways that discriminate against individuals because of their age, disability, or expected length of life;

(C) take into account the health care needs of diverse segments of the population, including women, children, persons with disabilities, and other groups;

(D) ensure that health benefits established as essential not be subject to denial to individuals against their wishes on the basis of the individuals' age or expected length of life or of the individuals' present or predicted disability, degree of medical dependency, or quality of life;

(E) provide that a qualified health plan shall not be treated as providing coverage for the essential health benefits described in paragraph (1) unless the plan provides that—

(i) coverage for emergency department services will be provided without imposing any requirement under the plan for prior authorization of services or any limitation on coverage where the provider of services does not have a contractual relationship with the plan for the providing of services that is more restrictive than the requirements or limitations that apply to emergency department services received from providers who do have such a contractual relationship with the plan; and

(ii) if such services are provided out-of-network, the cost-sharing requirement (expressed as a copayment amount or coinsurance rate) is the same requirement that would apply if such services were provided in-network;

(F) provide that if a plan described in section 18031(b)(2)(B)(ii) [3] of this title (relating to stand-alone dental benefits plans) is offered through an Exchange, another health plan offered through such Exchange shall not fail to be treated as a qualified health plan solely because the plan does not offer coverage of benefits offered through the stand-alone plan that are otherwise required under paragraph (1)(J); and [4]

(G) periodically review the essential health benefits under paragraph (1), and provide a report to Congress and the public that contains—

(i) an assessment of whether enrollees are facing any difficulty accessing needed services for reasons of coverage or cost;

(ii) an assessment of whether the essential health benefits needs to be modified or updated to account for changes in medical evidence or scientific advancement;

(iii) information on how the essential health benefits will be modified to address any such gaps in access or changes in the evidence base;

(iv) an assessment of the potential of additional or expanded benefits to increase costs and the interactions between the addition or expansion of benefits and reductions in existing benefits to meet actuarial limitations described in paragraph (2); and

(H) periodically update the essential health benefits under paragraph (1) to address any gaps in access to coverage or changes in the evidence base the Secretary identifies in the review conducted under subparagraph (G).

(5) Rule of construction

Nothing in this title [1] shall be construed to prohibit a health plan from providing benefits in excess of the essential health benefits described in this subsection.

(c) Requirements relating to cost-sharing

(1) Annual limitation on cost-sharing

(A) 2014

The cost-sharing incurred under a health plan with respect to self-only coverage or coverage other than self-only coverage for a plan year beginning in 2014 shall not exceed the dollar amounts in effect under section 223(c)(2)(A)(ii) of title 26 for self-only and family coverage, respectively, for taxable years beginning in 2014.

(B) 2015 and later

In the case of any plan year beginning in a calendar year after 2014, the limitation under this paragraph shall—

(i) in the case of self-only coverage, be equal to the dollar amount under subparagraph (A) for self-only coverage for plan years beginning in 2014, increased by an amount equal to the product of that amount and the premium adjustment percentage under paragraph (4) for the calendar year; and

(ii) in the case of other coverage, twice the amount in effect under clause (i).

If the amount of any increase under clause (i) is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

(2) Repealed. Pub. L. 113–93, title II, §213(a)(1), Apr. 1, 2014, 128 Stat. 1047

(3) Cost-sharing

In this title— [1]

(A) In general

The term "cost-sharing" includes—

(i) deductibles, coinsurance, copayments, or similar charges; and

(ii) any other expenditure required of an insured individual which is a qualified medical

expense (within the meaning of section 223(d)(2) of title 26) with respect to essential health benefits covered under the plan.

(B) Exceptions

Such term does not include premiums, balance billing amounts for non-network providers, or spending for non-covered services.

(4) Premium adjustment percentage

For purposes of paragraph (1)(B)(i), the premium adjustment percentage for any calendar year is the percentage (if any) by which the average per capita premium for health insurance coverage in the United States for the preceding calendar year (as estimated by the Secretary no later than October 1 of such preceding calendar year) exceeds such average per capita premium for 2013 (as determined by the Secretary).

(d) Levels of coverage

(1) Levels of coverage defined

The levels of coverage described in this subsection are as follows:

(A) Bronze level

A plan in the bronze level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan.

(B) Silver level

A plan in the silver level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 70 percent of the full actuarial value of the benefits provided under the plan.

(C) Gold level

A plan in the gold level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 80 percent of the full actuarial value of the benefits provided under the plan.

(D) Platinum level

A plan in the platinum level shall provide a level of coverage that is designed to provide benefits that are actuarially equivalent to 90 percent of the full actuarial value of the benefits provided under the plan.

(2) Actuarial value

(A) In general

Under regulations issued by the Secretary, the level of coverage of a plan shall be determined on the basis that the essential health benefits described in subsection (b) shall be provided to a standard population (and without regard to the population the plan may actually provide benefits to).

(B) Employer contributions

The Secretary shall issue regulations under which employer contributions to a health savings account (within the meaning of section 223 of title 26) may be taken into account in determining the level of coverage for a plan of the employer.

(C) Application

In determining under this title,[1] the Public Health Service Act [42 U.S.C. 201 et seq.], or title 26 the percentage of the total allowed costs of benefits provided under a group health plan or health insurance coverage that are provided by such plan or coverage, the rules contained in the regulations under this paragraph shall apply.

(3) Allowable variance

The Secretary shall develop guidelines to provide for a de minimis variation in the actuarial valuations used in determining the level of coverage of a plan to account for differences in actuarial estimates.

(4) Plan reference

In this title,[1] any reference to a bronze, silver, gold, or platinum plan shall be treated as a reference to a qualified health plan providing a bronze, silver, gold, or platinum level of coverage, as the case may be.

(e) Catastrophic plan

(1) In general

A health plan not providing a bronze, silver, gold, or platinum level of coverage shall be treated as meeting the requirements of subsection (d) with respect to any plan year if—

(A) the only individuals who are eligible to enroll in the plan are individuals described in paragraph (2); and

(B) the plan provides—

(i) except as provided in clause (ii), the essential health benefits determined under subsection (b), except that the plan provides no benefits for any plan year until the individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (c)(1) for the plan year (except as provided for in section 2713); [1] and

(ii) coverage for at least three primary care visits.

(2) Individuals eligible for enrollment

An individual is described in this paragraph for any plan year if the individual—

(A) has not attained the age of 30 before the beginning of the plan year; or

(B) has a certification in effect for any plan year under this title [1] that the individual is exempt from the requirement under section 5000A of title 26 by reason of—

(i) section 5000A(e)(1) of such title (relating to individuals without affordable coverage); or

(ii) section 5000A(e)(5) of such title (relating to individuals with hardships).

(3) Restriction to individual market

If a health insurance issuer offers a health plan described in this subsection, the issuer may only offer the plan in the individual market.

(f) Child-only plans

If a qualified health plan is offered through the Exchange in any level of coverage specified under subsection (d), the issuer shall also offer that plan through the Exchange in that level as a plan in which the only enrollees are individuals who, as of the beginning of a plan year, have not attained the age of 21, and such plan shall be treated as a qualified health plan.

(g) Payments to Federally-qualified health centers

If any item or service covered by a qualified health plan is provided by a Federally-qualified health center (as defined in section 1396d(l)(2)(B) of this title) to an enrollee of the plan, the offeror of the plan shall pay to the center for the item or service an amount that is not less than the amount of payment that would have been paid to the center under section 1396a(bb) of this title) for such item or service.

(Pub. L. 111–148, title I, §1302, title X, §10104(b), Mar. 23, 2010, 124 Stat. 163, 896; Pub. L. 113–93, title II, §213(a), Apr. 1, 2014, 128 Stat. 1047.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (a), (b)(5), (d)(2)(C), (4), and (e)(2)(B), is title I of Pub. L. 111–148, Mar.

23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

The Public Health Service Act, referred to in subsec. (d)(2)(C), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

Section 2713, referred to in subsec. (e)(1)(B)(i), probably means section 2713 of act July 1, 1944, which is classified to section 300gg–13 of this title.

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113–93, §213(a)(1), struck out par. (2) which related to annual limitation on deductibles for employer-sponsored plans.

Subsec. (c)(4). Pub. L. 113–93, §213(a)(2), which directed amendment of par. (4)(A) by substituting "paragraph (1)(B)(i)" for "paragraphs (1)(B)(i) and (2)(B)(i)", was executed by making the substitution in par. (4) to reflect the probable intent of Congress.

2010—Subsec. (d)(2)(B). Pub. L. 111–148, §10104(b)(1), substituted "shall issue" for "may issue".

Subsec. (g). Pub. L. 111–148, §10104(b)(2), added subsec. (g).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–93 effective as if included in the enactment of Pub. L. 111–148, see section 213(c) of Pub. L. 113–93, set out as a note under section 300gg–6 of this title.

[1] See References in Text note below.

[2] So in original. Probably should be "paragraph,".

[3] So in original. Probably should be "18031(d)(2)(B)(ii)".

[4] So in original. The word "and" probably should not appear.

§18023. Special rules

(a) State opt-out of abortion coverage

(1) In general

A State may elect to prohibit abortion coverage in qualified health plans offered through an Exchange in such State if such State enacts a law to provide for such prohibition.

(2) Termination of opt out

A State may repeal a law described in paragraph (1) and provide for the offering of such services through the Exchange.

(b) Special rules relating to coverage of abortion services

(1) Voluntary choice of coverage of abortion services

(A) In general

Notwithstanding any other provision of this title [1] (or any amendment made by this title)— [1]

(i) nothing in this title [1] (or any amendment made by this title),[1] shall be construed to require a qualified health plan to provide coverage of services described in subparagraph (B)(i) or (B)(ii) as part of its essential health benefits for any plan year; and

(ii) subject to subsection (a), the issuer of a qualified health plan shall determine whether or not the plan provides coverage of services described in subparagraph (B)(i) or (B)(ii) as part of such benefits for the plan year.

(B) Abortion services

(i) Abortions for which public funding is prohibited

The services described in this clause are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is not permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.

(ii) Abortions for which public funding is allowed

The services described in this clause are abortions for which the expenditure of Federal funds appropriated for the Department of Health and Human Services is permitted, based on the law as in effect as of the date that is 6 months before the beginning of the plan year involved.

(2) Prohibition on the use of Federal funds

(A) In general

If a qualified health plan provides coverage of services described in paragraph (1)(B)(i), the issuer of the plan shall not use any amount attributable to any of the following for purposes of paying for such services:

(i) The credit under section 36B of title 26 (and the amount (if any) of the advance payment of the credit under section 18082 of this title).

(ii) Any cost-sharing reduction under section 18071 of this title (and the amount (if any) of the advance payment of the reduction under section 18082 of this title).

(B) Establishment of allocation accounts

In the case of a plan to which subparagraph (A) applies, the issuer of the plan shall—

(i) collect from each enrollee in the plan (without regard to the enrollee's age, sex, or family status) a separate payment for each of the following:

(I) an amount equal to the portion of the premium to be paid directly by the enrollee for coverage under the plan of services other than services described in paragraph (1)(B)(i) (after reduction for credits and cost-sharing reductions described in subparagraph (A)); and

(II) an amount equal to the actuarial value of the coverage of services described in paragraph (1)(B)(i), and

(ii) shall [2] deposit all such separate payments into separate allocation accounts as provided in subparagraph (C).

In the case of an enrollee whose premium for coverage under the plan is paid through employee payroll deposit, the separate payments required under this subparagraph shall each be paid by a separate deposit.

(C) Segregation of funds

(i) In general

The issuer of a plan to which subparagraph (A) applies shall establish allocation accounts described in clause (ii) for enrollees receiving amounts described in subparagraph (A).

(ii) Allocation accounts

The issuer of a plan to which subparagraph (A) applies shall deposit—

(I) all payments described in subparagraph (B)(i)(I) into a separate account that consists solely of such payments and that is used exclusively to pay for services other than services described in paragraph (1)(B)(i); and

(II) all payments described in subparagraph (B)(i)(II) into a separate account that consists solely of such payments and that is used exclusively to pay for services described in paragraph (1)(B)(i).

(D) Actuarial value

(i) In general

The issuer of a qualified health plan shall estimate the basic per enrollee, per month cost, determined on an average actuarial basis, for including coverage under the qualified health plan of the services described in paragraph (1)(B)(i).

(ii) Considerations

In making such estimate, the issuer—

(I) may take into account the impact on overall costs of the inclusion of such coverage, but may not take into account any cost reduction estimated to result from such services, including prenatal care, delivery, or postnatal care;

(II) shall estimate such costs as if such coverage were included for the entire population covered; and

(III) may not estimate such a cost at less than $1 per enrollee, per month.

(E) Ensuring compliance with segregation requirements

(i) In general

Subject to clause (ii), State health insurance commissioners shall ensure that health plans comply with the segregation requirements in this subsection through the segregation of plan funds in accordance with applicable provisions of generally accepted accounting requirements, circulars on funds management of the Office of Management and Budget, and guidance on accounting of the Government Accountability Office.

(ii) Clarification

Nothing in clause (i) shall prohibit the right of an individual or health plan to appeal such action in courts of competent jurisdiction.

(3) Rules relating to notice

(A) Notice

A qualified health plan that provides for coverage of the services described in paragraph (1)(B)(i) shall provide a notice to enrollees, only as part of the summary of benefits and coverage explanation, at the time of enrollment, of such coverage.

(B) Rules relating to payments

The notice described in subparagraph (A), any advertising used by the issuer with respect to the plan, any information provided by the Exchange, and any other information specified by the Secretary shall provide information only with respect to the total amount of the combined payments for services described in paragraph (1)(B)(i) and other services covered by the plan.

(4) No discrimination on basis of provision of abortion

No qualified health plan offered through an Exchange may discriminate against any individual health care provider or health care facility because of its unwillingness to provide, pay for, provide coverage of, or refer for abortions [3]

(c) Application of State and Federal laws regarding abortion

(1) No preemption of State laws regarding abortion

Nothing in this Act shall be construed to preempt or otherwise have any effect on State laws regarding the prohibition of (or requirement of) coverage, funding, or procedural requirements on abortions, including parental notification or consent for the performance of an abortion on a minor.

(2) No effect on Federal laws regarding abortion

(A) [4] In general

Nothing in this Act shall be construed to have any effect on Federal laws regarding—

(i) conscience protection;
(ii) willingness or refusal to provide abortion; and
(iii) discrimination on the basis of the willingness or refusal to provide, pay for, cover, or refer for abortion or to provide or participate in training to provide abortion.

(3) No effect on Federal civil rights law

Nothing in this subsection shall alter the rights and obligations of employees and employers under title VII of the Civil Rights Act of 1964 [42 U.S.C. 2000e et seq.].

(d) Application of emergency services laws

Nothing in this Act shall be construed to relieve any health care provider from providing emergency services as required by State or Federal law, including section 1395dd of this title (popularly known as "EMTALA").

(Pub. L. 111–148, title I, §1303, title X, §10104(c), Mar. 23, 2010, 124 Stat. 168, 896.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsec. (b)(1)(A), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

This Act, referred to in subsecs. (c)(1), (2)(A) and (d), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(3), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

AMENDMENTS

2010—Pub. L. 111–148, §10104(c), amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to special rules relating to coverage of abortion services, application of State and Federal laws regarding abortion, and application of emergency services laws.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13535. ENSURING ENFORCEMENT AND IMPLEMENTATION OF ABORTION RESTRICTIONS IN THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

Ex. Ord. No. 13535, Mar. 24, 2010, 75 F.R. 15599, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the "Patient Protection and Affordable Care Act" (Public Law 111–148), I hereby order as follows:

SECTION. 1. *Policy*. Following the recent enactment of the Patient Protection and Affordable Care Act (the "Act"), it is necessary to establish an adequate enforcement mechanism to ensure that Federal funds are not used for abortion services (except in cases of rape or incest, or when the life of the woman would be endangered), consistent with a longstanding Federal statutory restriction that is commonly known as the Hyde Amendment. The purpose of this order is to establish a comprehensive, Government-wide set of policies and procedures to achieve this goal and to make certain that all relevant actors—Federal officials, State officials (including insurance regulators) and health care providers—are aware of their responsibilities, new and old.

The Act maintains current Hyde Amendment restrictions governing abortion policy and extends those restrictions to the newly created health insurance exchanges. Under the Act, longstanding Federal laws to protect conscience (such as the Church Amendment, 42 U.S.C. 300a–7, and the Weldon Amendment, section 508(d)(1) of Public Law 111–8) remain intact and new protections prohibit discrimination against health care facilities and health care providers because of an unwillingness to provide, pay for, provide coverage of, or refer for abortions.

Numerous executive agencies have a role in ensuring that these restrictions are enforced, including the Department of Health and Human Services (HHS), the Office of Management and Budget (OMB), and the

Office of Personnel Management.

SEC. 2. *Strict Compliance with Prohibitions on Abortion Funding in Health Insurance Exchanges*. The Act specifically prohibits the use of tax credits and cost-sharing reduction payments to pay for abortion services (except in cases of rape or incest, or when the life of the woman would be endangered) in the health insurance exchanges that will be operational in 2014. The Act also imposes strict payment and accounting requirements to ensure that Federal funds are not used for abortion services in exchange plans (except in cases of rape or incest, or when the life of the woman would be endangered) and requires State health insurance commissioners to ensure that exchange plan funds are segregated by insurance companies in accordance with generally accepted accounting principles, OMB funds management circulars, and accounting guidance provided by the Government Accountability Office.

I hereby direct the Director of the OMB and the Secretary of HHS to develop, within 180 days of the date of this order, a model set of segregation guidelines for State health insurance commissioners to use when determining whether exchange plans are complying with the Act's segregation requirements, established in section 1303 of the Act, for enrollees receiving Federal financial assistance. The guidelines shall also offer technical information that States should follow to conduct independent regular audits of insurance companies that participate in the health insurance exchanges. In developing these model guidelines, the Director of the OMB and the Secretary of HHS shall consult with executive agencies and offices that have relevant expertise in accounting principles, including, but not limited to, the Department of the Treasury, and with the Government Accountability Office. Upon completion of those model guidelines, the Secretary of HHS should promptly initiate a rulemaking to issue regulations, which will have the force of law, to interpret the Act's segregation requirements, and shall provide guidance to State health insurance commissioners on how to comply with the model guidelines.

SEC. 3. *Community Health Center Program*. The Act establishes a new Community Health Center (CHC) Fund within HHS, which provides additional Federal funds for the community health center program. Existing law prohibits these centers from using Federal funds to provide abortion services (except in cases of rape or incest, or when the life of the woman would be endangered), as a result of both the Hyde Amendment and longstanding regulations containing the Hyde language. Under the Act, the Hyde language shall apply to the authorization and appropriations of funds for Community Health Centers under section 10503 and all other relevant provisions. I hereby direct the Secretary of HHS to ensure that program administrators and recipients of Federal funds are aware of and comply with the limitations on abortion services imposed on CHCs by existing law. Such actions should include, but are not limited to, updating Grant Policy Statements that accompany CHC grants and issuing new interpretive rules.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect: (i) authority granted by law or Presidential directive to an agency, or the head thereof; or (ii) functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees or agents, or any other person.

BARACK OBAMA.

[1] See References in Text note below.

[2] So in original. The word "shall" probably should not appear.

[3] So in original. Probably should be followed by a period.

[4] So in original. There is no subpar. (B).

§18024. Related definitions

(a) Definitions relating to markets

In this title: [1]

(1) Group market

The term "group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by an employer.

(2) Individual market

The term "individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(3) Large and small group markets

The terms "large group market" and "small group market" mean the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) through a group health plan maintained by a large employer (as defined in subsection (b)(1)) or by a small employer (as defined in subsection (b)(2)), respectively.

(b) Employers

In this title: [1]

(1) Large employer

The term "large employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

(2) Small employer

The term "small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 1 but not more than 50 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

(3) State option to extend definition of small employer

Notwithstanding paragraphs (1) and (2), nothing in this section shall prevent a State from applying this subsection by treating as a small employer, with respect to a calendar year and a plan year, an employer who employed an average of at least 1 but not more than 100 employees on business days during the preceding calendar year and who employs at least 1 employee on the first day of the plan year.

(4) Rules for determining employer size

For purposes of this subsection—

(A) Application of aggregation rule for employers

All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of title 26 shall be treated as 1 employer.

(B) Employers not in existence in preceding year

In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small or large employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

(C) Predecessors

Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

(D) Continuation of participation for growing small employers

If—

(i) a qualified employer that is a small employer makes enrollment in qualified health plans offered in the small group market available to its employees through an Exchange; and

(ii) the employer ceases to be a small employer by reason of an increase in the number of employees of such employer;

the employer shall continue to be treated as a small employer for purposes of this subchapter for the period beginning with the increase and ending with the first day on which the employer does not make such enrollment available to its employees.

(c) Secretary

In this title,[1] the term "Secretary" means the Secretary of Health and Human Services.

(d) State

In this title,[1] the term "State" means each of the 50 States and the District of Columbia.

(e) Educated health care consumers

The term "educated health care consumer" means an individual who is knowledgeable about the health care system, and has background or experience in making informed decisions regarding health, medical, and scientific matters.

(Pub. L. 111–148, title I, §1304, title X, §10104(d), Mar. 23, 2010, 124 Stat. 171, 900; Pub. L. 114–60, §2(a), Oct. 7, 2015, 129 Stat. 543.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (a) to (d), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

AMENDMENTS

2015—Subsec. (b)(1). Pub. L. 114–60, §2(a)(1), substituted "51" for "101".

Subsec. (b)(2). Pub. L. 114–60, §2(a)(2), substituted "50" for "100".

Subsec. (b)(3). Pub. L. 114–60, §2(a)(3), amended par. (3) generally. Prior to amendment, text read as follows: "In the case of plan years beginning before January 1, 2016, a State may elect to apply this subsection by substituting '51 employees' for '101 employees' in paragraph (1) and by substituting '50 employees' for '100 employees' in paragraph (2)."

2010—Subsec. (e). Pub. L. 111–148, §10104(d), added subsec. (e).

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

PART B—CONSUMER CHOICES AND INSURANCE COMPETITION THROUGH HEALTH BENEFIT EXCHANGES

§18031. Affordable choices of health benefit plans

(a) Assistance to States to establish American Health Benefit Exchanges

(1) Planning and establishment grants

There shall be appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, an amount necessary to enable the Secretary to make awards, not later than 1 year after March 23, 2010, to States in the amount specified in paragraph (2) for the uses described in paragraph (3).

(2) Amount specified

For each fiscal year, the Secretary shall determine the total amount that the Secretary will make available to each State for grants under this subsection.

(3) Use of funds

A State shall use amounts awarded under this subsection for activities (including planning activities) related to establishing an American Health Benefit Exchange, as described in subsection (b).

(4) Renewability of grant

(A) In general

Subject to subsection (d)(4), the Secretary may renew a grant awarded under paragraph (1) if the State recipient of such grant—

(i) is making progress, as determined by the Secretary, toward—

(I) establishing an Exchange; and

(II) implementing the reforms described in subtitles A and C (and the amendments made by such subtitles); and

(ii) is meeting such other benchmarks as the Secretary may establish.

(B) Limitation

No grant shall be awarded under this subsection after January 1, 2015.

(5) Technical assistance to facilitate participation in SHOP Exchanges

The Secretary shall provide technical assistance to States to facilitate the participation of qualified small businesses in such States in SHOP Exchanges.

(b) American Health Benefit Exchanges

(1) In general

Each State shall, not later than January 1, 2014, establish an American Health Benefit Exchange (referred to in this title [1] as an "Exchange") for the State that—

(A) facilitates the purchase of qualified health plans;

(B) provides for the establishment of a Small Business Health Options Program (in this title [1] referred to as a "SHOP Exchange") that is designed to assist qualified employers in the State who are small employers in facilitating the enrollment of their employees in qualified health plans offered in the small group market in the State; and

(C) meets the requirements of subsection (d).

(2) Merger of individual and SHOP Exchanges

A State may elect to provide only one Exchange in the State for providing both Exchange and SHOP Exchange services to both qualified individuals and qualified small employers, but only if the Exchange has adequate resources to assist such individuals and employers.

(c) Responsibilities of the Secretary

(1) In general

The Secretary shall, by regulation, establish criteria for the certification of health plans as qualified health plans. Such criteria shall require that, to be certified, a plan shall, at a minimum—

(A) meet marketing requirements, and not employ marketing practices or benefit designs that have the effect of discouraging the enrollment in such plan by individuals with significant health needs;

(B) ensure a sufficient choice of providers (in a manner consistent with applicable network adequacy provisions under section 2702(c) of the Public Health Service Act [42 U.S.C. 300gg–1(c)]), and provide information to enrollees and prospective enrollees on the availability of in-network and out-of-network providers;

(C) include within health insurance plan networks those essential community providers, where available, that serve predominately low-income, medically-underserved individuals, such as health care providers defined in section 340B(a)(4) of the Public Health Service Act [42 U.S.C. 256b(a)(4)] and providers described in section 1927(c)(1)(D)(i)(IV) of the Social Security Act [42 U.S.C. 1396r–8(c)(1)(D)(i)(IV)] as set forth by section 221 of Public Law 111–8, except that nothing in this subparagraph shall be construed to require any health plan to provide coverage for any specific medical procedure;

(D)(i) be accredited with respect to local performance on clinical quality measures such as the Healthcare Effectiveness Data and Information Set, patient experience ratings on a standardized Consumer Assessment of Healthcare Providers and Systems survey, as well as consumer access, utilization management, quality assurance, provider credentialing, complaints and appeals, network adequacy and access, and patient information programs by any entity recognized by the Secretary for the accreditation of health insurance issuers or plans (so long as any such entity has transparent and rigorous methodological and scoring criteria); or

(ii) receive such accreditation within a period established by an Exchange for such accreditation that is applicable to all qualified health plans;

(E) implement a quality improvement strategy described in subsection (g)(1);

(F) utilize a uniform enrollment form that qualified individuals and qualified employers may use (either electronically or on paper) in enrolling in qualified health plans offered through such Exchange, and that takes into account criteria that the National Association of Insurance Commissioners develops and submits to the Secretary;

(G) utilize the standard format established for presenting health benefits plan options;

(H) provide information to enrollees and prospective enrollees, and to each Exchange in which the plan is offered, on any quality measures for health plan performance endorsed under section 399JJ of the Public Health Service Act [42 U.S.C. 280j–2], as applicable; and

(I) report to the Secretary at least annually and in such manner as the Secretary shall require, pediatric quality reporting measures consistent with the pediatric quality reporting measures established under section 1139A of the Social Security Act [42 U.S.C. 1320b–9a].

(2) Rule of construction

Nothing in paragraph (1)(C) shall be construed to require a qualified health plan to contract with a provider described in such paragraph if such provider refuses to accept the generally applicable payment rates of such plan.

(3) Rating system

The Secretary shall develop a rating system that would rate qualified health plans offered through an Exchange in each benefits level on the basis of the relative quality and price. The Exchange shall include the quality rating in the information provided to individuals and employers through the Internet portal established under paragraph (4).

(4) Enrollee satisfaction system

The Secretary shall develop an enrollee satisfaction survey system that would evaluate the level of enrollee satisfaction with qualified health plans offered through an Exchange, for each such qualified health plan that had more than 500 enrollees in the previous year. The Exchange shall include enrollee satisfaction information in the information provided to individuals and employers through the Internet portal established under paragraph (5) in a manner that allows individuals to easily compare enrollee satisfaction levels between comparable plans.

(5) Internet portals

The Secretary shall—

(A) continue to operate, maintain, and update the Internet portal developed under section 18003(a) of this title and to assist States in developing and maintaining their own such portal; and

(B) make available for use by Exchanges a model template for an Internet portal that may be used to direct qualified individuals and qualified employers to qualified health plans, to assist

such individuals and employers in determining whether they are eligible to participate in an Exchange or eligible for a premium tax credit or cost-sharing reduction, and to present standardized information (including quality ratings) regarding qualified health plans offered through an Exchange to assist consumers in making easy health insurance choices.

Such template shall include, with respect to each qualified health plan offered through the Exchange in each rating area, access to the uniform outline of coverage the plan is required to provide under section 2716 [1] of the Public Health Service Act and to a copy of the plan's written policy.

(6) Enrollment periods

The Secretary shall require an Exchange to provide for—

(A) an initial open enrollment, as determined by the Secretary (such determination to be made not later than July 1, 2012);

(B) annual open enrollment periods, as determined by the Secretary for calendar years after the initial enrollment period;

(C) special enrollment periods specified in section 9801 of title 26 and other special enrollment periods under circumstances similar to such periods under part D of title XVIII of the Social Security Act [42 U.S.C. 1395w–101 et seq.]; and

(D) special monthly enrollment periods for Indians (as defined in section 1603 of title 25).

(7) Reenrollment of certain individuals in qualified health plans in certain exchanges

(A) In general

In the case of an Exchange that the Secretary operates pursuant to section 18041(c)(1) of this title, the Secretary shall establish a process under which an individual described in subparagraph (B) is reenrolled for plan year 2021 in a qualified health plan offered through such Exchange. Such qualified health plan under which such individual is so reenrolled shall be—

(i) if available for plan year 2021, the qualified health plan under which such individual is enrolled during the annual open enrollment period for such plan year; and

(ii) if such qualified health plan is not available for plan year 2021, a qualified health plan offered through such Exchange determined appropriate by the Secretary.

(B) Individual described

An individual described in this subsection is an individual who, with respect to plan year 2020—

(i) resides in a State with an Exchange described in subparagraph (A);

(ii) is enrolled in a qualified health plan during such plan year and does not enroll in a qualified health plan for plan year 2021 during the annual open enrollment period for such plan year 2021; and

(iii) does not elect to disenroll under a qualified health plan for plan year 2021 during such annual open enrollment period.

(d) Requirements

(1) In general

An Exchange shall be a governmental agency or nonprofit entity that is established by a State.

(2) Offering of coverage

(A) In general

An Exchange shall make available qualified health plans to qualified individuals and qualified employers.

(B) Limitation

(i) In general

An Exchange may not make available any health plan that is not a qualified health plan.

(ii) Offering of stand-alone dental benefits

Each Exchange within a State shall allow an issuer of a plan that only provides limited scope dental benefits meeting the requirements of section 9832(c)(2)(A) of title 26 to offer the plan through the Exchange (either separately or in conjunction with a qualified health plan) if the plan provides pediatric dental benefits meeting the requirements of section 18022(b)(1)(J) of this title).

(3) Rules relating to additional required benefits

(A) In general

Except as provided in subparagraph (B), an Exchange may make available a qualified health plan notwithstanding any provision of law that may require benefits other than the essential health benefits specified under section 18022(b) of this title.

(B) States may require additional benefits

(i) In general

Subject to the requirements of clause (ii), a State may require that a qualified health plan offered in such State offer benefits in addition to the essential health benefits specified under section 18022(b) of this title.

(ii) State must assume cost

A State shall make payments—

(I) to an individual enrolled in a qualified health plan offered in such State; or

(II) on behalf of an individual described in subclause (I) directly to the qualified health plan in which such individual is enrolled;

to defray the cost of any additional benefits described in clause (i).

(4) Functions

An Exchange shall, at a minimum—

(A) implement procedures for the certification, recertification, and decertification, consistent with guidelines developed by the Secretary under subsection (c), of health plans as qualified health plans;

(B) provide for the operation of a toll-free telephone hotline to respond to requests for assistance;

(C) maintain an Internet website through which enrollees and prospective enrollees of qualified health plans may obtain standardized comparative information on such plans;

(D) assign a rating to each qualified health plan offered through such Exchange in accordance with the criteria developed by the Secretary under subsection (c)(3);

(E) utilize a standardized format for presenting health benefits plan options in the Exchange, including the use of the uniform outline of coverage established under section 2715 of the Public Health Service Act [42 U.S.C. 300gg–15];

(F) in accordance with section 18083 of this title, inform individuals of eligibility requirements for the medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], the CHIP program under title XXI of such Act [42 U.S.C. 1397aa et seq.], or any applicable State or local public program and if through screening of the application by the Exchange, the Exchange determines that such individuals are eligible for any such program, enroll such individuals in such program;

(G) establish and make available by electronic means a calculator to determine the actual cost of coverage after the application of any premium tax credit under section 36B of title 26 and any cost-sharing reduction under section 18071 of this title;

(H) subject to section 18081 of this title, grant a certification attesting that, for purposes of the individual responsibility penalty under section 5000A of title 26, an individual is exempt from the individual requirement or from the penalty imposed by such section because—

(i) there is no affordable qualified health plan available through the Exchange, or the

individual's employer, covering the individual; or

(ii) the individual meets the requirements for any other such exemption from the individual responsibility requirement or penalty;

(I) transfer to the Secretary of the Treasury—

(i) a list of the individuals who are issued a certification under subparagraph (H), including the name and taxpayer identification number of each individual;

(ii) the name and taxpayer identification number of each individual who was an employee of an employer but who was determined to be eligible for the premium tax credit under section 36B of title 26 because—

(I) the employer did not provide minimum essential coverage; or

(II) the employer provided such minimum essential coverage but it was determined under section 36B(c)(2)(C) of such title to either be unaffordable to the employee or not provide the required minimum actuarial value; and

(iii) the name and taxpayer identification number of each individual who notifies the Exchange under section 18081(b)(4) of this title that they have changed employers and of each individual who ceases coverage under a qualified health plan during a plan year (and the effective date of such cessation);

(J) provide to each employer the name of each employee of the employer described in subparagraph (I)(ii) who ceases coverage under a qualified health plan during a plan year (and the effective date of such cessation); and

(K) establish the Navigator program described in subsection (i).

(5) Funding limitations

(A) No Federal funds for continued operations

In establishing an Exchange under this section, the State shall ensure that such Exchange is self-sustaining beginning on January 1, 2015, including allowing the Exchange to charge assessments or user fees to participating health insurance issuers, or to otherwise generate funding, to support its operations.

(B) Prohibiting wasteful use of funds

In carrying out activities under this subsection, an Exchange shall not utilize any funds intended for the administrative and operational expenses of the Exchange for staff retreats, promotional giveaways, excessive executive compensation, or promotion of Federal or State legislative and regulatory modifications.

(6) Consultation

An Exchange shall consult with stakeholders relevant to carrying out the activities under this section, including—

(A) educated health care consumers who are enrollees in qualified health plans;

(B) individuals and entities with experience in facilitating enrollment in qualified health plans;

(C) representatives of small businesses and self-employed individuals;

(D) State Medicaid offices; and

(E) advocates for enrolling hard to reach populations.

(7) Publication of costs

An Exchange shall publish the average costs of licensing, regulatory fees, and any other payments required by the Exchange, and the administrative costs of such Exchange, on an Internet website to educate consumers on such costs. Such information shall also include monies lost to waste, fraud, and abuse.

(e) Certification

(1) In general

An Exchange may certify a health plan as a qualified health plan if—

(A) such health plan meets the requirements for certification as promulgated by the Secretary under subsection (c)(1); and

(B) the Exchange determines that making available such health plan through such Exchange is in the interests of qualified individuals and qualified employers in the State or States in which such Exchange operates, except that the Exchange may not exclude a health plan—

(i) on the basis that such plan is a fee-for-service plan;

(ii) through the imposition of premium price controls; or

(iii) on the basis that the plan provides treatments necessary to prevent patients' deaths in circumstances the Exchange determines are inappropriate or too costly.

(2) Premium considerations

The Exchange shall require health plans seeking certification as qualified health plans to submit a justification for any premium increase prior to implementation of the increase. Such plans shall prominently post such information on their websites. The Exchange shall take this information, and the information and the recommendations provided to the Exchange by the State under section 2794(b)(1) [1] of the Public Health Service Act [42 U.S.C. 300gg–94(b)(1)] (relating to patterns or practices of excessive or unjustified premium increases), into consideration when determining whether to make such health plan available through the Exchange. The Exchange shall take into account any excess of premium growth outside the Exchange as compared to the rate of such growth inside the Exchange, including information reported by the States.

(3) Transparency in coverage

(A) In general

The Exchange shall require health plans seeking certification as qualified health plans to submit to the Exchange, the Secretary, the State insurance commissioner, and make available to the public, accurate and timely disclosure of the following information:

(i) Claims payment policies and practices.

(ii) Periodic financial disclosures.

(iii) Data on enrollment.

(iv) Data on disenrollment.

(v) Data on the number of claims that are denied.

(vi) Data on rating practices.

(vii) Information on cost-sharing and payments with respect to any out-of-network coverage.

(viii) Information on enrollee and participant rights under this title.[1]

(ix) Other information as determined appropriate by the Secretary.

(B) Use of plain language

The information required to be submitted under subparagraph (A) shall be provided in plain language. The term "plain language" means language that the intended audience, including individuals with limited English proficiency, can readily understand and use because that language is concise, well-organized, and follows other best practices of plain language writing. The Secretary and the Secretary of Labor shall jointly develop and issue guidance on best practices of plain language writing.

(C) Cost sharing transparency

The Exchange shall require health plans seeking certification as qualified health plans to permit individuals to learn the amount of cost-sharing (including deductibles, copayments, and coinsurance) under the individual's plan or coverage that the individual would be responsible for paying with respect to the furnishing of a specific item or service by a participating provider in

a timely manner upon the request of the individual. At a minimum, such information shall be made available to such individual through an Internet website and such other means for individuals without access to the Internet.

(D) Group health plans

The Secretary of Labor shall update and harmonize the Secretary's rules concerning the accurate and timely disclosure to participants by group health plans of plan disclosure, plan terms and conditions, and periodic financial disclosure with the standards established by the Secretary under subparagraph (A).

(f) Flexibility

(1) Regional or other interstate exchanges

An Exchange may operate in more than one State if—

(A) each State in which such Exchange operates permits such operation; and

(B) the Secretary approves such regional or interstate Exchange.

(2) Subsidiary Exchanges

A State may establish one or more subsidiary Exchanges if—

(A) each such Exchange serves a geographically distinct area; and

(B) the area served by each such Exchange is at least as large as a rating area described in section 2701(a) of the Public Health Service Act [42 U.S.C. 300gg(a)].

(3) Authority to contract

(A) In general

A State may elect to authorize an Exchange established by the State under this section to enter into an agreement with an eligible entity to carry out 1 or more responsibilities of the Exchange.

(B) Eligible entity

In this paragraph, the term "eligible entity" means—

(i) a person—

(I) incorporated under, and subject to the laws of, 1 or more States;

(II) that has demonstrated experience on a State or regional basis in the individual and small group health insurance markets and in benefits coverage; and

(III) that is not a health insurance issuer or that is treated under subsection (a) or (b) of section 52 of title 26 as a member of the same controlled group of corporations (or under common control with) as a health insurance issuer; or

(ii) the State medicaid agency under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(g) Rewarding quality through market-based incentives

(1) Strategy described

A strategy described in this paragraph is a payment structure that provides increased reimbursement or other incentives for—

(A) improving health outcomes through the implementation of activities that shall include quality reporting, effective case management, care coordination, chronic disease management, medication and care compliance initiatives, including through the use of the medical home model, for treatment or services under the plan or coverage;

(B) the implementation of activities to prevent hospital readmissions through a comprehensive program for hospital discharge that includes patient-centered education and counseling, comprehensive discharge planning, and post discharge reinforcement by an appropriate health care professional;

(C) the implementation of activities to improve patient safety and reduce medical errors

through the appropriate use of best clinical practices, evidence based medicine, and health information technology under the plan or coverage;

(D) the implementation of wellness and health promotion activities; and

(E) the implementation of activities to reduce health and health care disparities, including through the use of language services, community outreach, and cultural competency trainings.

(2) Guidelines

The Secretary, in consultation with experts in health care quality and stakeholders, shall develop guidelines concerning the matters described in paragraph (1).

(3) Requirements

The guidelines developed under paragraph (2) shall require the periodic reporting to the applicable Exchange of the activities that a qualified health plan has conducted to implement a strategy described in paragraph (1).

(h) Quality improvement

(1) Enhancing patient safety

Beginning on January 1, 2015, a qualified health plan may contract with—

(A) a hospital with greater than 50 beds only if such hospital—

(i) utilizes a patient safety evaluation system as described in part C of title IX of the Public Health Service Act [42 U.S.C. 299b–21 et seq.]; and

(ii) implements a mechanism to ensure that each patient receives a comprehensive program for hospital discharge that includes patient-centered education and counseling, comprehensive discharge planning, and post discharge reinforcement by an appropriate health care professional; or

(B) a health care provider only if such provider implements such mechanisms to improve health care quality as the Secretary may by regulation require.

(2) Exceptions

The Secretary may establish reasonable exceptions to the requirements described in paragraph (1).

(3) Adjustment

The Secretary may by regulation adjust the number of beds described in paragraph (1)(A).

(i) Navigators

(1) In general

An Exchange shall establish a program under which it awards grants to entities described in paragraph (2) to carry out the duties described in paragraph (3).

(2) Eligibility

(A) In general

To be eligible to receive a grant under paragraph (1), an entity shall demonstrate to the Exchange involved that the entity has existing relationships, or could readily establish relationships, with employers and employees, consumers (including uninsured and underinsured consumers), or self-employed individuals likely to be qualified to enroll in a qualified health plan.

(B) Types

Entities described in subparagraph (A) may include trade, industry, and professional associations, commercial fishing industry organizations, ranching and farming organizations, community and consumer-focused nonprofit groups, chambers of commerce, unions, resource partners of the Small Business Administration, other licensed insurance agents and brokers, and other entities that—

(i) are capable of carrying out the duties described in paragraph (3);
(ii) meet the standards described in paragraph (4); and
(iii) provide information consistent with the standards developed under paragraph (5).

(3) Duties

An entity that serves as a navigator under a grant under this subsection shall—

(A) conduct public education activities to raise awareness of the availability of qualified health plans;

(B) distribute fair and impartial information concerning enrollment in qualified health plans, and the availability of premium tax credits under section 36B of title 26 and cost-sharing reductions under section 18071 of this title;

(C) facilitate enrollment in qualified health plans;

(D) provide referrals to any applicable office of health insurance consumer assistance or health insurance ombudsman established under section 2793 of the Public Health Service Act [42 U.S.C. 300gg–93], or any other appropriate State agency or agencies, for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan or coverage; and

(E) provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the Exchange or Exchanges.

(4) Standards

(A) In general

The Secretary shall establish standards for navigators under this subsection, including provisions to ensure that any private or public entity that is selected as a navigator is qualified, and licensed if appropriate, to engage in the navigator activities described in this subsection and to avoid conflicts of interest. Under such standards, a navigator shall not—

(i) be a health insurance issuer; or

(ii) receive any consideration directly or indirectly from any health insurance issuer in connection with the enrollment of any qualified individuals or employees of a qualified employer in a qualified health plan.

(5) Fair and impartial information and services

The Secretary, in collaboration with States, shall develop standards to ensure that information made available by navigators is fair, accurate, and impartial.

(6) Funding

Grants under this subsection shall be made from the operational funds of the Exchange and not Federal funds received by the State to establish the Exchange.

(j) Applicability of mental health parity

Section 2726 of the Public Health Service Act [42 U.S.C. 300gg–26] shall apply to qualified health plans in the same manner and to the same extent as such section applies to health insurance issuers and group health plans.

(k) Conflict

An Exchange may not establish rules that conflict with or prevent the application of regulations promulgated by the Secretary under this subchapter.

(Pub. L. 111–148, title I, §1311, title X, §§10104(e)–(h), 10203(a), Mar. 23, 2010, 124 Stat. 173, 900, 901, 927; Pub. L. 116–94, div. N, title I, §608, Dec. 20, 2019, 133 Stat. 3130.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subtitles A and C, referred to in subsec. (a)(4)(A)(i)(II), are subtitles A (§§1001–1004) and C (§§1201–1255), respectively, of title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, 154. Subtitle A

enacted sections 300gg–11 to 300gg–19, 300gg–93, and 300gg–94 of this title, transferred sections 300gg–4 to 300gg–7 and 300gg–13 of this title to sections 300gg–25 to 300gg–28 and 300gg–9 of this title, respectively, amended sections 300gg–11, 300gg–12, and 300gg–21 to 300gg–23 of this title, and enacted provisions set out as a note under section 300gg–11 of this title. Subtitle C enacted subchapter II of this chapter and sections 300gg to 300gg–2 and 300gg–4 to 300gg–7 of this title, transferred section 300gg of this title to section 300gg–3 of this title, amended sections 300gg–1 and 300gg–4 of this title, and enacted provisions set out as a note under section 300gg of this title. For complete classification of subtitles A and C to the Code, see Tables.

This title, referred to in subsecs. (b)(1) and (e)(3)(A)(viii), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

Section 2716 of the Public Health Service Act, referred to in subsec. (c)(5), probably should be section 2715 of the Public Health Service Act, act July 1, 1944, which is classified to section 300gg–15 of this title and requires the Secretary to develop a uniform explanation of coverage documents and standardized definitions. Section 2716 of act July 1, 1944, which is classified to section 300gg–16 of this title, relates to prohibition on discrimination in favor of highly compensated individuals.

The Social Security Act, referred to in subsecs. (c)(6)(C), (d)(4)(F), and (f)(3)(B)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part D of title XVIII of the Act is classified generally to part D (§1395w–101 et seq.) of subchapter XVIII of chapter 7 of this title. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 2794 of the Public Health Service Act, referred to in subsec. (e)(2), probably means section 2794 of act July 1, 1944, as added by section 1003 of Pub. L. 111–148, which relates to premium increases for consumers and is classified to section 300gg–94 of this title. Another section 2794 of act July 1, 1944, relates to uniform fraud and abuse referral format and is classified to section 300gg–95 of this title.

The Public Health Service Act, referred to in subsec. (h)(1)(A)(i), is act July 1, 1944, ch. 373, 58 Stat. 682. Part C of title IX of the Act is classified generally to part C (§299b–21 et seq.) of subchapter VII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

This subchapter, referred to in subsec. (k), was in the original "this subtitle", meaning subtitle D of title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 162, which enacted this subchapter and amended sections 501, 4958, and 6033 of Title 26, Internal Revenue Code.

AMENDMENTS

2019—Subsec. (c)(7). Pub. L. 116–94 added par. (7).

2010—Subsec. (c)(1)(I). Pub. L. 111–148, §10203(a), added subpar. (I).

Subsec. (d)(3)(B)(ii). Pub. L. 111–148, §10104(e)(1), added cl. (ii) and struck out former cl. (ii). Prior to amendment, text read as follows: "A State shall make payments to or on behalf of an individual eligible for the premium tax credit under section 36B of title 26 and any cost-sharing reduction under section 18071 of this title to defray the cost to the individual of any additional benefits described in clause (i) which are not eligible for such credit or reduction under section 36B(b)(3)(D) of title 26 and section 18071(c)(4) of this title."

Subsec. (d)(6)(A). Pub. L. 111–148, §10104(e)(2), inserted "educated" before "health care".

Subsec. (e)(2). Pub. L. 111–148, §10104(f)(1), which directed substitution of "shall" for "may" in second sentence, was executed by making the substitution in third sentence before "take" to reflect the probable intent of Congress because the word "shall" already appeared in second sentence.

Subsec. (e)(3). Pub. L. 111–148, §10104(f)(2), added par. (3).

Subsec. (g)(1)(E). Pub. L. 111–148, §10104(g), added subpar. (E).

Subsec. (i)(2)(B). Pub. L. 111–148, §10104(h), substituted "resource partners of the Small Business Administration" for "small business development centers".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ESTABLISHING A GRANT PROGRAM FOR EXCHANGE MODERNIZATION

Pub. L. 117–2, title II, §2801, Mar. 11, 2021, 135 Stat. 49, provided that:

"(a) IN GENERAL.—Out of funds appropriated under subsection (b), the Secretary of Health and Human Services (in this subtitle [subtitle I (§2801) of title II of Pub. L. 117–2] referred to as the 'Secretary') shall award grants to each American Health Benefits Exchange established under section 1311(b) of the Patient

Protection and Affordable Care Act (42 U.S.C. 18031(b)) (other than an Exchange established by the Secretary under section 1321(c) of such Act (42 U.S.C. 18041(c))) that submits to the Secretary an application at such time and in such manner, and containing such information, as specified by the Secretary, for purposes of enabling such Exchange to modernize or update any system, program, or technology utilized by such Exchange to ensure such Exchange is compliant with all applicable requirements.

"(b) FUNDING.—In addition to amounts otherwise available, there is appropriated, for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, $20,000,000, to remain available until September 30, 2022, for carrying out this section."

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

§18032. Consumer choice

(a) Choice

(1) Qualified individuals

A qualified individual may enroll in any qualified health plan available to such individual and for which such individual is eligible.

(2) Qualified employers

(A) Employer may specify level

A qualified employer may provide support for coverage of employees under a qualified health plan by selecting any level of coverage under section 18022(d) of this title to be made available to employees through an Exchange.

(B) Employee may choose plans within a level

Each employee of a qualified employer that elects a level of coverage under subparagraph (A) may choose to enroll in a qualified health plan that offers coverage at that level.

(b) Payment of premiums by qualified individuals

A qualified individual enrolled in any qualified health plan may pay any applicable premium owed by such individual to the health insurance issuer issuing such qualified health plan.

(c) Single risk pool

(1) Individual market

A health insurance issuer shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the individual market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool.

(2) Small group market

A health insurance issuer shall consider all enrollees in all health plans (other than grandfathered health plans) offered by such issuer in the small group market, including those enrollees who do not enroll in such plans through the Exchange, to be members of a single risk pool.

(3) Merger of markets

A State may require the individual and small group insurance markets within a State to be merged if the State determines appropriate.

(4) State law

A State law requiring grandfathered health plans to be included in a pool described in paragraph (1) or (2) shall not apply.

(d) Empowering consumer choice

(1) Continued operation of market outside Exchanges

Nothing in this title [1] shall be construed to prohibit—

(A) a health insurance issuer from offering outside of an Exchange a health plan to a qualified individual or qualified employer; and

(B) a qualified individual from enrolling in, or a qualified employer from selecting for its employees, a health plan offered outside of an Exchange.

(2) Continued operation of State benefit requirements

Nothing in this title [1] shall be construed to terminate, abridge, or limit the operation of any requirement under State law with respect to any policy or plan that is offered outside of an Exchange to offer benefits.

(3) Voluntary nature of an Exchange

(A) Choice to enroll or not to enroll

Nothing in this title [1] shall be construed to restrict the choice of a qualified individual to enroll or not to enroll in a qualified health plan or to participate in an Exchange.

(B) Prohibition against compelled enrollment

Nothing in this title [1] shall be construed to compel an individual to enroll in a qualified health plan or to participate in an Exchange.

(C) Individuals allowed to enroll in any plan

A qualified individual may enroll in any qualified health plan, except that in the case of a catastrophic plan described in section 18022(e) of this title, a qualified individual may enroll in the plan only if the individual is eligible to enroll in the plan under section 18022(e)(2) of this title.

(D) Members of Congress in the Exchange

(i) Requirement

Notwithstanding any other provision of law, after the effective date of this subtitle, the only health plans that the Federal Government may make available to Members of Congress and congressional staff with respect to their service as a Member of Congress or congressional staff shall be health plans that are—

(I) created under this Act (or an amendment made by this Act); or

(II) offered through an Exchange established under this Act (or an amendment made by this Act).

(ii) Definitions

In this section:

(I) Member of Congress

The term "Member of Congress" means any member of the House of Representatives or the Senate.

(II) Congressional staff

The term "congressional staff" means all full-time and part-time employees employed by the official office of a Member of Congress, whether in Washington, DC or outside of Washington, DC.

(4) No penalty for transferring to minimum essential coverage outside Exchange

An Exchange, or a qualified health plan offered through an Exchange, shall not impose any penalty or other fee on an individual who cancels enrollment in a plan because the individual becomes eligible for minimum essential coverage (as defined in section 5000A(f) of title 26 without regard to paragraph (1)(C) or (D) thereof) or such coverage becomes affordable (within the meaning of section 36B(c)(2)(C) of such title).

(e) Enrollment through agents or brokers

The Secretary shall establish procedures under which a State may allow agents or brokers—

(1) to enroll individuals and employers in any qualified health plans in the individual or small group market as soon as the plan is offered through an Exchange in the State; and

(2) to assist individuals in applying for premium tax credits and cost-sharing reductions for plans sold through an Exchange.

(f) Qualified individuals and employers; access limited to citizens and lawful residents

(1) Qualified individuals

In this title: [1]

(A) In general

The term "qualified individual" means, with respect to an Exchange, an individual who—

(i) is seeking to enroll in a qualified health plan in the individual market offered through the Exchange; and

(ii) resides in the State that established the Exchange.

(B) Incarcerated individuals excluded

An individual shall not be treated as a qualified individual if, at the time of enrollment, the individual is incarcerated, other than incarceration pending the disposition of charges.

(2) Qualified employer

In this title: [1]

(A) In general

The term "qualified employer" means a small employer that elects to make all full-time employees of such employer eligible for 1 or more qualified health plans offered in the small group market through an Exchange that offers qualified health plans.

(B) Extension to large groups

(i) In general

Beginning in 2017, each State may allow issuers of health insurance coverage in the large group market in the State to offer qualified health plans in such market through an Exchange. Nothing in this subparagraph shall be construed as requiring the issuer to offer such plans through an Exchange.

(ii) Large employers eligible

If a State under clause (i) allows issuers to offer qualified health plans in the large group market through an Exchange, the term "qualified employer" shall include a large employer that elects to make all full-time employees of such employer eligible for 1 or more qualified health plans offered in the large group market through the Exchange.

(3) Access limited to lawful residents

If an individual is not, or is not reasonably expected to be for the entire period for which enrollment is sought, a citizen or national of the United States or an alien lawfully present in the United States, the individual shall not be treated as a qualified individual and may not be covered under a qualified health plan in the individual market that is offered through an Exchange.

(Pub. L. 111–148, title I, §1312, title X, §10104(i), Mar. 23, 2010, 124 Stat. 182, 901.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (d)(1), (2), (3)(A), (B) and (f)(1), (2), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

The effective date of this subtitle, referred to in subsec. (d)(3)(D)(i), is the effective date of subtitle D of title I of Pub. L. 111–148, which is Mar. 23, 2010.

This Act, referred to in subsec. (d)(3)(D)(i), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–148, §10104(i)(1), inserted "and for which such individual is eligible" before period at end.

Subsec. (e). Pub. L. 111–148, §10104(i)(2)(B), struck out concluding provisions which read as follows: "Such procedures may include the establishment of rate schedules for broker commissions paid by health benefits plans offered through an exchange."

Subsec. (e)(1). Pub. L. 111–148, §10104(i)(2)(A), inserted "and employers" after "enroll individuals".

Subsec. (f)(1)(A)(ii). Pub. L. 111–148, §10104(i)(3), struck out "(except with respect to territorial agreements under this subsection)" before period at end.

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

§18033. Financial integrity

(a) Accounting for expenditures

(1) In general

An Exchange shall keep an accurate accounting of all activities, receipts, and expenditures and shall annually submit to the Secretary a report concerning such accountings.

(2) Investigations

The Secretary, in coordination with the Inspector General of the Department of Health and Human Services, may investigate the affairs of an Exchange, may examine the properties and records of an Exchange, and may require periodic reports in relation to activities undertaken by an Exchange. An Exchange shall fully cooperate in any investigation conducted under this paragraph.

(3) Audits

An Exchange shall be subject to annual audits by the Secretary.

(4) Pattern of abuse

If the Secretary determines that an Exchange or a State has engaged in serious misconduct with respect to compliance with the requirements of, or carrying out of activities required under, this title,[1] the Secretary may rescind from payments otherwise due to such State involved under this or any other Act administered by the Secretary an amount not to exceed 1 percent of such payments per year until corrective actions are taken by the State that are determined to be adequate by the Secretary.

(5) Protections against fraud and abuse

With respect to activities carried out under this title,[1] the Secretary shall provide for the efficient and non-discriminatory administration of Exchange activities and implement any measure or procedure that—

(A) the Secretary determines is appropriate to reduce fraud and abuse in the administration of this title; [1] and

(B) the Secretary has authority to implement under this title [1] or any other Act.

(6) Application of the False Claims Act

(A) In general

Payments made by, through, or in connection with an Exchange are subject to the False Claims Act (31 U.S.C. 3729 et seq.) if those payments include any Federal funds. Compliance

with the requirements of this Act concerning eligibility for a health insurance issuer to participate in the Exchange shall be a material condition of an issuer's entitlement to receive payments, including payments of premium tax credits and cost-sharing reductions, through the Exchange.

(B) [2] Damages

Notwithstanding paragraph (1) of section 3729(a) of title 31, and subject to paragraph (2) of such section, the civil penalty assessed under the False Claims Act on any person found liable under such Act as described in subparagraph (A) shall be increased by not less than 3 times and not more than 6 times the amount of damages which the Government sustains because of the act of that person.

(b) GAO oversight

Not later than 5 years after the first date on which Exchanges are required to be operational under this title,[1] the Comptroller General shall conduct an ongoing study of Exchange activities and the enrollees in qualified health plans offered through Exchanges. Such study shall review—

(1) the operations and administration of Exchanges, including surveys and reports of qualified health plans offered through Exchanges and on the experience of such plans (including data on enrollees in Exchanges and individuals purchasing health insurance coverage outside of Exchanges), the expenses of Exchanges, claims statistics relating to qualified health plans, complaints data relating to such plans, and the manner in which Exchanges meet their goals;

(2) any significant observations regarding the utilization and adoption of Exchanges;

(3) where appropriate, recommendations for improvements in the operations or policies of Exchanges;

(4) a survey of the cost and affordability of health care insurance provided under the Exchanges for owners and employees of small business concerns (as defined under section 632 of title 15), including data on enrollees in Exchanges and individuals purchasing health insurance coverage outside of Exchanges; and

(5) how many physicians, by area and specialty, are not taking or accepting new patients enrolled in Federal Government health care programs, and the adequacy of provider networks of Federal Government health care programs.

(Pub. L. 111–148, title I, §1313, title X, §10104(k), Mar. 23, 2010, 124 Stat. 184, 902.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(4), (5) and (b), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

This Act, referred to in subsec. (a)(4), (6)(A), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The False Claims Act, referred to in subsec. (a)(6), was the popular name for sections 231, 232, 233, and 235 of former Title 31, Money and Finance. Sections 231, 232, 233, and 235 were repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1084, and reenacted by the first section thereof as sections 3729 to 3731 of Title 31, Money and Finance.

AMENDMENTS

2010—Subsec. (b)(4), (5). Pub. L. 111–148, §10104(k), added par. (4) and redesignated former par. (4) as (5).

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF PROVISION

Pub. L. 111–148, title X, §10104(j)(1), Mar. 23, 2010, 124 Stat. 901, provided that: "Subparagraph (B) of section 1313(a)(6) of this Act [42 U.S.C. 18033(a)(6)(B)] is hereby deemed null, void, and of no effect."

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

[2] *See Termination of Provision note below.*

PART C—STATE FLEXIBILITY RELATING TO EXCHANGES

§18041. State flexibility in operation and enforcement of Exchanges and related requirements

(a) Establishment of standards

(1) In general

The Secretary shall, as soon as practicable after March 23, 2010, issue regulations setting standards for meeting the requirements under this title,[1] and the amendments made by this title,[1] with respect to—

(A) the establishment and operation of Exchanges (including SHOP Exchanges);
(B) the offering of qualified health plans through such Exchanges;
(C) the establishment of the reinsurance and risk adjustment programs under part E; and
(D) such other requirements as the Secretary determines appropriate.

The preceding sentence shall not apply to standards for requirements under subtitles A and C (and the amendments made by such subtitles) for which the Secretary issues regulations under the Public Health Service Act [42 U.S.C. 201 et seq.].

(2) Consultation

In issuing the regulations under paragraph (1), the Secretary shall consult with the National Association of Insurance Commissioners and its members and with health insurance issuers, consumer organizations, and such other individuals as the Secretary selects in a manner designed to ensure balanced representation among interested parties.

(b) State action

Each State that elects, at such time and in such manner as the Secretary may prescribe, to apply the requirements described in subsection (a) shall, not later than January 1, 2014, adopt and have in effect—

(1) the Federal standards established under subsection (a); or
(2) a State law or regulation that the Secretary determines implements the standards within the State.

(c) Failure to establish Exchange or implement requirements

(1) In general

If—

(A) a State is not an electing State under subsection (b); or
(B) the Secretary determines, on or before January 1, 2013, that an electing State—
(i) will not have any required Exchange operational by January 1, 2014; or
(ii) has not taken the actions the Secretary determines necessary to implement—
(I) the other requirements set forth in the standards under subsection (a); or
(II) the requirements set forth in subtitles A and C and the amendments made by such subtitles;

the Secretary shall (directly or through agreement with a not-for-profit entity) establish and operate such Exchange within the State and the Secretary shall take such actions as are necessary to implement such other requirements.

(2) Enforcement authority

The provisions of section 2736(b) [1] of the Public Health Services [2] Act [42 U.S.C. 300gg–22(b)] shall apply to the enforcement under paragraph (1) of requirements of subsection (a)(1) (without regard to any limitation on the application of those provisions to group health plans).

(d) No interference with State regulatory authority

Nothing in this title [1] shall be construed to preempt any State law that does not prevent the application of the provisions of this title.[1]

(e) Presumption for certain State-operated Exchanges

(1) In general

In the case of a State operating an Exchange before January 1, 2010, and which has insured a percentage of its population not less than the percentage of the population projected to be covered nationally after the implementation of this Act, that seeks to operate an Exchange under this section, the Secretary shall presume that such Exchange meets the standards under this section unless the Secretary determines, after completion of the process established under paragraph (2), that the Exchange does not comply with such standards.

(2) Process

The Secretary shall establish a process to work with a State described in paragraph (1) to provide assistance necessary to assist the State's Exchange in coming into compliance with the standards for approval under this section.

(Pub. L. 111–148, title I, §1321, Mar. 23, 2010, 124 Stat. 186.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (a)(1) and (d), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

Subtitles A and C, referred to in subsecs. (a)(1) and (c)(1)(B)(ii)(II), are subtitles A (§§1001–1004) and C (§§1201–1255), respectively, of title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, 154. Subtitle A enacted sections 300gg–11 to 300gg–19, 300gg–93, and 300gg–94 of this title, transferred sections 300gg–4 to 300gg–7 and 300gg–13 of this title to sections 300gg–25 to 300gg–28 and 300gg–9 of this title, respectively, amended sections 300gg–11, 300gg–12, and 300gg–21 to 300gg–23 of this title, and enacted provisions set out as a note under section 300gg–11 of this title. Subtitle C enacted subchapter II of this chapter and sections 300gg to 300gg–2 and 300gg–4 to 300gg–7 of this title, transferred section 300gg of this title to section 300gg–3 of this title, amended sections 300gg–1 and 300gg–4 of this title, and enacted provisions set out as a note under section 300gg of this title. For complete classification of subtitles A and C to the Code, see Tables.

The Public Health Service Act, referred to in subsec. (a)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

Section 2736 of the Public Health Service Act, referred to in subsec. (c)(2), was renumbered section 2723 of that Act by Pub. L. 111–148, §1563(c)(13)(C) (formerly §1562(c)(13)(C)), Mar. 23, 2010, 124 Stat. 269, and is classified to section 300gg–22 of this title.

This Act, referred to in subsec. (e)(1), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

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

[2] *So in original. Probably should be "Service".*

§18042. Federal program to assist establishment and operation of nonprofit, member-run health insurance issuers

(a) Establishment of program

(1) In general

The Secretary shall establish a program to carry out the purposes of this section to be known as the Consumer Operated and Oriented Plan (CO–OP) program.

(2) Purpose

It is the purpose of the CO–OP program to foster the creation of qualified nonprofit health insurance issuers to offer qualified health plans in the individual and small group markets in the States in which the issuers are licensed to offer such plans.

(b) Loans and grants under the CO–OP program

(1) In general

The Secretary shall provide through the CO–OP program for the awarding to persons applying to become qualified nonprofit health insurance issuers of—

(A) loans to provide assistance to such person in meeting its start-up costs; and

(B) grants to provide assistance to such person in meeting any solvency requirements of States in which the person seeks to be licensed to issue qualified health plans.

(2) Requirements for awarding loans and grants

(A) In general

In awarding loans and grants under the CO–OP program, the Secretary shall—

(i) take into account the recommendations of the advisory board established under paragraph (3);

(ii) give priority to applicants that will offer qualified health plans on a Statewide basis, will utilize integrated care models, and have significant private support; and

(iii) ensure that there is sufficient funding to establish at least 1 qualified nonprofit health insurance issuer in each State, except that nothing in this clause shall prohibit the Secretary from funding the establishment of multiple qualified nonprofit health insurance issuers in any State if the funding is sufficient to do so.

(B) States without issuers in program

If no health insurance issuer applies to be a qualified nonprofit health insurance issuer within a State, the Secretary may use amounts appropriated under this section for the awarding of grants to encourage the establishment of a qualified nonprofit health insurance issuer within the State or the expansion of a qualified nonprofit health insurance issuer from another State to the State.

(C) Agreement

(i) In general

The Secretary shall require any person receiving a loan or grant under the CO–OP program to enter into an agreement with the Secretary which requires such person to meet (and to continue to meet)—

(I) any requirement under this section for such person to be treated as a qualified nonprofit health insurance issuer; and

(II) any requirements contained in the agreement for such person to receive such loan or

grant.

(ii) Restrictions on use of Federal funds

The agreement shall include a requirement that no portion of the funds made available by any loan or grant under this section may be used—

(I) for carrying on propaganda, or otherwise attempting, to influence legislation; or

(II) for marketing.

Nothing in this clause shall be construed to allow a person to take any action prohibited by section 501(c)(29) of title 26.

(iii) Failure to meet requirements

If the Secretary determines that a person has failed to meet any requirement described in clause (i) or (ii) and has failed to correct such failure within a reasonable period of time of when the person first knows (or reasonably should have known) of such failure, such person shall repay to the Secretary an amount equal to the sum of—

(I) 110 percent of the aggregate amount of loans and grants received under this section; plus

(II) interest on the aggregate amount of loans and grants received under this section for the period the loans or grants were outstanding.

The Secretary shall notify the Secretary of the Treasury of any determination under this section of a failure that results in the termination of an issuer's tax-exempt status under section 501(c)(29) of such title.

(D) Time for awarding loans and grants

The Secretary shall not later than July 1, 2013, award the loans and grants under the CO–OP program and begin the distribution of amounts awarded under such loans and grants.

(3) Repayment of loans and grants

Not later than July 1, 2013, and prior to awarding loans and grants under the CO–OP program, the Secretary shall promulgate regulations with respect to the repayment of such loans and grants in a manner that is consistent with State solvency regulations and other similar State laws that may apply. In promulgating such regulations, the Secretary shall provide that such loans shall be repaid within 5 years and such grants shall be repaid within 15 years, taking into consideration any appropriate State reserve requirements, solvency regulations, and requisite surplus note arrangements that must be constructed in a State to provide for such repayment prior to awarding such loans and grants.

(4) Advisory board

(A) In general

The advisory board under this paragraph shall consist of 15 members appointed by the Comptroller General of the United States from among individuals with qualifications described in section 1395b–6(c)(2) of this title.

(B) Rules relating to appointments

(i) Standards

Any individual appointed under subparagraph (A) shall meet ethics and conflict of interest standards protecting against insurance industry involvement and interference.

(ii) Original appointments

The original appointment of board members under subparagraph (A)(ii) shall be made no later than 3 months after March 23, 2010.

(C) Vacancy

Any vacancy on the advisory board shall be filled in the same manner as the original

appointment.

(D) Pay and reimbursement

(i) No compensation for members of advisory board

Except as provided in clause (ii), a member of the advisory board may not receive pay, allowances, or benefits by reason of their service on the board.

(ii) Travel expenses

Each member shall receive travel expenses, including per diem in lieu of subsistence under subchapter I of chapter 57 of title 5.

(E) Application of FACA

The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory board, except that section 14 of such Act shall not apply.

(F) Termination

The advisory board shall terminate on the earlier of the date that it completes its duties under this section or December 31, 2015.

(c) Qualified nonprofit health insurance issuer

For purposes of this section—

(1) In general

The term "qualified nonprofit health insurance issuer" means a health insurance issuer that is an organization—

(A) that is organized under State law as a nonprofit, member corporation;

(B) substantially all of the activities of which consist of the issuance of qualified health plans in the individual and small group markets in each State in which it is licensed to issue such plans; and

(C) that meets the other requirements of this subsection.

(2) Certain organizations prohibited

An organization shall not be treated as a qualified nonprofit health insurance issuer if—

(A) the organization or a related entity (or any predecessor of either) was a health insurance issuer on July 16, 2009; or

(B) the organization is sponsored by a State or local government, any political subdivision thereof, or any instrumentality of such government or political subdivision.

(3) Governance requirements

An organization shall not be treated as a qualified nonprofit health insurance issuer unless—

(A) the governance of the organization is subject to a majority vote of its members;

(B) its governing documents incorporate ethics and conflict of interest standards protecting against insurance industry involvement and interference; and

(C) as provided in regulations promulgated by the Secretary, the organization is required to operate with a strong consumer focus, including timeliness, responsiveness, and accountability to members.

(4) Profits inure to benefit of members

An organization shall not be treated as a qualified nonprofit health insurance issuer unless any profits made by the organization are required to be used to lower premiums, to improve benefits, or for other programs intended to improve the quality of health care delivered to its members.

(5) Compliance with State insurance laws

An organization shall not be treated as a qualified nonprofit health insurance issuer unless the organization meets all the requirements that other issuers of qualified health plans are required to meet in any State where the issuer offers a qualified health plan, including solvency and licensure requirements, rules on payments to providers, and compliance with network adequacy rules, rate

and form filing rules, any applicable State premium assessments and any other State law described in section 18044(b) of this title.

(6) Coordination with State insurance reforms

An organization shall not be treated as a qualified nonprofit health insurance issuer unless the organization does not offer a health plan in a State until that State has in effect (or the Secretary has implemented for the State) the market reforms required by part A of title XXVII of the Public Health Service Act [42 U.S.C. 300gg et seq.] (as amended by subtitles A and C of this Act).

(d) Establishment of private purchasing council

(1) In general

Qualified nonprofit health insurance issuers participating in the CO–OP program under this section may establish a private purchasing council to enter into collective purchasing arrangements for items and services that increase administrative and other cost efficiencies, including claims administration, administrative services, health information technology, and actuarial services.

(2) Council may not set payment rates

The private purchasing council established under paragraph (1) shall not set payment rates for health care facilities or providers participating in health insurance coverage provided by qualified nonprofit health insurance issuers.

(3) Continued application of antitrust laws

(A) In general

Nothing in this section shall be construed to limit the application of the antitrust laws to any private purchasing council (whether or not established under this subsection) or to any qualified nonprofit health insurance issuer participating in such a council.

(B) Antitrust laws

For purposes of this subparagraph, the term "antitrust laws" has the meaning given the term in subsection (a) of section 12 of title 15. Such term also includes section 45 of title 15 to the extent that such section 45 applies to unfair methods of competition.

(e) Limitation on participation

No representative of any Federal, State, or local government (or of any political subdivision or instrumentality thereof), and no representative of a person described in subsection (c)(2)(A), may serve on the board of directors of a qualified nonprofit health insurance issuer or with a private purchasing council established under subsection (d).

(f) Limitations on Secretary

(1) In general

The Secretary shall not—

(A) participate in any negotiations between 1 or more qualified nonprofit health insurance issuers (or a private purchasing council established under subsection (d)) and any health care facilities or providers, including any drug manufacturer, pharmacy, or hospital; and

(B) establish or maintain a price structure for reimbursement of any health benefits covered by such issuers.

(2) Competition

Nothing in this section shall be construed as authorizing the Secretary to interfere with the competitive nature of providing health benefits through qualified nonprofit health insurance issuers.

(g) Appropriations

There are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, $6,000,000,000 to carry out this section.

(h) Omitted

(i) GAO study and report

(1) Study

The Comptroller General of the General Accountability Office shall conduct an ongoing study on competition and market concentration in the health insurance market in the United States after the implementation of the reforms in such market under the provisions of, and the amendments made by, this Act. Such study shall include an analysis of new issuers of health insurance in such market.

(2) Report

The Comptroller General shall, not later than December 31 of each even-numbered year (beginning with 2014), report to the appropriate committees of the Congress the results of the study conducted under paragraph (1), including any recommendations for administrative or legislative changes the Comptroller General determines necessary or appropriate to increase competition in the health insurance market.

(Pub. L. 111–148, title I, §1322, title X, §10104(l), Mar. 23, 2010, 124 Stat. 187, 902.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4)(E), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Public Health Service Act, referred to in subsec. (c)(6), is act July 1, 1944, ch. 373, 58 Stat. 682. Part A of title XXVII of the Act is classified generally to part A (§300gg et seq.) of subchapter XXV of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

Subtitles A and C of this Act, referred to in subsec. (c)(6), are subtitles A (§§1001–1004) and C (§§1201–1255), respectively, of title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, 154. Subtitle A enacted sections 300gg–11 to 300gg–19, 300gg–93, and 300gg–94 of this title, transferred sections 300gg–4 to 300gg–7 and 300gg–13 of this title to sections 300gg–25 to 300gg–28 and 300gg–9 of this title, respectively, amended sections 300gg–11, 300gg–12, and 300gg–21 to 300gg–23 of this title, and enacted provisions set out as a note under section 300gg–11 of this title. Subtitle C enacted subchapter II of this chapter and sections 300gg to 300gg–2 and 300gg–4 to 300gg–7 of this title, transferred section 300gg of this title to section 300gg–3 of this title, amended sections 300gg–1 and 300gg–4 of this title, and enacted provisions set out as a note under section 300gg of this title. For complete classification of subtitles A and C to the Code, see Tables.

This Act, referred to in subsec. (i)(1), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

CODIFICATION

Section is comprised of section 1322 of Pub. L. 111–148. Subsec. (h) of section 1322 of Pub. L. 111–148 amended sections 501, 4958, and 6033 of Title 26, Internal Revenue Code.

AMENDMENTS

2010—Subsec. (b)(3), (4). Pub. L. 111–148, §10104(l), added par. (3) and redesignated former par. (3) as (4).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONSUMER OPERATED AND ORIENTED PLAN PROGRAM CONTINGENCY FUND

Pub. L. 112–240, title VI, §644, Jan. 2, 2013, 126 Stat. 2362, provided that:

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a fund to be used to provide assistance and oversight to qualified nonprofit health insurance issuers that have been awarded loans or grants under section 1322 of the Patient Protection and Affordable Care Act (42 U.S.C. 18042) prior

to the date of enactment of this Act [Jan. 2, 2013].

"(b) TRANSFER AND RESCISSION.—

"(1) TRANSFER.—From the unobligated balance of funds appropriated under section 1322(g) of the Patient Protection and Affordable Care Act (42 U.S.C. 18042(g)), 10 percent of such sums are hereby transferred to the fund established under subsection (a) to remain available until expended.

"(2) RESCISSION.—Except as provided for in paragraph (1), amounts appropriated under section 1322(g) of the Patient Protection and Affordable Care Act (42 U.S.C. 18042(g)) that are unobligated as of the date of enactment of this Act [Jan. 2, 2013] are rescinded."

§18043. Funding for the territories

(a) In general

A territory that—

(1) elects consistent with subsection (b) to establish an Exchange in accordance with part B of this subchapter and establishes such an Exchange in accordance with such part shall be treated as a State for purposes of such part and shall be entitled to payment from the amount allocated to the territory under subsection (c); or

(2) does not make such election shall be entitled to an increase in the dollar limitation applicable to the territory under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) for such period in such amount for such territory and such increase shall not be taken into account in computing any other amount under such subsections.

(b) Terms and conditions

An election under subsection (a)(1) shall—

(1) not be effective unless the election is consistent with section 18041 of this title and is received not later than October 1, 2013; and

(2) be contingent upon entering into an agreement between the territory and the Secretary that requires that—

(A) funds provided under the agreement shall be used only to provide premium and cost-sharing assistance to residents of the territory obtaining health insurance coverage through the Exchange; and

(B) the premium and cost-sharing assistance provided under such agreement shall be structured in such a manner so as to prevent any gap in assistance for individuals between the income level at which medical assistance is available through the territory's Medicaid plan under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and the income level at which premium and cost-sharing assistance is available under the agreement.

(c) Appropriation and allocation

(1) Appropriation

Out of any funds in the Treasury not otherwise appropriated, there is appropriated for purposes of payment pursuant to subsection (a) $1,000,000,000, to be available during the period beginning with 2014 and ending with 2019.

(2) Allocation

The Secretary shall allocate the amount appropriated under paragraph (1) among the territories for purposes of carrying out this section as follows:

(A) For Puerto Rico, $925,000,000.

(B) For another territory, the portion of $75,000,000 specified by the Secretary.

(Pub. L. 111–148, title I, §1323, as added Pub. L. 111–152, title I, §1204(a), Mar. 30, 2010, 124 Stat. 1055.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 18043, Pub. L. 111–148, title I, §1323, Mar. 23, 2010, 124 Stat. 192, which related to establishment of community health insurance option, was repealed by Pub. L. 111–148, title X, §10104(m), Mar. 23, 2010, 124 Stat. 902.

§18044. Level playing field

(a) In general

Notwithstanding any other provision of law, any health insurance coverage offered by a private health insurance issuer shall not be subject to any Federal or State law described in subsection (b) if a qualified health plan offered under the Consumer Operated and Oriented Plan program under section 18042 of this title, or a multi-State qualified health plan under section 18054 of this title, is not subject to such law.

(b) Laws described

The Federal and State laws described in this subsection are those Federal and State laws relating to—

(1) guaranteed renewal;
(2) rating;
(3) preexisting conditions;
(4) non-discrimination;
(5) quality improvement and reporting;
(6) fraud and abuse;
(7) solvency and financial requirements;
(8) market conduct;
(9) prompt payment;
(10) appeals and grievances;
(11) privacy and confidentiality;
(12) licensure; and
(13) benefit plan material or information.

(Pub. L. 111–148, title I, §1324, title X, §10104(n), Mar. 23, 2010, 124 Stat. 199, 902.)

EDITORIAL NOTES

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–148, §10104(n), substituted ", or a multi-State qualified health plan under section 18054 of this title" for ", a community health insurance option under section 18043 of this title, or a nationwide qualified health plan under section 18053(b) of this title".

PART D—STATE FLEXIBILITY TO ESTABLISH ALTERNATIVE PROGRAMS

§18051. State flexibility to establish basic health programs for low-income individuals not eligible for medicaid

(a) Establishment of program

(1) In general

The Secretary shall establish a basic health program meeting the requirements of this section under which a State may enter into contracts to offer 1 or more standard health plans providing at least the essential health benefits described in section 18022(b) of this title to eligible individuals in lieu of offering such individuals coverage through an Exchange.

(2) Certifications as to benefit coverage and costs

Such program shall provide that a State may not establish a basic health program under this section unless the State establishes to the satisfaction of the Secretary, and the Secretary certifies, that—

(A) in the case of an eligible individual enrolled in a standard health plan offered through the program, the State provides—

(i) that the amount of the monthly premium an eligible individual is required to pay for coverage under the standard health plan for the individual and the individual's dependents does not exceed the amount of the monthly premium that the eligible individual would have been required to pay (in the rating area in which the individual resides) if the individual had enrolled in the applicable second lowest cost silver plan (as defined in section 36B(b)(3)(B) of title 26) offered to the individual through an Exchange; and

(ii) that the cost-sharing an eligible individual is required to pay under the standard health plan does not exceed—

(I) the cost-sharing required under a platinum plan in the case of an eligible individual with household income not in excess of 150 percent of the poverty line for the size of the family involved; and

(II) the cost-sharing required under a gold plan in the case of an eligible individual not described in subclause (I); and

(B) the benefits provided under the standard health plans offered through the program cover at least the essential health benefits described in section 18022(b) of this title.

For purposes of subparagraph (A)(i), the amount of the monthly premium an individual is required to pay under either the standard health plan or the applicable second lowest cost silver plan shall be determined after reduction for any premium tax credits and cost-sharing reductions allowable with respect to either plan.

(b) Standard health plan

In this section, the term "standard heath [1] plan" means a health benefits plan that the State contracts with under this section—

(1) under which the only individuals eligible to enroll are eligible individuals;

(2) that provides at least the essential health benefits described in section 18022(b) of this title; and

(3) in the case of a plan that provides health insurance coverage offered by a health insurance issuer, that has a medical loss ratio of at least 85 percent.

(c) Contracting process

(1) In general

A State basic health program shall establish a competitive process for entering into contracts with standard health plans under subsection (a), including negotiation of premiums and cost-sharing and negotiation of benefits in addition to the essential health benefits described in section 18022(b) of this title.

(2) Specific items to be considered

A State shall, as part of its competitive process under paragraph (1), include at least the following:

(A) Innovation

Negotiation with offerors of a standard health plan for the inclusion of innovative features in the plan, including—

(i) care coordination and care management for enrollees, especially for those with chronic health conditions;

(ii) incentives for use of preventive services; and

(iii) the establishment of relationships between providers and patients that maximize patient involvement in health care decision-making, including providing incentives for appropriate utilization under the plan.

(B) Health and resource differences

Consideration of, and the making of suitable allowances for, differences in health care needs of enrollees and differences in local availability of, and access to, health care providers. Nothing in this subparagraph shall be construed as allowing discrimination on the basis of pre-existing conditions or other health status-related factors.

(C) Managed care

Contracting with managed care systems, or with systems that offer as many of the attributes of managed care as are feasible in the local health care market.

(D) Performance measures

Establishing specific performance measures and standards for issuers of standard health plans that focus on quality of care and improved health outcomes, requiring such plans to report to the State with respect to the measures and standards, and making the performance and quality information available to enrollees in a useful form.

(3) Enhanced availability

(A) Multiple plans

A State shall, to the maximum extent feasible, seek to make multiple standard health plans available to eligible individuals within a State to ensure individuals have a choice of such plans.

(B) Regional compacts

A State may negotiate a regional compact with other States to include coverage of eligible individuals in all such States in agreements with issuers of standard health plans.

(4) Coordination with other State programs

A State shall seek to coordinate the administration of, and provision of benefits under, its program under this section with the State medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], the State child health plan under title XXI of such Act [42 U.S.C. 1397aa et seq.], and other State-administered health programs to maximize the efficiency of such programs and to improve the continuity of care.

(d) Transfer of funds to States

(1) In general

If the Secretary determines that a State electing the application of this section meets the requirements of the program established under subsection (a), the Secretary shall transfer to the State for each fiscal year for which 1 or more standard health plans are operating within the State the amount determined under paragraph (3).

(2) Use of funds

A State shall establish a trust for the deposit of the amounts received under paragraph (1) and amounts in the trust fund shall only be used to reduce the premiums and cost-sharing of, or to provide additional benefits for, eligible individuals enrolled in standard health plans within the State. Amounts in the trust fund, and expenditures of such amounts, shall not be included in determining the amount of any non-Federal funds for purposes of meeting any matching or expenditure requirement of any federally-funded program.

(3) Amount of payment

(A) Secretarial determination

(i) In general

The amount determined under this paragraph for any fiscal year is the amount the Secretary determines is equal to 95 percent of the premium tax credits under section 36B of title 26, and the cost-sharing reductions under section 18071 of this title, that would have been provided for the fiscal year to eligible individuals enrolled in standard health plans in the State if such eligible individuals were allowed to enroll in qualified health plans through an Exchange established under this subchapter.

(ii) Specific requirements

The Secretary shall make the determination under clause (i) on a per enrollee basis and shall take into account all relevant factors necessary to determine the value of the premium tax credits and cost-sharing reductions that would have been provided to eligible individuals described in clause (i), including the age and income of the enrollee, whether the enrollment is for self-only or family coverage, geographic differences in average spending for health care across rating areas, the health status of the enrollee for purposes of determining risk adjustment payments and reinsurance payments that would have been made if the enrollee had enrolled in a qualified health plan through an Exchange, and whether any reconciliation of the credit or cost-sharing reductions would have occurred if the enrollee had been so enrolled. This determination shall take into consideration the experience of other States with respect to participation in an Exchange and such credits and reductions provided to residents of the other States, with a special focus on enrollees with income below 200 percent of poverty.

(iii) Certification

The Chief Actuary of the Centers for Medicare & Medicaid Services, in consultation with the Office of Tax Analysis of the Department of the Treasury, shall certify whether the methodology used to make determinations under this subparagraph, and such determinations, meet the requirements of clause (ii). Such certifications shall be based on sufficient data from the State and from comparable States about their experience with programs created by this Act.

(B) Corrections

The Secretary shall adjust the payment for any fiscal year to reflect any error in the determinations under subparagraph (A) for any preceding fiscal year.

(4) Application of special rules

The provisions of section 18023 of this title shall apply to a State basic health program, and to standard health plans offered through such program, in the same manner as such rules apply to qualified health plans.

(e) Eligible individual

(1) In general

In this section, the term "eligible individual" means, with respect to any State, an individual—

(A) who a [2] resident of the State who is not eligible to enroll in the State's medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for benefits that at a minimum consist of the essential health benefits described in section 18022(b) of this title;

(B) whose household income exceeds 133 percent but does not exceed 200 percent of the poverty line for the size of the family involved, or, in the case of an alien lawfully present in the United States, whose income is not greater than 133 percent of the poverty line for the size of the family involved but who is not eligible for the Medicaid program under title XIX of the Social Security Act by reason of such alien status;

(C) who is not eligible for minimum essential coverage (as defined in section 5000A(f) of

title 26) or is eligible for an employer-sponsored plan that is not affordable coverage (as determined under section 5000A(e)(2) of such title); and

(D) who has not attained age 65 as of the beginning of the plan year.

Such term shall not include any individual who is not a qualified individual under section 18032 of this title who is eligible to be covered by a qualified health plan offered through an Exchange.

(2) Eligible individuals may not use Exchange

An eligible individual shall not be treated as a qualified individual under section 18032 of this title eligible for enrollment in a qualified health plan offered through an Exchange established under section 18031 of this title.

(f) Secretarial oversight

The Secretary shall each year conduct a review of each State program to ensure compliance with the requirements of this section, including ensuring that the State program meets—

(1) eligibility verification requirements for participation in the program;

(2) the requirements for use of Federal funds received by the program; and

(3) the quality and performance standards under this section.

(g) Standard health plan offerors

A State may provide that persons eligible to offer standard health plans under a basic health program established under this section may include a licensed health maintenance organization, a licensed health insurance insurer, or a network of health care providers established to offer services under the program.

(h) Definitions

Any term used in this section which is also used in section 36B of title 26 shall have the meaning given such term by such section.

(Pub. L. 111–148, title I, §1331, title X, §10104(o), Mar. 23, 2010, 124 Stat. 199, 902.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (c)(4) and (e)(1)(A), (B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

This Act, referred to in subsec. (d)(3)(A)(iii), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

AMENDMENTS

2010—Subsec. (d)(3)(A)(i). Pub. L. 111–148, §10104(o)(1), substituted "95 percent" for "85 percent".

Subsec. (e)(1)(B). Pub. L. 111–148, §10104(o)(2), inserted ", or, in the case of an alien lawfully present in the United States, whose income is not greater than 133 percent of the poverty line for the size of the family involved but who is not eligible for the Medicaid program under title XIX of the Social Security Act by reason of such alien status" before semicolon at end.

[1] So in original. Probably should be "health".

[2] So in original. Probably should be preceded by "is".

§18052. Waiver for State innovation

(a) Application

(1) In general

A State may apply to the Secretary for the waiver of all or any requirements described in paragraph (2) with respect to health insurance coverage within that State for plan years beginning on or after January 1, 2017. Such application shall—

(A) be filed at such time and in such manner as the Secretary may require;

(B) contain such information as the Secretary may require, including—

(i) a comprehensive description of the State legislation and program to implement a plan meeting the requirements for a waiver under this section; and

(ii) a 10-year budget plan for such plan that is budget neutral for the Federal Government; and

(C) provide an assurance that the State has enacted the law described in subsection (b)(2).

(2) Requirements

The requirements described in this paragraph with respect to health insurance coverage within the State for plan years beginning on or after January 1, 2014, are as follows:

(A) Part A of this subchapter.

(B) Part B of this subchapter.

(C) Section 18071 of this title.

(D) Sections 36B, 4980H, and 5000A of title 26.

(3) Pass through of funding

With respect to a State waiver under paragraph (1), under which, due to the structure of the State plan, individuals and small employers in the State would not qualify for the premium tax credits, cost-sharing reductions, or small business credits under sections [1] 36B of title 26 or under part I of subtitle E for which they would otherwise be eligible, the Secretary shall provide for an alternative means by which the aggregate amount of such credits or reductions that would have been paid on behalf of participants in the Exchanges established under this title [2] had the State not received such waiver, shall be paid to the State for purposes of implementing the State plan under the waiver. Such amount shall be determined annually by the Secretary, taking into consideration the experience of other States with respect to participation in an Exchange and credits and reductions provided under such provisions to residents of the other States.

(4) Waiver consideration and transparency

(A) In general

An application for a waiver under this section shall be considered by the Secretary in accordance with the regulations described in subparagraph (B).

(B) Regulations

Not later than 180 days after March 23, 2010, the Secretary shall promulgate regulations relating to waivers under this section that provide—

(i) a process for public notice and comment at the State level, including public hearings, sufficient to ensure a meaningful level of public input;

(ii) a process for the submission of an application that ensures the disclosure of—

(I) the provisions of law that the State involved seeks to waive; and

(II) the specific plans of the State to ensure that the waiver will be in compliance with subsection (b);

(iii) a process for providing public notice and comment after the application is received by the Secretary, that is sufficient to ensure a meaningful level of public input and that does not

impose requirements that are in addition to, or duplicative of, requirements imposed under the Administrative Procedures Act,[2] or requirements that are unreasonable or unnecessarily burdensome with respect to State compliance;

(iv) a process for the submission to the Secretary of periodic reports by the State concerning the implementation of the program under the waiver; and

(v) a process for the periodic evaluation by the Secretary of the program under the waiver.

(C) Report

The Secretary shall annually report to Congress concerning actions taken by the Secretary with respect to applications for waivers under this section.

(5) Coordinated waiver process

The Secretary shall develop a process for coordinating and consolidating the State waiver processes applicable under the provisions of this section, and the existing waiver processes applicable under titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.], and any other Federal law relating to the provision of health care items or services. Such process shall permit a State to submit a single application for a waiver under any or all of such provisions.

(6) Definition

In this section, the term "Secretary" means—

(A) the Secretary of Health and Human Services with respect to waivers relating to the provisions described in subparagraph (A) through (C) of paragraph (2); and

(B) the Secretary of the Treasury with respect to waivers relating to the provisions described in paragraph (2)(D).

(b) Granting of waivers

(1) In general

The Secretary may grant a request for a waiver under subsection (a)(1) only if the Secretary determines that the State plan—

(A) will provide coverage that is at least as comprehensive as the coverage defined in section 18022(b) of this title and offered through Exchanges established under this title [2] as certified by Office [3] of the Actuary of the Centers for Medicare & Medicaid Services based on sufficient data from the State and from comparable States about their experience with programs created by this Act and the provisions of this Act that would be waived;

(B) will provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as the provisions of this title [2] would provide;

(C) will provide coverage to at least a comparable number of its residents as the provisions of this title [2] would provide; and

(D) will not increase the Federal deficit.

(2) Requirement to enact a law

(A) In general

A law described in this paragraph is a State law that provides for State actions under a waiver under this section, including the implementation of the State plan under subsection (a)(1)(B).

(B) Termination of opt out

A State may repeal a law described in subparagraph (A) and terminate the authority provided under the waiver with respect to the State.

(c) Scope of waiver

(1) In general

The Secretary shall determine the scope of a waiver of a requirement described in subsection (a)(2) granted to a State under subsection (a)(1).

(2) Limitation

The Secretary may not waive under this section any Federal law or requirement that is not within the authority of the Secretary.

(d) Determinations by Secretary

(1) Time for determination

The Secretary shall make a determination under subsection (a)(1) not later than 180 days after the receipt of an application from a State under such subsection.

(2) Effect of determination

(A) Granting of waivers

If the Secretary determines to grant a waiver under subsection (a)(1), the Secretary shall notify the State involved of such determination and the terms and effectiveness of such waiver.

(B) Denial of waiver

If the Secretary determines a waiver should not be granted under subsection (a)(1), the Secretary shall notify the State involved, and the appropriate committees of Congress of such determination and the reasons therefore.[4]

(e) Term of waiver

No waiver under this section may extend over a period of longer than 5 years unless the State requests continuation of such waiver, and such request shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State in writing with respect to any additional information which is needed in order to make a final determination with respect to the request.

(Pub. L. 111–148, title I, §1332, Mar. 23, 2010, 124 Stat. 203.)

EDITORIAL NOTES

REFERENCES IN TEXT

Part I of subtitle E, referred to in subsec. (a)(3), is part I (§§1401–1415) of subtitle E of title I of Pub. L. 111–148, which enacted subchapter IV of this chapter and section 36B of Title 26, Internal Revenue Code, amended section 405 of this title, sections 280C, 6103, and 7213 of Title 26, and section 1324 of Title 31, Money and Finance, and enacted provisions set out as a note under section 36B of Title 26. For complete classification of part I to the Code, see Tables.

This title, where footnoted in subsecs. (a)(3) and (b)(1)(A) to (C), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

The Administrative Procedures Act, referred to in subsec. (a)(4)(B)(iii), probably means the Administrative Procedure Act, act June 11, 1946, ch. 324, 60 Stat. 237, which was classified to sections 1001 to 1011 of former title 5 and which was repealed and reenacted as subchapter II (§551 et seq.) of chapter 5, and chapter 7 (§701 et seq.), of Title 5, Government Organization and Employees, by Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 378. See Short Title note preceding section 551 of Title 5.

The Social Security Act, referred to in subsec. (a)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

This Act, referred to in subsec. (b)(1)(A), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

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

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

[3] *So in original. Probably should be preceded by "the".*

[4] *So in original. Probably should be "therefor."*

§18053. Provisions relating to offering of plans in more than one State

(a) Health care choice compacts

(1) In general

Not later than July 1, 2013, the Secretary shall, in consultation with the National Association of Insurance Commissioners, issue regulations for the creation of health care choice compacts under which 2 or more States may enter into an agreement under which—

(A) 1 or more qualified health plans could be offered in the individual markets in all such States but, except as provided in subparagraph (B), only be subject to the laws and regulations of the State in which the plan was written or issued;

(B) the issuer of any qualified health plan to which the compact applies—

(i) would continue to be subject to market conduct, unfair trade practices, network adequacy, and consumer protection standards (including standards relating to rating), including addressing disputes as to the performance of the contract, of the State in which the purchaser resides;

(ii) would be required to be licensed in each State in which it offers the plan under the compact or to submit to the jurisdiction of each such State with regard to the standards described in clause (i) (including allowing access to records as if the insurer were licensed in the State); and

(iii) must clearly notify consumers that the policy may not be subject to all the laws and regulations of the State in which the purchaser resides.

(2) State authority

A State may not enter into an agreement under this subsection unless the State enacts a law after March 23, 2010, that specifically authorizes the State to enter into such agreements.

(3) Approval of compacts

The Secretary may approve interstate health care choice compacts under paragraph (1) only if the Secretary determines that such health care choice compact—

(A) will provide coverage that is at least as comprehensive as the coverage defined in section 18022(b) of this title and offered through Exchanges established under this title; [1]

(B) will provide coverage and cost sharing protections against excessive out-of-pocket spending that are at least as affordable as the provisions of this title [1] would provide;

(C) will provide coverage to at least a comparable number of its residents as the provisions of this title [1] would provide;

(D) will not increase the Federal deficit; and

(E) will not weaken enforcement of laws and regulations described in paragraph (1)(B)(i) in any State that is included in such compact.

(4) Effective date

A health care choice compact described in paragraph (1) shall not take effect before January 1, 2016.

(b) Repealed. Pub. L. 111–148, title X, §10104(p), Mar. 23, 2010, 124 Stat. 902

(Pub. L. 111–148, title I, §1333, title X, §10104(p), Mar. 23, 2010, 124 Stat. 206, 902.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, where footnoted in subsec. (a)(3)(A) to (C), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–148, §10104(p), struck out subsec. (b) which provided authority and requirements for health insurance issuers to offer nationwide qualified health plans.

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

§18054. Multi-State plans

(a) Oversight by the Office of Personnel Management

(1) In general

The Director of the Office of Personnel Management (referred to in this section as the "Director") shall enter into contracts with health insurance issuers (which may include a group of health insurance issuers affiliated either by common ownership and control or by the common use of a nationally licensed service mark), without regard to section 6101 of title 41 or other statutes requiring competitive bidding, to offer at least 2 multi-State qualified health plans through each Exchange in each State. Such plans shall provide individual, or in the case of small employers, group coverage.

(2) Terms

Each contract entered into under paragraph (1) shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Director shall ensure that health benefits coverage is provided in accordance with the types of coverage provided for under section 2701(a)(1)(A)(i) of the Public Health Service Act [42 U.S.C. 300gg(a)(1)(A)(i)].

(3) Non-profit entities

In entering into contracts under paragraph (1), the Director shall ensure that at least one contract is entered into with a non-profit entity.

(4) Administration

The Director shall implement this subsection in a manner similar to the manner in which the Director implements the contracting provisions with respect to carriers under the Federal employees health benefit program [1] under chapter 89 of title 5, including (through negotiating with each multi-state [2] plan)—

(A) a medical loss ratio;

(B) a profit margin;

(C) the premiums to be charged; and

(D) such other terms and conditions of coverage as are in the interests of enrollees in such plans.

(5) Authority to protect consumers

The Director may prohibit the offering of any multi-State health plan that does not meet the terms and conditions defined by the Director with respect to the elements described in subparagraphs (A) through (D) of paragraph (4).

(6) Assured availability of varied coverage

In entering into contracts under this subsection, the Director shall ensure that with respect to multi-State qualified health plans offered in an Exchange, there is at least one such plan that does not provide coverage of services described in section 18023(b)(1)(B)(i) of this title.

(7) Withdrawal

Approval of a contract under this subsection may be withdrawn by the Director only after notice and opportunity for hearing to the issuer concerned without regard to subchapter II of chapter 5 and chapter 7 of title 5.

(b) Eligibility

A health insurance issuer shall be eligible to enter into a contract under subsection (a)(1) if such issuer—

(1) agrees to offer a multi-State qualified health plan that meets the requirements of subsection (c) in each Exchange in each State;

(2) is licensed in each State and is subject to all requirements of State law not inconsistent with this section, including the standards and requirements that a State imposes that do not prevent the application of a requirement of part A of title XXVII of the Public Health Service Act [42 U.S.C. 300gg et seq.] or a requirement of this title; [3]

(3) otherwise complies with the minimum standards prescribed for carriers offering health benefits plans under section 8902(e) of title 5 to the extent that such standards do not conflict with a provision of this title; [3] and

(4) meets such other requirements as determined appropriate by the Director, in consultation with the Secretary.

(c) Requirements for multi-State qualified health plan

(1) In general

A multi-State qualified health plan meets the requirements of this subsection if, in the determination of the Director—

(A) the plan offers a benefits package that is uniform in each State and consists of the essential benefits described in section 18022 of this title;

(B) the plan meets all requirements of this title [3] with respect to a qualified health plan, including requirements relating to the offering of the bronze, silver, and gold levels of coverage and catastrophic coverage in each State Exchange;

(C) except as provided in paragraph (5), the issuer provides for determinations of premiums for coverage under the plan on the basis of the rating requirements of part A of title XXVII of the Public Health Service Act; and

(D) the issuer offers the plan in all geographic regions, and in all States that have adopted adjusted community rating before March 23, 2010.

(2) States may offer additional benefits

Nothing in paragraph (1)(A) shall preclude a State from requiring that benefits in addition to the essential health benefits required under such paragraph be provided to enrollees of a multi-State qualified health plan offered in such State.

(3) Credits

(A) In general

An individual enrolled in a multi-State qualified health plan under this section shall be eligible for credits under section 36B of title 26 and cost sharing assistance under section 18071 of this title in the same manner as an individual who is enrolled in a qualified health plan.

(B) No additional Federal cost

A requirement by a State under paragraph (2) that benefits in addition to the essential health benefits required under paragraph (1)(A) be provided to enrollees of a multi-State qualified health plan shall not affect the amount of a premium tax credit provided under section 36B of title 26 with respect to such plan.

(4) State must assume cost

A State shall make payments—

(A) to an individual enrolled in a multi-State qualified health plan offered in such State; or

(B) on behalf of an individual described in subparagraph (A) directly to the multi-State qualified health plan in which such individual is enrolled;

to defray the cost of any additional benefits described in paragraph (2).

(5) Application of certain State rating requirements

With respect to a multi-State qualified health plan that is offered in a State with age rating requirements that are lower than 3:1, the State may require that Exchanges operating in such State only permit the offering of such multi-State qualified health plans if such plans comply with the State's more protective age rating requirements.

(d) Plans deemed to be certified

A multi-State qualified health plan that is offered under a contract under subsection (a) shall be deemed to be certified by an Exchange for purposes of section 18031(d)(4)(A) of this title.

(e) Phase-in

Notwithstanding paragraphs (1) and (2) of subsection (b), the Director shall enter into a contract with a health insurance issuer for the offering of a multi-State qualified health plan under subsection (a) if—

(1) with respect to the first year for which the issuer offers such plan, such issuer offers the plan in at least 60 percent of the States;

(2) with respect to the second such year, such issuer offers the plan in at least 70 percent of the States;

(3) with respect to the third such year, such issuer offers the plan in at least 85 percent of the States; and

(4) with respect to each subsequent year, such issuer offers the plan in all States.

(f) Applicability

The requirements under chapter 89 of title 5 applicable to health benefits plans under such chapter shall apply to multi-State qualified health plans provided for under this section to the extent that such requirements do not conflict with a provision of this title.[3]

(g) Continued support for FEHBP

(1) Maintenance of effort

Nothing in this section shall be construed to permit the Director to allocate fewer financial or personnel resources to the functions of the Office of Personnel Management related to the administration of the Federal Employees Health Benefit Program under chapter 89 of title 5.

(2) Separate risk pool

Enrollees in multi-State qualified health plans under this section shall be treated as a separate risk pool apart from enrollees in the Federal Employees Health Benefit Program under chapter 89 of title 5.

(3) Authority to establish separate entities

The Director may establish such separate units or offices within the Office of Personnel Management as the Director determines to be appropriate to ensure that the administration of multi-State qualified health plans under this section does not interfere with the effective administration of the Federal Employees Health Benefit Program under chapter 89 of title 5.

(4) Effective oversight

The Director may appoint such additional personnel as may be necessary to enable the Director to carry out activities under this section.

(5) Assurance of separate program

In carrying out this section, the Director shall ensure that the program under this section is

separate from the Federal Employees Health Benefit Program under chapter 89 of title 5. Premiums paid for coverage under a multi-State qualified health plan under this section shall not be considered to be Federal funds for any purposes.

(6) FEHBP plans not required to participate

Nothing in this section shall require that a carrier offering coverage under the Federal Employees Health Benefit Program under chapter 89 of title 5 also offer a multi-State qualified health plan under this section.

(h) Advisory board

The Director shall establish an advisory board to provide recommendations on the activities described in this section. A significant percentage of the members of such board shall be comprised of enrollees in a multi-State qualified health plan, or representatives of such enrollees.

(i) Authorization of appropriations

There is authorized to be appropriated, such sums as may be necessary to carry out this section.

(Pub. L. 111–148, title I, §1334, as added Pub. L. 111–148, title X, §10104(q), Mar. 23, 2010, 124 Stat. 902.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (b)(2) and (c)(1)(C), is act July 1, 1944, ch. 373, 58 Stat. 682. Part A of title XXVII of the Act is classified generally to part A (§300gg et seq.) of subchapter XXV of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

This title, referred to in subsecs. (b)(2), (3), (c)(1)(B), and (f), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

CODIFICATION

In subsec. (a)(1), "section 6101 of title 41" substituted for "section 5 of title 41, United States Code," on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

[1] So in original. The words "employees health benefit program" probably should be capitalized.

[2] So in original. Probably should be "multi-State".

[3] See References in Text note below.

PART E—REINSURANCE AND RISK ADJUSTMENT

§18061. Transitional reinsurance program for individual market in each State

(a) In general

Each State shall, not later than January 1, 2014—

(1) include in the Federal standards or State law or regulation the State adopts and has in effect under section 18041(b) of this title the provisions described in subsection (b); and

(2) establish (or enter into a contract with) 1 or more applicable reinsurance entities to carry out the reinsurance program under this section.

(b) Model regulation

(1) In general

In establishing the Federal standards under section 18041(a) of this title, the Secretary, in consultation with the National Association of Insurance Commissioners (the "NAIC"), shall include provisions that enable States to establish and maintain a program under which—

(A) health insurance issuers, and third party administrators on behalf of group health plans, are required to make payments to an applicable reinsurance entity for any plan year beginning in the 3-year period beginning January 1, 2014 (as specified in paragraph (3); [1] and

(B) the applicable reinsurance entity collects payments under subparagraph (A) and uses amounts so collected to make reinsurance payments to health insurance issuers described in subparagraph (A) that cover high risk individuals in the individual market (excluding grandfathered health plans) for any plan year beginning in such 3-year period.

(2) High-risk individual; payment amounts

The Secretary shall include the following in the provisions under paragraph (1):

(A) Determination of high-risk individuals

The method by which individuals will be identified as high risk individuals for purposes of the reinsurance program established under this section. Such method shall provide for identification of individuals as high-risk individuals on the basis of—

(i) a list of at least 50 but not more than 100 medical conditions that are identified as high-risk conditions and that may be based on the identification of diagnostic and procedure codes that are indicative of individuals with pre-existing, high-risk conditions; or

(ii) any other comparable objective method of identification recommended by the American Academy of Actuaries.

(B) Payment amount

The formula for determining the amount of payments that will be paid to health insurance issuers described in paragraph (1)(B) that insure high-risk individuals. Such formula shall provide for the equitable allocation of available funds through reconciliation and may be designed—

(i) to provide a schedule of payments that specifies the amount that will be paid for each of the conditions identified under subparagraph (A); or

(ii) to use any other comparable method for determining payment amounts that is recommended by the American Academy of Actuaries and that encourages the use of care coordination and care management programs for high risk conditions.

(3) Determination of required contributions

(A) In general

The Secretary shall include in the provisions under paragraph (1) the method for determining the amount each health insurance issuer and group health plan described in paragraph (1)(A) contributing to the reinsurance program under this section is required to contribute under such paragraph for each plan year beginning in the 36-month period beginning January 1, 2014. The contribution amount for any plan year may be based on the percentage of revenue of each issuer and the total costs of providing benefits to enrollees in self-insured plans or on a specified amount per enrollee and may be required to be paid in advance or periodically throughout the plan year.

(B) Specific requirements

The method under this paragraph shall be designed so that—

(i) the contribution amount for each issuer proportionally reflects each issuer's fully insured commercial book of business for all major medical products and the total value of all fees charged by the issuer and the costs of coverage administered by the issuer as a third party administrator;

(ii) the contribution amount can include an additional amount to fund the administrative expenses of the applicable reinsurance entity;

(iii) the aggregate contribution amounts for all States shall, based on the best estimates of the NAIC and without regard to amounts described in clause (ii), equal $10,000,000,000 for plan years beginning in 2014, $6,000,000,000 for plan years beginning [2] 2015, and $4,000,000,000 for plan years beginning in 2016; and

(iv) in addition to the aggregate contribution amounts under clause (iii), each issuer's contribution amount for any calendar year under clause (iii) reflects its proportionate share of an additional $2,000,000,000 for 2014, an additional $2,000,000,000 for 2015, and an additional $1,000,000,000 for 2016.

Nothing in this subparagraph shall be construed to preclude a State from collecting additional amounts from issuers on a voluntary basis.

(4) Expenditure of funds

The provisions under paragraph (1) shall provide that—

(A) the contribution amounts collected for any calendar year may be allocated and used in any of the three calendar years for which amounts are collected based on the reinsurance needs of a particular period or to reflect experience in a prior period; and

(B) amounts remaining unexpended as of December, 2016, may be used to make payments under any reinsurance program of a State in the individual market in effect in the 2-year period beginning on January 1, 2017.

Notwithstanding the preceding sentence, any contribution amounts described in paragraph (3)(B)(iv) shall be deposited into the general fund of the Treasury of the United States and may not be used for the program established under this section.

(c) Applicable reinsurance entity

For purposes of this section—

(1) In general

The term "applicable reinsurance entity" means a not-for-profit organization—

(A) the purpose of which is to help stabilize premiums for coverage in the individual market in a State during the first 3 years of operation of an Exchange for such markets within the State when the risk of adverse selection related to new rating rules and market changes is greatest; and

(B) the duties of which shall be to carry out the reinsurance program under this section by coordinating the funding and operation of the risk-spreading mechanisms designed to implement the reinsurance program.

(2) State discretion

A State may have more than 1 applicable reinsurance entity to carry out the reinsurance program under this section within the State and 2 or more States may enter into agreements to provide for an applicable reinsurance entity to carry out such program in all such States.

(3) Entities are tax-exempt

An applicable reinsurance entity established under this section shall be exempt from taxation under chapter 1 of title 26. The preceding sentence shall not apply to the tax imposed by section 511 such [3] title (relating to tax on unrelated business taxable income of an exempt organization).

(d) Coordination with State high-risk pools

The State shall eliminate or modify any State high-risk pool to the extent necessary to carry out the reinsurance program established under this section. The State may coordinate the State high-risk pool with such program to the extent not inconsistent with the provisions of this section.

(Pub. L. 111–148, title I, §1341, title X, §10104(r), Mar. 23, 2010, 124 Stat. 208, 906.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–148, §10104(r)(1), substituted "market" for "and small group markets" in section catchline.

Subsec. (b)(2)(B). Pub. L. 111–148, §10104(r)(2), substituted "paragraph (1)(B)" for "paragraph (1)(A)" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 111–148, §10104(r)(3), substituted "individual market" for "individual and small group markets".

[1] So in original. A second closing parenthesis probably should precede the semicolon.

[2] So in original. Probably should be followed by "in".

[3] So in original. Probably should be preceded by "of".

§18062. Establishment of risk corridors for plans in individual and small group markets

(a) In general

The Secretary shall establish and administer a program of risk corridors for calendar years 2014, 2015, and 2016 under which a qualified health plan offered in the individual or small group market shall participate in a payment adjustment system based on the ratio of the allowable costs of the plan to the plan's aggregate premiums. Such program shall be based on the program for regional participating provider organizations under part D of title XVIII of the Social Security Act [42 U.S.C. 1395w–101 et seq.].

(b) Payment methodology

(1) Payments out

The Secretary shall provide under the program established under subsection (a) that if—

(A) a participating plan's allowable costs for any plan year are more than 103 percent but not more than 108 percent of the target amount, the Secretary shall pay to the plan an amount equal to 50 percent of the target amount in excess of 103 percent of the target amount; and

(B) a participating plan's allowable costs for any plan year are more than 108 percent of the target amount, the Secretary shall pay to the plan an amount equal to the sum of 2.5 percent of the target amount plus 80 percent of allowable costs in excess of 108 percent of the target amount.

(2) Payments in

The Secretary shall provide under the program established under subsection (a) that if—

(A) a participating plan's allowable costs for any plan year are less than 97 percent but not less than 92 percent of the target amount, the plan shall pay to the Secretary an amount equal to 50 percent of the excess of 97 percent of the target amount over the allowable costs; and

(B) a participating plan's allowable costs for any plan year are less than 92 percent of the target amount, the plan shall pay to the Secretary an amount equal to the sum of 2.5 percent of the target amount plus 80 percent of the excess of 92 percent of the target amount over the allowable costs.

(c) Definitions

In this section:

(1) Allowable costs

(A) In general

The amount of allowable costs of a plan for any year is an amount equal to the total costs (other than administrative costs) of the plan in providing benefits covered by the plan.

(B) Reduction for risk adjustment and reinsurance payments

Allowable costs shall [1] reduced by any risk adjustment and reinsurance payments received under section [2] 18061 and 18063 of this title.

(2) Target amount

The target amount of a plan for any year is an amount equal to the total premiums (including any premium subsidies under any governmental program), reduced by the administrative costs of the plan.

(Pub. L. 111–148, title I, §1342, Mar. 23, 2010, 124 Stat. 211.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part D of title XVIII of the Act is classified generally to part D (§1395w–101 et seq.) of subchapter XVIII of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

[1] So in original. Probably should be followed by "be".

[2] So in original. Probably should be "sections".

§18063. Risk adjustment

(a) In general

(1) Low actuarial risk plans

Using the criteria and methods developed under subsection (b), each State shall assess a charge on health plans and health insurance issuers (with respect to health insurance coverage) described in subsection (c) if the actuarial risk of the enrollees of such plans or coverage for a year is less than the average actuarial risk of all enrollees in all plans or coverage in such State for such year that are not self-insured group health plans (which are subject to the provisions of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.]).

(2) High actuarial risk plans

Using the criteria and methods developed under subsection (b), each State shall provide a payment to health plans and health insurance issuers (with respect to health insurance coverage) described in subsection (c) if the actuarial risk of the enrollees of such plans or coverage for a year is greater than the average actuarial risk of all enrollees in all plans and coverage in such State for such year that are not self-insured group health plans (which are subject to the provisions of the Employee Retirement Income Security Act of 1974).

(b) Criteria and methods

The Secretary, in consultation with States, shall establish criteria and methods to be used in carrying out the risk adjustment activities under this section. The Secretary may utilize criteria and methods similar to the criteria and methods utilized under part C or D of title XVIII of the Social Security Act [42 U.S.C. 1395w–21 et seq., 1395w–101 et seq.]. Such criteria and methods shall be included in the standards and requirements the Secretary prescribes under section 18041 of this title.

(c) Scope

A health plan or a health insurance issuer is described in this subsection if such health plan or

health insurance issuer provides coverage in the individual or small group market within the State. This subsection shall not apply to a grandfathered health plan or the issuer of a grandfathered health plan with respect to that plan.

(Pub. L. 111–148, title I, §1343, Mar. 23, 2010, 124 Stat. 212.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsec. (a), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Parts C and D of title XVIII of the Act are classified generally to parts C (§1395w–21 et seq.) and D (§1395w–101 et seq.), respectively, of subchapter XVIII of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

SUBCHAPTER IV—AFFORDABLE COVERAGE CHOICES FOR ALL AMERICANS

PART A—PREMIUM TAX CREDITS AND COST-SHARING REDUCTIONS

§18071. Reduced cost-sharing for individuals enrolling in qualified health plans

(a) In general

In the case of an eligible insured enrolled in a qualified health plan—

(1) the Secretary shall notify the issuer of the plan of such eligibility; and

(2) the issuer shall reduce the cost-sharing under the plan at the level and in the manner specified in subsection (c).

(b) Eligible insured

In this section, the term "eligible insured" means an individual—

(1) who enrolls in a qualified health plan in the silver level of coverage in the individual market offered through an Exchange; and

(2) whose household income exceeds 100 percent but does not exceed 400 percent of the poverty line for a family of the size involved.

In the case of an individual described in section 36B(c)(1)(B) of title 26, the individual shall be treated as having household income equal to 100 percent for purposes of applying this section.

(c) Determination of reduction in cost-sharing

(1) Reduction in out-of-pocket limit

(A) In general

The reduction in cost-sharing under this subsection shall first be achieved by reducing the applicable out-of pocket [1] limit under section 18022(c)(1) of this title in the case of—

(i) an eligible insured whose household income is more than 100 percent but not more than 200 percent of the poverty line for a family of the size involved, by two-thirds;

(ii) an eligible insured whose household income is more than 200 percent but not more

than 300 percent of the poverty line for a family of the size involved, by one-half; and

(iii) an eligible insured whose household income is more than 300 percent but not more than 400 percent of the poverty line for a family of the size involved, by one-third.

(B) Coordination with actuarial value limits

(i) In general

The Secretary shall ensure the reduction under this paragraph shall not result in an increase in the plan's share of the total allowed costs of benefits provided under the plan above—

(I) 94 percent in the case of an eligible insured described in paragraph (2)(A);

(II) 87 percent in the case of an eligible insured described in paragraph (2)(B);

(III) 73 percent in the case of an eligible insured whose household income is more than 200 percent but not more than 250 percent of the poverty line for a family of the size involved; and

(IV) 70 percent in the case of an eligible insured whose household income is more than 250 percent but not more than 400 percent of the poverty line for a family of the size involved.

(ii) Adjustment

The Secretary shall adjust the out-of pocket [1] limits under paragraph (1) if necessary to ensure that such limits do not cause the respective actuarial values to exceed the levels specified in clause (i).

(2) Additional reduction for lower income insureds

The Secretary shall establish procedures under which the issuer of a qualified health plan to which this section applies shall further reduce cost-sharing under the plan in a manner sufficient to—

(A) in the case of an eligible insured whose household income is not less than 100 percent but not more than 150 percent of the poverty line for a family of the size involved, increase the plan's share of the total allowed costs of benefits provided under the plan to 94 percent of such costs;

(B) in the case of an eligible insured whose household income is more than 150 percent but not more than 200 percent of the poverty line for a family of the size involved, increase the plan's share of the total allowed costs of benefits provided under the plan to 87 percent of such costs; and

(C) in the case of an eligible insured whose household income is more than 200 percent but not more than 250 percent of the poverty line for a family of the size involved, increase the plan's share of the total allowed costs of benefits provided under the plan to 73 percent of such costs.

(3) Methods for reducing cost-sharing

(A) In general

An issuer of a qualified health plan making reductions under this subsection shall notify the Secretary of such reductions and the Secretary shall make periodic and timely payments to the issuer equal to the value of the reductions.

(B) Capitated payments

The Secretary may establish a capitated payment system to carry out the payment of cost-sharing reductions under this section. Any such system shall take into account the value of the reductions and make appropriate risk adjustments to such payments.

(4) Additional benefits

If a qualified health plan under section 18022(b)(5) of this title offers benefits in addition to the essential health benefits required to be provided by the plan, or a State requires a qualified health

plan under section 18031(d)(3)(B) of this title to cover benefits in addition to the essential health benefits required to be provided by the plan, the reductions in cost-sharing under this section shall not apply to such additional benefits.

(5) Special rule for pediatric dental plans

If an individual enrolls in both a qualified health plan and a plan described in section 18031(d)(2)(B)(ii)(I) [2] of this title for any plan year, subsection (a) shall not apply to that portion of any reduction in cost-sharing under subsection (c) that (under regulations prescribed by the Secretary) is properly allocable to pediatric dental benefits which are included in the essential health benefits required to be provided by a qualified health plan under section 18022(b)(1)(J) of this title.

(d) Special rules for Indians

(1) Indians under 300 percent of poverty

If an individual enrolled in any qualified health plan in the individual market through an Exchange is an Indian (as defined in section 5304(d) of title 25) whose household income is not more than 300 percent of the poverty line for a family of the size involved, then, for purposes of this section—

(A) such individual shall be treated as an eligible insured; and

(B) the issuer of the plan shall eliminate any cost-sharing under the plan.

(2) Items or services furnished through Indian health providers

If an Indian (as so defined) enrolled in a qualified health plan is furnished an item or service directly by the Indian Health Service, an Indian Tribe, Tribal Organization, or Urban Indian Organization or through referral under contract health services—

(A) no cost-sharing under the plan shall be imposed under the plan for such item or service; and

(B) the issuer of the plan shall not reduce the payment to any such entity for such item or service by the amount of any cost-sharing that would be due from the Indian but for subparagraph (A).

(3) Payment

The Secretary shall pay to the issuer of a qualified health plan the amount necessary to reflect the increase in actuarial value of the plan required by reason of this subsection.

(e) Rules for individuals not lawfully present

(1) In general

If an individual who is an eligible insured is not lawfully present—

(A) no cost-sharing reduction under this section shall apply with respect to the individual; and

(B) for purposes of applying this section, the determination as to what percentage a taxpayer's household income bears to the poverty level for a family of the size involved shall be made under one of the following methods:

(i) A method under which—

(I) the taxpayer's family size is determined by not taking such individuals into account, and

(II) the taxpayer's household income is equal to the product of the taxpayer's household income (determined without regard to this subsection) and a fraction—

(aa) the numerator of which is the poverty line for the taxpayer's family size determined after application of subclause (I), and

(bb) the denominator of which is the poverty line for the taxpayer's family size determined without regard to subclause (I).

(ii) A comparable method reaching the same result as the method under clause (i).

(2) Lawfully present

For purposes of this section, an individual shall be treated as lawfully present only if the individual is, and is reasonably expected to be for the entire period of enrollment for which the cost-sharing reduction under this section is being claimed, a citizen or national of the United States or an alien lawfully present in the United States.

(3) Secretarial authority

The Secretary, in consultation with the Secretary of the Treasury, shall prescribe rules setting forth the methods by which calculations of family size and household income are made for purposes of this subsection. Such rules shall be designed to ensure that the least burden is placed on individuals enrolling in qualified health plans through an Exchange and taxpayers eligible for the credit allowable under this section.

(f) Special rule for individuals who receive unemployment compensation during 2021

For purposes of this section, in the case of an individual who has received, or has been approved to receive, unemployment compensation for any week beginning during 2021, for the plan year in which such week begins—

(1) such individual shall be treated as meeting the requirements of subsection (b)(2), and

(2) for purposes of subsections (c) and (d), there shall not be taken into account any household income of the individual in excess of 133 percent of the poverty line for a family of the size involved.

(g) Definitions and special rules

In this section:

(1) In general

Any term used in this section which is also used in section 36B of title 26 shall have the meaning given such term by such section.

(2) Limitations on reduction

No cost-sharing reduction shall be allowed under this section with respect to coverage for any month unless the month is a coverage month with respect to which a credit is allowed to the insured (or an applicable taxpayer on behalf of the insured) under section 36B of such title.

(3) Data used for eligibility

Any determination under this section shall be made on the basis of the taxable year for which the advance determination is made under section 18082 of this title and not the taxable year for which the credit under section 36B of title 26 is allowed.

(Pub. L. 111–148, title I, §1402, Mar. 23, 2010, 124 Stat. 220; Pub. L. 111–152, title I, §1001(b), Mar. 30, 2010, 124 Stat. 1031; Pub. L. 117–2, title II, §2305(a), Mar. 11, 2021, 135 Stat. 39.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsecs. (f), (g). Pub. L. 117–2 added subsec. (f) and redesignated former subsec. (f) as (g).

2010—Subsec. (c)(1)(B)(i)(I). Pub. L. 111–152, §1001(b)(1)(A), substituted "94" for "90".

Subsec. (c)(1)(B)(i)(II). Pub. L. 111–152, §1001(b)(1)(B)(i), substituted "87" for "80".

Subsec. (c)(1)(B)(i)(III), (IV). Pub. L. 111–152, §1001(b)(1)(B)(ii), (C), added subcls. (III) and (IV) and struck out former subcl. (III). Prior to amendment, subcl. (III) read as follows: "70 percent in the case of an eligible insured described in clause (ii) or (iii) of subparagraph (A)."

Subsec. (c)(2)(A). Pub. L. 111–152, §1001(b)(2)(A)(i), substituted "94" for "90".

Subsec. (c)(2)(B). Pub. L. 111–152, §1001(b)(2)(B)(i), substituted "87" for "80".

Subsec. (c)(2)(C). Pub. L. 111–152, §1001(b)(2)(A)(ii), (B)(ii), (C), added subpar. (C).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–2, title II, §2305(b), Mar. 11, 2021, 135 Stat. 40, provided that: "The amendment made by this section [amending this section] shall apply to plan years beginning after December 31, 2020."

[1] *So in original. Probably should be "out-of-pocket".*

[2] *So in original. Probably should be "18031(d)(3)(B)(ii)(I)".*

PART B—ELIGIBILITY DETERMINATIONS

§18081. Procedures for determining eligibility for Exchange participation, premium tax credits and reduced cost-sharing, and individual responsibility exemptions

(a) Establishment of program

The Secretary shall establish a program meeting the requirements of this section for determining—

(1) whether an individual who is to be covered in the individual market by a qualified health plan offered through an Exchange, or who is claiming a premium tax credit or reduced cost-sharing, meets the requirements of sections 18032(f)(3), 18071(e), and 18082(d) of this title and section 36B(e) of title 26 that the individual be a citizen or national of the United States or an alien lawfully present in the United States;

(2) in the case of an individual claiming a premium tax credit or reduced cost-sharing under section 36B of title 26 or section 18071 of this title—

(A) whether the individual meets the income and coverage requirements of such sections; and

(B) the amount of the tax credit or reduced cost-sharing;

(3) whether an individual's coverage under an employer-sponsored health benefits plan is treated as unaffordable under sections 36B(c)(2)(C) and 5000A(e)(2) of title 26; [1] and

(4) whether to grant a certification under section 18031(d)(4)(H) of this title attesting that, for purposes of the individual responsibility requirement under section 5000A of title 26, an individual is entitled to an exemption from either the individual responsibility requirement or the penalty imposed by such section.

(b) Information required to be provided by applicants

(1) In general

An applicant for enrollment in a qualified health plan offered through an Exchange in the individual market shall provide—

(A) the name, address, and date of birth of each individual who is to be covered by the plan (in this subsection referred to as an "enrollee"); and

(B) the information required by any of the following paragraphs that is applicable to an enrollee.

(2) Citizenship or immigration status

The following information shall be provided with respect to every enrollee:

(A) In the case of an enrollee whose eligibility is based on an attestation of citizenship of the enrollee, the enrollee's social security number.

(B) In the case of an individual whose eligibility is based on an attestation of the enrollee's immigration status, the enrollee's social security number (if applicable) and such identifying information with respect to the enrollee's immigration status as the Secretary, after consultation with the Secretary of Homeland Security, determines appropriate.

(3) Eligibility and amount of tax credit or reduced cost-sharing

In the case of an enrollee with respect to whom a premium tax credit or reduced cost-sharing under section 36B of title 26 or section 18071 of this title is being claimed, the following information:

(A) Information regarding income and family size

The information described in section 6103(l)(21) of title 26 [1] for the taxable year ending with or within the second calendar year preceding the calendar year in which the plan year begins.

(B) Certain individual health insurance policies obtained through small employers

The amount of the enrollee's permitted benefit (as defined in section 9831(d)(3)(C) of title 26) under a qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of such title).

(C) Changes in circumstances

The information described in section 18082(b)(2) of this title, including information with respect to individuals who were not required to file an income tax return for the taxable year described in subparagraph (A) or individuals who experienced changes in marital status or family size or significant reductions in income.

(4) Employer-sponsored coverage

In the case of an enrollee with respect to whom eligibility for a premium tax credit under section 36B of title 26 or cost-sharing reduction under section 18071 of this title is being established on the basis that the enrollee's (or related individual's) employer is not treated under section 36B(c)(2)(C) of title 26 as providing minimum essential coverage or affordable minimum essential coverage, the following information:

(A) The name, address, and employer identification number (if available) of the employer.

(B) Whether the enrollee or individual is a full-time employee and whether the employer provides such minimum essential coverage.

(C) If the employer provides such minimum essential coverage, the lowest cost option for the enrollee's or individual's enrollment status and the enrollee's or individual's required contribution (within the meaning of section 5000A(e)(1)(B) of title 26) under the employer-sponsored plan.

(D) If an enrollee claims an employer's minimum essential coverage is unaffordable, the information described in paragraph (3).

If an enrollee changes employment or obtains additional employment while enrolled in a qualified health plan for which such credit or reduction is allowed, the enrollee shall notify the Exchange of such change or additional employment and provide the information described in this paragraph with respect to the new employer.

(5) Exemptions from individual responsibility requirements

In the case of an individual who is seeking an exemption certificate under section 18031(d)(4)(H) of this title from any requirement or penalty imposed by section 5000A of title 26, [1] the following information:

(A) In the case of an individual seeking exemption based on the individual's status as a member of an exempt religious sect or division, as a member of a health care sharing ministry, as an Indian, or as an individual eligible for a hardship exemption, such information as the Secretary shall prescribe.

(B) In the case of an individual seeking exemption based on the lack of affordable coverage or the individual's status as a taxpayer with household income less than 100 percent of the poverty line, the information described in paragraphs (3) and (4), as applicable.

(c) Verification of information contained in records of specific Federal officials

(1) Information transferred to Secretary

An Exchange shall submit the information provided by an applicant under subsection (b) to the Secretary for verification in accordance with the requirements of this subsection and subsection (d).

(2) Citizenship or immigration status

(A) Commissioner of Social Security

The Secretary shall submit to the Commissioner of Social Security the following information for a determination as to whether the information provided is consistent with the information in the records of the Commissioner:

(i) The name, date of birth, and social security number of each individual for whom such information was provided under subsection (b)(2).

(ii) The attestation of an individual that the individual is a citizen.

(B) Secretary of Homeland Security

(i) In general

In the case of an individual—

(I) who attests that the individual is an alien lawfully present in the United States; or

(II) who attests that the individual is a citizen but with respect to whom the Commissioner of Social Security has notified the Secretary under subsection (e)(3) that the attestation is inconsistent with information in the records maintained by the Commissioner;

the Secretary shall submit to the Secretary of Homeland Security the information described in clause (ii) for a determination as to whether the information provided is consistent with the information in the records of the Secretary of Homeland Security.

(ii) Information

The information described in clause (ii) is the following:

(I) The name, date of birth, and any identifying information with respect to the individual's immigration status provided under subsection (b)(2).

(II) The attestation that the individual is an alien lawfully present in the United States or in the case of an individual described in clause (i)(II), the attestation that the individual is a citizen.

(3) Eligibility for tax credit and cost-sharing reduction

The Secretary shall submit the information described in subsection (b)(3)(A) provided under paragraph (3), (4), or (5) of subsection (b) to the Secretary of the Treasury for verification of household income and family size for purposes of eligibility.

(4) Methods

(A) In general

The Secretary, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security, shall provide that verifications and determinations under this subsection shall be done—

(i) through use of an on-line system or otherwise for the electronic submission of, and response to, the information submitted under this subsection with respect to an applicant; or

(ii) by determining the consistency of the information submitted with the information maintained in the records of the Secretary of the Treasury, the Secretary of Homeland Security, or the Commissioner of Social Security through such other method as is approved by the Secretary.

(B) Flexibility

The Secretary may modify the methods used under the program established by this section for the Exchange [2] and verification of information if the Secretary determines such modifications would reduce the administrative costs and burdens on the applicant, including

allowing an applicant to request the Secretary of the Treasury to provide the information described in paragraph (3) directly to the Exchange or to the Secretary. The Secretary shall not make any such modification unless the Secretary determines that any applicable requirements under this section and section 6103 of title 26 with respect to the confidentiality, disclosure, maintenance, or use of information will be met.

(d) Verification by Secretary

In the case of information provided under subsection (b) that is not required under subsection (c) to be submitted to another person for verification, the Secretary shall verify the accuracy of such information in such manner as the Secretary determines appropriate, including delegating responsibility for verification to the Exchange.

(e) Actions relating to verification

(1) In general

Each person to whom the Secretary provided information under subsection (c) shall report to the Secretary under the method established under subsection (c)(4) the results of its verification and the Secretary shall notify the Exchange of such results. Each person to whom the Secretary provided information under subsection (d) shall report to the Secretary in such manner as the Secretary determines appropriate.

(2) Verification

(A) Eligibility for enrollment and premium tax credits and cost-sharing reductions

If information provided by an applicant under paragraphs (1), (2), (3), and (4) of subsection (b) is verified under subsections (c) and (d)—

(i) the individual's eligibility to enroll through the Exchange and to apply for premium tax credits and cost-sharing reductions shall be satisfied; and

(ii) the Secretary shall, if applicable, notify the Secretary of the Treasury under section 18082(c) of this title of the amount of any advance payment to be made.

(B) Exemption from individual responsibility

If information provided by an applicant under subsection (b)(5) is verified under subsections (c) and (d), the Secretary shall issue the certification of exemption described in section 18031(d)(4)(H) of this title.

(3) Inconsistencies involving attestation of citizenship or lawful presence

If the information provided by any applicant under subsection (b)(2) is inconsistent with information in the records maintained by the Commissioner of Social Security or Secretary of Homeland Security, whichever is applicable, the applicant's eligibility will be determined in the same manner as an individual's eligibility under the medicaid program is determined under section 1396a(ee) of this title (as in effect on January 1, 2010).

(4) Inconsistencies involving other information

(A) In general

If the information provided by an applicant under subsection (b) (other than subsection (b)(2)) is inconsistent with information in the records maintained by persons under subsection (c) or is not verified under subsection (d), the Secretary shall notify the Exchange and the Exchange shall take the following actions:

(i) Reasonable effort

The Exchange shall make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the applicant to confirm the accuracy of the information, and by taking such additional actions as the Secretary, through regulation or other guidance, may identify.

(ii) Notice and opportunity to correct

In the case the inconsistency or inability to verify is not resolved under subparagraph (A), the Exchange shall—

(I) notify the applicant of such fact;

(II) provide the applicant an opportunity to either present satisfactory documentary evidence or resolve the inconsistency with the person verifying the information under subsection (c) or (d) during the 90-day period beginning the date on which the notice required under subclause (I) is sent to the applicant.

The Secretary may extend the 90-day period under subclause (II) for enrollments occurring during 2014.

(B) Specific actions not involving citizenship or lawful presence

(i) In general

Except as provided in paragraph (3), the Exchange shall, during any period before the close of the period under subparagraph (A)(ii)(II), make any determination under paragraphs (2), (3), and (4) of subsection (a) on the basis of the information contained on the application.

(ii) Eligibility or amount of credit or reduction

If an inconsistency involving the eligibility for, or amount of, any premium tax credit or cost-sharing reduction is unresolved under this subsection as of the close of the period under subparagraph (A)(ii)(II), the Exchange shall notify the applicant of the amount (if any) of the credit or reduction that is determined on the basis of the records maintained by persons under subsection (c).

(iii) Employer affordability

If the Secretary notifies an Exchange that an enrollee is eligible for a premium tax credit under section 36B of title 26 or cost-sharing reduction under section 18071 of this title because the enrollee's (or related individual's) employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide that coverage but it is not affordable coverage, the Exchange shall notify the employer of such fact and that the employer may be liable for the payment assessed under section 4980H of title 26.

(iv) Exemption

In any case where the inconsistency involving, or inability to verify, information provided under subsection (b)(5) is not resolved as of the close of the period under subparagraph (A)(ii)(II), the Exchange shall notify an applicant that no certification of exemption from any requirement or payment under section 5000A of such title will be issued.

(C) Appeals process

The Exchange shall also notify each person receiving notice under this paragraph of the appeals processes established under subsection (f).

(f) Appeals and redeterminations

(1) In general

The Secretary, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Commissioner of Social Security, shall establish procedures by which the Secretary or one of such other Federal officers—

(A) hears and makes decisions with respect to appeals of any determination under subsection (e); and

(B) redetermines eligibility on a periodic basis in appropriate circumstances.

(2) Employer liability

(A) In general

The Secretary shall establish a separate appeals process for employers who are notified under

subsection (e)(4)(C) that the employer may be liable for a tax imposed by section 4980H of title 26 with respect to an employee because of a determination that the employer does not provide minimum essential coverage through an employer-sponsored plan or that the employer does provide that coverage but it is not affordable coverage with respect to an employee. Such process shall provide an employer the opportunity to—

(i) present information to the Exchange for review of the determination either by the Exchange or the person making the determination, including evidence of the employer-sponsored plan and employer contributions to the plan; and

(ii) have access to the data used to make the determination to the extent allowable by law.

Such process shall be in addition to any rights of appeal the employer may have under subtitle F of such title.

(B) Confidentiality

Notwithstanding any provision of this title [1] (or the amendments made by this title) [1] or section 6103 of title 26, an employer shall not be entitled to any taxpayer return information with respect to an employee for purposes of determining whether the employer is subject to the penalty under section 4980H of title 26 with respect to the employee, except that—

(i) the employer may be notified as to the name of an employee and whether or not the employee's income is above or below the threshold by which the affordability of an employer's health insurance coverage is measured; and

(ii) this subparagraph shall not apply to an employee who provides a waiver (at such time and in such manner as the Secretary may prescribe) authorizing an employer to have access to the employee's taxpayer return information.

(g) Confidentiality of applicant information

(1) In general

An applicant for insurance coverage or for a premium tax credit or cost-sharing reduction shall be required to provide only the information strictly necessary to authenticate identity, determine eligibility, and determine the amount of the credit or reduction.

(2) Receipt of information

Any person who receives information provided by an applicant under subsection (b) (whether directly or by another person at the request of the applicant), or receives information from a Federal agency under subsection (c), (d), or (e), shall—

(A) use the information only for the purposes of, and to the extent necessary in, ensuring the efficient operation of the Exchange, including verifying the eligibility of an individual to enroll through an Exchange or to claim a premium tax credit or cost-sharing reduction or the amount of the credit or reduction; and

(B) not disclose the information to any other person except as provided in this section.

(h) Penalties

(1) False or fraudulent information

(A) Civil penalty

(i) In general

If—

(I) any person fails to provides [3] correct information under subsection (b); and

(II) such failure is attributable to negligence or disregard of any rules or regulations of the Secretary,

such person shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $25,000 with respect to any failures involving an application for a plan year. For purposes of this subparagraph, the terms "negligence" and

"disregard" shall have the same meanings as when used in section 6662 of title 26.

(ii) Reasonable cause exception

No penalty shall be imposed under clause (i) if the Secretary determines that there was a reasonable cause for the failure and that the person acted in good faith.

(B) Knowing and willful violations

Any person who knowingly and willfully provides false or fraudulent information under subsection (b) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $250,000.

(2) Improper use or disclosure of information

Any person who knowingly and willfully uses or discloses information in violation of subsection (g) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil penalty of not more than $25,000.

(3) Limitations on liens and levies

The Secretary (or, if applicable, the Attorney General of the United States) shall not—

(A) file notice of lien with respect to any property of a person by reason of any failure to pay the penalty imposed by this subsection; or

(B) levy on any such property with respect to such failure.

(i) Study of administration of employer responsibility

(1) In general

The Secretary of Health and Human Services shall, in consultation with the Secretary of the Treasury, conduct a study of the procedures that are necessary to ensure that in the administration of this title [1] and section 4980H of title 26 (as added by section 1513) [1] that the following rights are protected:

(A) The rights of employees to preserve their right to confidentiality of their taxpayer return information and their right to enroll in a qualified health plan through an Exchange if an employer does not provide affordable coverage.

(B) The rights of employers to adequate due process and access to information necessary to accurately determine any payment assessed on employers.

(2) Report

Not later than January 1, 2013, the Secretary of Health and Human Services shall report the results of the study conducted under paragraph (1), including any recommendations for legislative changes, to the Committees on Finance and Health, Education, Labor and Pensions of the Senate and the Committees of [4] Education and Labor and Ways and Means of the House of Representatives.

(Pub. L. 111–148, title I, §1411, Mar. 23, 2010, 124 Stat. 224; Pub. L. 114–255, div. C, title XVIII, §18001(a)(6)(B), Dec. 13, 2016, 130 Stat. 1342.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 36B(c)(2)(C) and 5000A(e)(2) of title 26, section 6103(l)(21) of title 26, and section 5000A of title 26, referred to in subsecs. (a)(3) and (b)(3)(A), (5), were in the original "sections 36B(c)(2)(C) and 5000A(e)(2)", "section 6103(l)(21)", and "section 5000A", respectively, and were translated as if they had been followed by "of the Internal Revenue Code of 1986", to reflect the probable intent of Congress.

This title, referred to in subsecs. (f)(2)(B) and (i)(1), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

Section 1513, referred to in subsec. (i)(1), means section 1513 of Pub. L. 111–148.

AMENDMENTS

2016—Subsec. (b)(3)(B), (C). Pub. L. 114–255 added subpar. (B) and redesignated former subpar. (B) as (C).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114–255 applicable to applications for enrollment made after Dec. 31, 2016, see section 18001(a)(7)(F) of Pub. L. 114–255, set out in a note under section 36B of Title 26, Internal Revenue Code.

VERIFICATION OF HOUSEHOLD INCOME AND OTHER QUALIFICATIONS FOR THE PROVISION OF ACA PREMIUM AND COST-SHARING SUBSIDIES

Pub. L. 113–46, div. B, §1001, Oct. 17, 2013, 127 Stat. 566, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (referred to in this section as the 'Secretary') shall ensure that American Health Benefit Exchanges verify that individuals applying for premium tax credits under section 36B of the Internal Revenue Code of 1986 [26 U.S.C. 36B] and reductions in cost-sharing under section 1402 of the Patient Protection and Affordable Care Act (42 U.S.C. 18071) are eligible for such credits and cost sharing reductions consistent with the requirements of section 1411 of such Act (42 U.S.C. 18081), and, prior to making such credits and reductions available, the Secretary shall certify to the Congress that the Exchanges verify such eligibility consistent with the requirements of such Act [Pub. L. 111–148, see Tables for classification].

"(b) REPORT BY SECRETARY.—Not later than January 1, 2014, the Secretary shall submit a report to the Congress that details the procedures employed by American Health Benefit Exchanges to verify eligibility for credits and cost-sharing reductions described in subsection (a).

"(c) REPORT BY INSPECTOR GENERAL.—Not later than July 1, 2014, the Inspector General of the Department of Health and Human Services shall submit to the Congress a report regarding the effectiveness of the procedures and safeguards provided under the Patient Protection and Affordable Care Act for preventing the submission of inaccurate or fraudulent information by applicants for enrollment in a qualified health plan offered through an American Health Benefit Exchange."

[1] See References in Text note below.

[2] So in original. Probably should not be capitalized.

[3] So in original. Probably should be "provide".

[4] So in original. Probably should be "on".

§18082. Advance determination and payment of premium tax credits and cost-sharing reductions

(a) In general

The Secretary, in consultation with the Secretary of the Treasury, shall establish a program under which—

(1) upon request of an Exchange, advance determinations are made under section 18081 of this title with respect to the income eligibility of individuals enrolling in a qualified health plan in the individual market through the Exchange for the premium tax credit allowable under section 36B of title 26 and the cost-sharing reductions under section 18071 of this title;

(2) the Secretary notifies—

(A) the Exchange and the Secretary of the Treasury of the advance determinations; and

(B) the Secretary of the Treasury of the name and employer identification number of each employer with respect to whom 1 or more employee [1] of the employer were determined to be eligible for the premium tax credit under section 36B of title 26 and the cost-sharing reductions

under section 18071 of this title because—

(i) the employer did not provide minimum essential coverage; or

(ii) the employer provided such minimum essential coverage but it was determined under section 36B(c)(2)(C) of title 26 to either be unaffordable to the employee or not provide the required minimum actuarial value; and

(3) the Secretary of the Treasury makes advance payments of such credit or reductions to the issuers of the qualified health plans in order to reduce the premiums payable by individuals eligible for such credit.

(b) Advance determinations

(1) In general

The Secretary shall provide under the program established under subsection (a) that advance determination of eligibility with respect to any individual shall be made—

(A) during the annual open enrollment period applicable to the individual (or such other enrollment period as may be specified by the Secretary); and

(B) on the basis of the individual's household income for the most recent taxable year for which the Secretary, after consultation with the Secretary of the Treasury, determines information is available.

(2) Changes in circumstances

The Secretary shall provide procedures for making advance determinations on the basis of information other than that described in paragraph (1)(B) in cases where information included with an application form demonstrates substantial changes in income, changes in family size or other household circumstances, change in filing status, the filing of an application for unemployment benefits, or other significant changes affecting eligibility, including—

(A) allowing an individual claiming a decrease of 20 percent or more in income, or filing an application for unemployment benefits, to have eligibility for the credit determined on the basis of household income for a later period or on the basis of the individual's estimate of such income for the taxable year; and

(B) the determination of household income in cases where the taxpayer was not required to file a return of tax imposed by this chapter for the second preceding taxable year.

(c) Payment of premium tax credits and cost-sharing reductions

(1) In general

The Secretary shall notify the Secretary of the Treasury and the Exchange through which the individual is enrolling of the advance determination under section 18081 of this title.

(2) Premium tax credit

(A) In general

The Secretary of the Treasury shall make the advance payment under this section of any premium tax credit allowed under section 36B of title 26 to the issuer of a qualified health plan on a monthly basis (or such other periodic basis as the Secretary may provide).

(B) Issuer responsibilities

An issuer of a qualified health plan receiving an advance payment with respect to an individual enrolled in the plan shall—

(i) reduce the premium charged the insured for any period by the amount of the advance payment for the period;

(ii) notify the Exchange and the Secretary of such reduction;

(iii) include with each billing statement the amount by which the premium for the plan has been reduced by reason of the advance payment; and

(iv) in the case of any nonpayment of premiums by the insured—

(I) notify the Secretary of such nonpayment; and

(II) allow a 3-month grace period for nonpayment of premiums before discontinuing coverage.

(3) Cost-sharing reductions

The Secretary shall also notify the Secretary of the Treasury and the Exchange under paragraph (1) if an advance payment of the cost-sharing reductions under section 18071 of this title is to be made to the issuer of any qualified health plan with respect to any individual enrolled in the plan. The Secretary of the Treasury shall make such advance payment at such time and in such amount as the Secretary specifies in the notice.

(d) No Federal payments for individuals not lawfully present

Nothing in this subtitle or the amendments made by this subtitle allows Federal payments, credits, or cost-sharing reductions for individuals who are not lawfully present in the United States.

(e) State flexibility

Nothing in this subtitle or the amendments made by this subtitle shall be construed to prohibit a State from making payments to or on behalf of an individual for coverage under a qualified health plan offered through an Exchange that are in addition to any credits or cost-sharing reductions allowable to the individual under this subtitle and such amendments.

(Pub. L. 111–148, title I, §1412, Mar. 23, 2010, 124 Stat. 231.)

EDITORIAL NOTES

REFERENCES IN TEXT

This subtitle, referred to in subsecs. (d) and (e), is subtitle E (§§1401–1421) of title I of Pub. L. 111–148, which enacted this subchapter and sections 36B and 45R of Title 26, Internal Revenue Code, amended section 405 of this title, sections 38, 196, 280C, 6103, and 7213 of Title 26, and section 1324 of Title 31, Money and Finance, and enacted provisions set out as notes under sections 36B and 38 of Title 26. For complete classification of subtitle E to the Code, see Tables.

[1] So in original. Probably should be "employees".

§18083. Streamlining of procedures for enrollment through an Exchange and State medicaid, CHIP, and health subsidy programs

(a) In general

The Secretary shall establish a system meeting the requirements of this section under which residents of each State may apply for enrollment in, receive a determination of eligibility for participation in, and continue participation in, applicable State health subsidy programs. Such system shall ensure that if an individual applying to an Exchange is found through screening to be eligible for medical assistance under the State medicaid plan under title XIX [1] [42 U.S.C. 1396 et seq.], or eligible for enrollment under a State children's health insurance program (CHIP) under title XXI of such Act [42 U.S.C. 1397aa et seq.], the individual is enrolled for assistance under such plan or program.

(b) Requirements relating to forms and notice

(1) Requirements relating to forms

(A) In general

The Secretary shall develop and provide to each State a single, streamlined form that—

(i) may be used to apply for all applicable State health subsidy programs within the State;

(ii) may be filed online, in person, by mail, or by telephone;

(iii) may be filed with an Exchange or with State officials operating one of the other

applicable State health subsidy programs; and

(iv) is structured to maximize an applicant's ability to complete the form satisfactorily, taking into account the characteristics of individuals who qualify for applicable State health subsidy programs.

(B) State authority to establish form

A State may develop and use its own single, streamlined form as an alternative to the form developed under subparagraph (A) if the alternative form is consistent with standards promulgated by the Secretary under this section.

(C) Supplemental eligibility forms

The Secretary may allow a State to use a supplemental or alternative form in the case of individuals who apply for eligibility that is not determined on the basis of the household income (as defined in section 36B of title 26).

(2) Notice

The Secretary shall provide that an applicant filing a form under paragraph (1) shall receive notice of eligibility for an applicable State health subsidy program without any need to provide additional information or paperwork unless such information or paperwork is specifically required by law when information provided on the form is inconsistent with data used for the electronic verification under paragraph (3) or is otherwise insufficient to determine eligibility.

(c) Requirements relating to eligibility based on data exchanges

(1) Development of secure interfaces

Each State shall develop for all applicable State health subsidy programs a secure, electronic interface allowing an exchange of data (including information contained in the application forms described in subsection (b)) that allows a determination of eligibility for all such programs based on a single application. Such interface shall be compatible with the method established for data verification under section 18081(c)(4) of this title.

(2) Data matching program

Each applicable State health subsidy program shall participate in a data matching arrangement for determining eligibility for participation in the program under paragraph (3) that—

(A) provides access to data described in paragraph (3);

(B) applies only to individuals who—

(i) receive assistance from an applicable State health subsidy program; or

(ii) apply for such assistance—

(I) by filing a form described in subsection (b); or

(II) by requesting a determination of eligibility and authorizing disclosure of the information described in paragraph (3) to applicable State health coverage subsidy programs for purposes of determining and establishing eligibility; and

(C) consistent [2] with standards promulgated by the Secretary, including the privacy and data security safeguards described in section 1942 of the Social Security Act [42 U.S.C. 1396w–2] or that are otherwise applicable to such programs.

(3) Determination of eligibility

(A) In general

Each applicable State health subsidy program shall, to the maximum extent practicable—

(i) establish, verify, and update eligibility for participation in the program using the data matching arrangement under paragraph (2); and

(ii) determine such eligibility on the basis of reliable, third party data, including information described in sections 1137, 453(i), and 1942(a) of the Social Security Act [42 U.S.C. 1320b–7, 653(i), 1396w–2(a)], obtained through such arrangement.

(B) Exception

This paragraph shall not apply in circumstances with respect to which the Secretary determines that the administrative and other costs of use of the data matching arrangement under paragraph (2) outweigh its expected gains in accuracy, efficiency, and program participation.

(4) Secretarial standards

The Secretary shall, after consultation with persons in possession of the data to be matched and representatives of applicable State health subsidy programs, promulgate standards governing the timing, contents, and procedures for data matching described in this subsection. Such standards shall take into account administrative and other costs and the value of data matching to the establishment, verification, and updating of eligibility for applicable State health subsidy programs.

(d) Administrative authority

(1) Agreements

Subject to section 18081 of this title and section 6103(l)(21) of title 26 and any other requirement providing safeguards of privacy and data integrity, the Secretary may establish model agreements, and enter into agreements, for the sharing of data under this section.

(2) Authority of exchange to contract out

Nothing in this section shall be construed to—

(A) prohibit contractual arrangements through which a State medicaid agency determines eligibility for all applicable State health subsidy programs, but only if such agency complies with the Secretary's requirements ensuring reduced administrative costs, eligibility errors, and disruptions in coverage; or

(B) change any requirement under title XIX [1] that eligibility for participation in a State's medicaid program must be determined by a public agency.

(e) Applicable State health subsidy program

In this section, the term "applicable State health subsidy program" means—

(1) the program under this title [3] for the enrollment in qualified health plans offered through an Exchange, including the premium tax credits under section 36B of title 26 and cost-sharing reductions under section 18071 of this title;

(2) a State medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.];

(3) a State children's health insurance program (CHIP) under title XXI of such Act [42 U.S.C. 1397aa et seq.]; and

(4) a State program under section 18051 of this title establishing qualified basic health plans.

(Pub. L. 111–148, title I, §1413, Mar. 23, 2010, 124 Stat. 233.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a), (d)(2)(B), and (e)(2), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

This title, where footnoted in subsec. (e)(1), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

[1] So in original. Probably should be followed by "of the Social Security Act".

[2] *So in original. Probably should be preceded by "is".*

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

§18084. Premium tax credit and cost-sharing reduction payments disregarded for Federal and federally-assisted programs

For purposes of determining the eligibility of any individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds—

(1) any credit or refund allowed or made to any individual by reason of section 36B of title 26 (as added by section 1401) [1] shall not be taken into account as income and shall not be taken into account as resources for the month of receipt and the following 2 months; and

(2) any cost-sharing reduction payment or advance payment of the credit allowed under such section 36B that is made under section 18071 or 18082 of this title shall be treated as made to the qualified health plan in which an individual is enrolled and not to that individual.

(Pub. L. 111–148, title I, §1415, Mar. 23, 2010, 124 Stat. 237.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1401, referred to in par. (1), means section 1401 of Pub. L. 111–148.

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

SUBCHAPTER V—SHARED RESPONSIBILITY FOR HEALTH CARE

PART A—INDIVIDUAL RESPONSIBILITY

§18091. Requirement to maintain minimum essential coverage; findings

Congress makes the following findings:

(1) In general

The individual responsibility requirement provided for in this section (in this section referred to as the "requirement") is commercial and economic in nature, and substantially affects interstate commerce, as a result of the effects described in paragraph (2).

(2) Effects on the national economy and interstate commerce

The effects described in this paragraph are the following:

(A) The requirement regulates activity that is commercial and economic in nature: economic and financial decisions about how and when health care is paid for, and when health insurance is purchased. In the absence of the requirement, some individuals would make an economic and financial decision to forego health insurance coverage and attempt to self-insure, which increases financial risks to households and medical providers.

(B) Health insurance and health care services are a significant part of the national economy. National health spending is projected to increase from $2,500,000,000,000, or 17.6 percent of the economy, in 2009 to $4,700,000,000,000 in 2019. Private health insurance spending is

projected to be $854,000,000,000 in 2009, and pays for medical supplies, drugs, and equipment that are shipped in interstate commerce. Since most health insurance is sold by national or regional health insurance companies, health insurance is sold in interstate commerce and claims payments flow through interstate commerce.

(C) The requirement, together with the other provisions of this Act, will add millions of new consumers to the health insurance market, increasing the supply of, and demand for, health care services, and will increase the number and share of Americans who are insured.

(D) The requirement achieves near-universal coverage by building upon and strengthening the private employer-based health insurance system, which covers 176,000,000 Americans nationwide. In Massachusetts, a similar requirement has strengthened private employer-based coverage: despite the economic downturn, the number of workers offered employer-based coverage has actually increased.

(E) The economy loses up to $207,000,000,000 a year because of the poorer health and shorter lifespan of the uninsured. By significantly reducing the number of the uninsured, the requirement, together with the other provisions of this Act, will significantly reduce this economic cost.

(F) The cost of providing uncompensated care to the uninsured was $43,000,000,000 in 2008. To pay for this cost, health care providers pass on the cost to private insurers, which pass on the cost to families. This cost-shifting increases family premiums by on average over $1,000 a year. By significantly reducing the number of the uninsured, the requirement, together with the other provisions of this Act, will lower health insurance premiums.

(G) 62 percent of all personal bankruptcies are caused in part by medical expenses. By significantly increasing health insurance coverage, the requirement, together with the other provisions of this Act, will improve financial security for families.

(H) Under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), the Public Health Service Act (42 U.S.C. 201 et seq.), and this Act, the Federal Government has a significant role in regulating health insurance. The requirement is an essential part of this larger regulation of economic activity, and the absence of the requirement would undercut Federal regulation of the health insurance market.

(I) Under sections 2704 and 2705 of the Public Health Service Act [42 U.S.C. 300gg–3, 300gg–4] (as added by section 1201 of this Act), if there were no requirement, many individuals would wait to purchase health insurance until they needed care. By significantly increasing health insurance coverage, the requirement, together with the other provisions of this Act, will minimize this adverse selection and broaden the health insurance risk pool to include healthy individuals, which will lower health insurance premiums. The requirement is essential to creating effective health insurance markets in which improved health insurance products that are guaranteed issue and do not exclude coverage of pre-existing conditions can be sold.

(J) Administrative costs for private health insurance, which were $90,000,000,000 in 2006, are 26 to 30 percent of premiums in the current individual and small group markets. By significantly increasing health insurance coverage and the size of purchasing pools, which will increase economies of scale, the requirement, together with the other provisions of this Act, will significantly reduce administrative costs and lower health insurance premiums. The requirement is essential to creating effective health insurance markets that do not require underwriting and eliminate its associated administrative costs.

(3) Supreme Court ruling

In United States v. South-Eastern Underwriters Association (322 U.S. 533 (1944)), the Supreme Court of the United States ruled that insurance is interstate commerce subject to Federal regulation.

(Pub. L. 111–148, title I, §1501(a), title X, §10106(a), Mar. 23, 2010, 124 Stat. 242, 907.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in par. (2)(C), (E) to (J), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in par. (2)(H), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Public Health Service Act, referred to in par. (2)(H), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

AMENDMENTS

2010—Par. (2). Pub. L. 111–148, §10106(a), amended par. (2) generally. Prior to amendment, par. (2) described effects of the individual responsibility requirement on the national economy and interstate commerce.

§18092. Notification of nonenrollment

Not later than June 30 of each year, the Secretary of the Treasury, acting through the Internal Revenue Service and in consultation with the Secretary of Health and Human Services, shall send a notification to each individual who files an individual income tax return and who is not enrolled in minimum essential coverage (as defined in section 5000A of title 26). Such notification shall contain information on the services available through the Exchange operating in the State in which such individual resides.

(Pub. L. 111–148, title I, §1502(c), Mar. 23, 2010, 124 Stat. 251.)

PART B—EMPLOYER RESPONSIBILITIES

§18101. Repealed. Pub. L. 112–10, div. B, title VIII, §1858(a), Apr. 15, 2011, 125 Stat. 168

Section, Pub. L. 111–148, title X, §10108(a)–(e), Mar. 23, 2010, 124 Stat. 912, 913, related to free choice vouchers.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 112–10 effective as if included in the provisions of, and the amendments made by, the provisions of Pub. L. 111–148 to which it relates, see section 1858(d) of Pub. L. 112–10, set out as an Effective Date of 2011 Amendment note under section 36B of Title 26, Internal Revenue Code.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§18111. Definitions

Unless specifically provided for otherwise, the definitions contained in section 300gg–91 of this title shall apply with respect to this title.[1]

(Pub. L. 111–148, title I, §1551, Mar. 23, 2010, 124 Stat. 258.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, where footnoted in text, is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

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

§18112. Transparency in Government

Not later than 30 days after March 23, 2010, the Secretary of Health and Human Services shall publish on the Internet website of the Department of Health and Human Services, a list of all of the authorities provided to the Secretary under this Act (and the amendments made by this Act).

(Pub. L. 111–148, title I, §1552, Mar. 23, 2010, 124 Stat. 258.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

§18113. Prohibition against discrimination on assisted suicide

(a) In general

The Federal Government, and any State or local government or health care provider that receives Federal financial assistance under this Act (or under an amendment made by this Act) or any health plan created under this Act (or under an amendment made by this Act), may not subject an individual or institutional health care entity to discrimination on the basis that the entity does not provide any health care item or service furnished for the purpose of causing, or for the purpose of assisting in causing, the death of any individual, such as by assisted suicide, euthanasia, or mercy killing.

(b) Definition

In this section, the term "health care entity" includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

(c) Construction and treatment of certain services

Nothing in subsection (a) shall be construed to apply to, or to affect, any limitation relating to—

(1) the withholding or withdrawing of medical treatment or medical care;

(2) the withholding or withdrawing of nutrition or hydration;

(3) abortion; or

(4) the use of an item, good, benefit, or service furnished for the purpose of alleviating pain or discomfort, even if such use may increase the risk of death, so long as such item, good, benefit, or service is not also furnished for the purpose of causing, or the purpose of assisting in causing, death, for any reason.

(d) Administration

The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this section.

(Pub. L. 111–148, title I, §1553, Mar. 23, 2010, 124 Stat. 259.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

§18114. Access to therapies

Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall not promulgate any regulation that—

(1) creates any unreasonable barriers to the ability of individuals to obtain appropriate medical care;

(2) impedes timely access to health care services;

(3) interferes with communications regarding a full range of treatment options between the patient and the provider;

(4) restricts the ability of health care providers to provide full disclosure of all relevant information to patients making health care decisions;

(5) violates the principles of informed consent and the ethical standards of health care professionals; or

(6) limits the availability of health care treatment for the full duration of a patient's medical needs.

(Pub. L. 111–148, title I, §1554, Mar. 23, 2010, 124 Stat. 259.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

§18115. Freedom not to participate in Federal health insurance programs

No individual, company, business, nonprofit entity, or health insurance issuer offering group or individual health insurance coverage shall be required to participate in any Federal health insurance program created under this Act (or any amendments made by this Act), or in any Federal health insurance program expanded by this Act (or any such amendments), and there shall be no penalty or fine imposed upon any such issuer for choosing not to participate in such programs.

(Pub. L. 111–148, title I, §1555, Mar. 23, 2010, 124 Stat. 260.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

§18116. Nondiscrimination

(a) In general

Except as otherwise provided for in this title [1] (or an amendment made by this title),[1] an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 794 of title 29, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title [1] (or amendments). The enforcement mechanisms provided for and available under such title VI, title IX, section 794, or such Age Discrimination Act shall apply for purposes of violations of this subsection.

(b) Continued application of laws

Nothing in this title [1] (or an amendment made by this title) [1] shall be construed to invalidate or limit the rights, remedies, procedures, or legal standards available to individuals aggrieved under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 794 of title 29, or the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], or to supersede State laws that provide additional protections against discrimination on any basis described in subsection (a).

(c) Regulations

The Secretary may promulgate regulations to implement this section.

(Pub. L. 111–148, title I, §1557, Mar. 23, 2010, 124 Stat. 260.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (a) and (b), is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

The Civil Rights Act of 1964, referred to in subsecs. (a) and (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Titles VI and VII of the Act are classified generally to subchapters V (§2000d et seq.) and VI (§2000e et seq.), respectively, of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Education Amendments of 1972, referred to in subsecs. (a) and (b), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§1681 et seq.) of Title 20, Education. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of Title 20 and Tables.

The Age Discrimination Act of 1975, referred to in subsecs. (a) and (b), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

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

§18117. Oversight

The Inspector General of the Department of Health and Human Services shall have oversight authority with respect to the administration and implementation of this title [1] as it relates to such Department.

(Pub. L. 111–148, title I, §1559, Mar. 23, 2010, 124 Stat. 261.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

[1] See References in Text note below.

§18118. Rules of construction

(a) No effect on antitrust laws

Nothing in this title [1] (or an amendment made by this title) [1] shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For the purposes of this section, the term "antitrust laws" has the meaning given such term in subsection (a) of section 12 of title 15, except that such term includes section 45 of title 15 to the extent that such section 45 applies to unfair methods of competition.

(b) Rule of construction regarding Hawaii's Prepaid Health Care Act

Nothing in this title [1] (or an amendment made by this title) [1] shall be construed to modify or limit the application of the exemption for Hawaii's Prepaid Health Care Act (Haw. Rev. Stat. §§393–1 et seq.) as provided for under section 1144(b)(5) of title 29.

(c) Student health insurance plans

Nothing in this title [1] (or an amendment made by this title) [1] shall be construed to prohibit an institution of higher education (as such term is defined for purposes of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.]) from offering a student health insurance plan, to the extent that such requirement is otherwise permitted under applicable Federal, State or local law.

(d) No effect on existing requirements

Nothing in this title [1] (or an amendment made by this title,[1] unless specified by direct statutory reference) shall be construed to modify any existing Federal requirement concerning the State agency responsible for determining eligibility for programs identified in section 18083 of this title.

(Pub. L. 111–148, title I, §1560, Mar. 23, 2010, 124 Stat. 261.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, where footnoted in text, is title I of Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

The Higher Education Act of 1965, referred to in subsec. (c), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

[1] See References in Text note below.

§18119. Small business procurement

Part 19 of the Federal Acquisition Regulation, section 644 of title 15, and any other applicable laws or regulations establishing procurement requirements relating to small business concerns (as defined in section 632 of title 15) may not be waived with respect to any contract awarded under any

program or other authority under this Act or an amendment made by this Act.

(Pub. L. 111–148, title I, §1563, as added Pub. L. 111–148, title X, §10107(b)(2), Mar. 23, 2010, 124 Stat. 912.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

CODIFICATION

Another section 1563 of Pub. L. 111–148 enacted section 18120 of this title, section 9815 of Title 26, Internal Revenue Code, and section 1185d of Title 29, Labor, and amended sections 300gg–1 to 300gg–3, 300gg–9, 300gg–11, 300gg–12, 300gg–21 to 300gg–23, 300gg–25 to 300gg–28, 300gg–62, and 300gg–91 of this title.

§18120. Application

Notwithstanding any other provision of the Patient Protection and Affordable Care Act, nothing in such Act (or an amendment made by such Act) shall be construed to—

(1) prohibit (or authorize the Secretary of Health and Human Services to promulgate regulations that prohibit) a group health plan or health insurance issuer from carrying out utilization management techniques that are commonly used as of March 23, 2010; or

(2) restrict the application of the amendments made by this subtitle.

(Pub. L. 111–148, title I, §1563(d), formerly §1562(d), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 269, 911.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in text, is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The amendments made by this subtitle, referred to in par. (2), mean the amendments made by subtitle G (§§1551–1563) of title I of Pub. L. 111–148, which enacted section 300jj–51 of this title, sections 4980H, 5000A, 6055, 6056, and 9815 of Title 26, Internal Revenue Code, and sections 218a to 218c and 1185d of Title 29, Labor, amended sections 300gg–1 to 300gg–3, 300gg–9, 300gg–11, 300gg–12, 300gg–21 to 300gg–23, 300gg–25 to 300gg–28, 300gg–62, and 300gg–91 of this title, sections 125 and 6724 of Title 26, and sections 921 and 932 of Title 30, Mineral Lands and Mining.

CODIFICATION

Another section 1563 of Pub. L. 111–148 is classified to section 18119 of this title.

§18121. Implementation funding

(a) In general

There is hereby established a Health Insurance Reform Implementation Fund (referred to in this section as the "Fund") within the Department of Health and Human Services to carry out the Patient Protection and Affordable Care Act and this Act (and the amendments made by such Acts).

(b) Funding

There is appropriated to the Fund, out of any funds in the Treasury not otherwise appropriated,

$1,000,000,000 for Federal administrative expenses to carry out such Act [1] (and the amendments made by such Acts).

(Pub. L. 111–152, title I, §1005, Mar. 30, 2010, 124 Stat. 1036.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in subsec. (a), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

This Act, referred to in subsec. (a), is Pub. L. 111–152, Mar. 30, 2010, 124 Stat. 1029, known as the Health Care and Education Reconciliation Act of 2010. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note under section 1305 of this title and Tables.

CODIFICATION

Section was enacted as part of the Health Care and Education Reconciliation Act of 2010, and not as part of the Patient Protection and Affordable Care Act which comprises this chapter.

[1] So in original. Probably should be "Acts".

§18122. Rule of construction regarding health care providers

(1) In general

Subject to paragraph (3), the development, recognition, or implementation of any guideline or other standard under any Federal health care provision shall not be construed to establish the standard of care or duty of care owed by a health care provider to a patient in any medical malpractice or medical product liability action or claim.

(2) Definitions

For purposes of this section:

(A) Federal health care provision

The term "Federal health care provision" means any provision of the Patient Protection and Affordable Care Act (Public Law 111–148), title I or subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), or title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq., 42 U.S.C. 1396 et seq.).

(B) Health care provider

The term "health care provider" means any individual, group practice, corporation of health care professionals, or hospital—

(i) licensed, registered, or certified under Federal or State laws or regulations to provide health care services; or

(ii) required to be so licensed, registered, or certified but that is exempted by other statute or regulation.

(C) Medical malpractice or medical product liability action or claim

The term "medical malpractice or medical product liability action or claim" means a medical malpractice action or claim (as defined in section 11151(7) of this title) and includes a liability action or claim relating to a health care provider's prescription or provision of a drug, device, or biological product (as such terms are defined in section 321 of title 21 or section 262 of this title).

(D) State

The term "State" includes the District of Columbia, Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(3) No preemption

Nothing in paragraph (1) or any provision of the Patient Protection and Affordable Care Act (Public Law 111–148), title I or subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), or title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq., 42 U.S.C. 1396 et seq.) shall be construed to preempt any State or common law governing medical professional or medical product liability actions or claims.

(Pub. L. 114–10, title I, §106(d), Apr. 16, 2015, 129 Stat. 142.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in pars. (2)(A) and (3), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The Health Care and Education Reconciliation Act of 2010, referred to in pars. (2)(A) and (3), is Pub. L. 111–152, Mar. 30, 2010, 124 Stat. 1029. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1305 of this title and Tables.

The Social Security Act, referred to in pars. (2)(A) and (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

Section was enacted as part of the Medicare Access and CHIP Reauthorization Act of 2015, and not as part of the Patient Protection and Affordable Care Act which comprises this chapter.

CHAPTER 158—SUPPORT FOR PREGNANT AND PARENTING TEENS AND WOMEN

Sec.

§18201. Definitions

In this chapter:

(1) Accompaniment

The term "accompaniment" means assisting, representing, and accompanying a woman in seeking judicial relief for child support, child custody, restraining orders, and restitution for harm to persons and property, and in filing criminal charges, and may include the payment of court costs and reasonable attorney and witness fees associated therewith.

(2) Eligible institution of higher education

The term "eligible institution of higher education" means an institution of higher education (as such term is defined in section 1001 of title 20) that has established and operates, or agrees to establish and operate upon the receipt of a grant under this chapter, a pregnant and parenting student services office.

(3) Community service center

The term "community service center" means a non-profit organization that provides social services to residents of a specific geographical area via direct service or by contract with a local

governmental agency.

(4) High school

The term "high school" means any public or private school that operates grades 10 through 12, inclusive, grades 9 through 12, inclusive or grades 7 through 12, inclusive.

(5) Intervention services

The term "intervention services" means, with respect to domestic violence, sexual violence, sexual assault, or stalking, 24-hour telephone hotline services for police protection and referral to shelters.

(6) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(7) State

The term "State" includes the District of Columbia, any commonwealth, possession, or other territory of the United States, and any Indian tribe or reservation.

(8) Supportive social services

The term "supportive social services" means transitional and permanent housing, vocational counseling, and individual and group counseling aimed at preventing domestic violence, sexual violence, sexual assault, or stalking.

(9) Violence

The term "violence" means actual violence and the risk or threat of violence.

(Pub. L. 111–148, title X, §10211, Mar. 23, 2010, 124 Stat. 931.)

§18202. Establishment of Pregnancy Assistance Fund

(a) In general

The Secretary, in collaboration and coordination with the Secretary of Education (as appropriate), shall establish a Pregnancy Assistance Fund to be administered by the Secretary, for the purpose of awarding competitive grants to States to assist pregnant and parenting teens and women.

(b) Use of Fund

A State may apply for a grant under subsection (a) to carry out any activities provided for in section 18203 of this title.

(c) Applications

To be eligible to receive a grant under subsection (a), a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the purposes for which the grant is being requested and the designation of a State agency for receipt and administration of funding received under this chapter.

(Pub. L. 111–148, title X, §10212, Mar. 23, 2010, 124 Stat. 932.)

§18203. Permissible uses of Fund

(a) In general

A State shall use amounts received under a grant under section 18202 of this title for the purposes described in this section to assist pregnant and parenting teens and women.

(b) Institutions of higher education

(1) In general

A State may use amounts received under a grant under section 18202 of this title to make

funding available to eligible institutions of higher education to enable the eligible institutions to establish, maintain, or operate pregnant and parenting student services. Such funding shall be used to supplement, not supplant, existing funding for such services.

(2) Application

An eligible institution of higher education that desires to receive funding under this subsection shall submit an application to the designated State agency at such time, in such manner, and containing such information as the State agency may require.

(3) Matching requirement

An eligible institution of higher education that receives funding under this subsection shall contribute to the conduct of the pregnant and parenting student services office supported by the funding an amount from non-Federal funds equal to 25 percent of the amount of the funding provided. The non-Federal share may be in cash or in-kind, fairly evaluated, including services, facilities, supplies, or equipment.

(4) Use of funds for assisting pregnant and parenting college students

An eligible institution of higher education that receives funding under this subsection shall use such funds to establish, maintain or operate pregnant and parenting student services and may use such funding for the following programs and activities:

(A) Conduct a needs assessment on campus and within the local community—

(i) to assess pregnancy and parenting resources, located on the campus or within the local community, that are available to meet the needs described in subparagraph (B); and

(ii) to set goals for—

(I) improving such resources for pregnant, parenting, and prospective parenting students; and

(II) improving access to such resources.

(B) Annually assess the performance of the eligible institution in meeting the following needs of students enrolled in the eligible institution who are pregnant or are parents:

(i) The inclusion of maternity coverage and the availability of riders for additional family members in student health care.

(ii) Family housing.

(iii) Child care.

(iv) Flexible or alternative academic scheduling, such as telecommuting programs, to enable pregnant or parenting students to continue their education or stay in school.

(v) Education to improve parenting skills for mothers and fathers and to strengthen marriages.

(vi) Maternity and baby clothing, baby food (including formula), baby furniture, and similar items to assist parents and prospective parents in meeting the material needs of their children.

(vii) Post-partum counseling.

(C) Identify public and private service providers, located on the campus of the eligible institution or within the local community, that are qualified to meet the needs described in subparagraph (B), and establishes [1] programs with qualified providers to meet such needs.

(D) Assist pregnant and parenting students, fathers or spouses in locating and obtaining services that meet the needs described in subparagraph (B).

(E) If appropriate, provide referrals for prenatal care and delivery, infant or foster care, or adoption, to a student who requests such information. An office shall make such referrals only to service providers that serve the following types of individuals:

(i) Parents.

(ii) Prospective parents awaiting adoption.

(iii) Women who are pregnant and plan on parenting or placing the child for adoption.

(iv) Parenting or prospective parenting couples.

(5) Reporting

(A) Annual report by institutions

(i) In general

For each fiscal year that an eligible institution of higher education receives funds under this subsection, the eligible institution shall prepare and submit to the State, by the date determined by the State, a report that—

(I) itemizes the pregnant and parenting student services office's expenditures for the fiscal year;

(II) contains a review and evaluation of the performance of the office in fulfilling the requirements of this section, using the specific performance criteria or standards established under subparagraph (B)(i); and

(III) describes the achievement of the office in meeting the needs listed in paragraph (4)(B) of the students served by the eligible institution, and the frequency of use of the office by such students.

(ii) Performance criteria

Not later than 180 days before the date the annual report described in clause (i) is submitted, the State—

(I) shall identify the specific performance criteria or standards that shall be used to prepare the report; and

(II) may establish the form or format of the report.

(B) Report by State

The State shall annually prepare and submit a report on the findings under this subsection, including the number of eligible institutions of higher education that were awarded funds and the number of students served by each pregnant and parenting student services office receiving funds under this section, to the Secretary.

(c) Support for pregnant and parenting teens

A State may use amounts received under a grant under section 18202 of this title to make funding available to eligible high schools and community service centers to establish, maintain or operate pregnant and parenting services in the same general manner and in accordance with all conditions and requirements described in subsection (b), except that paragraph (3) of such subsection shall not apply for purposes of this subsection.

(d) Improving services for pregnant women who are victims of domestic violence, sexual violence, sexual assault, and stalking

(1) In general

A State may use amounts received under a grant under section 18202 of this title to make funding available tp [2] its State Attorney General to assist Statewide offices in providing—

(A) intervention services, accompaniment, and supportive social services for eligible pregnant women who are victims of domestic violence, sexual violence, sexual assault, or stalking.

(B) technical assistance and training (as described in subsection (c)) relating to violence against eligible pregnant women to be made available to the following:

(i) Federal, State, tribal, territorial, and local governments, law enforcement agencies, and courts.

(ii) Professionals working in legal, social service, and health care settings.

(iii) Nonprofit organizations.

(iv) Faith-based organizations.

(2) Eligibility

To be eligible for a grant under paragraph (1), a State Attorney General shall submit an application to the designated State agency at such time, in such manner, and containing such information, as specified by the State.

(3) Technical assistance and training described

For purposes of paragraph (1)(B), technical assistance and training is—

(A) the identification of eligible pregnant women experiencing domestic violence, sexual violence, sexual assault, or stalking;

(B) the assessment of the immediate and short-term safety of such a pregnant woman, the evaluation of the impact of the violence or stalking on the pregnant woman's health, and the assistance of the pregnant woman in developing a plan aimed at preventing further domestic violence, sexual violence, sexual assault, or stalking, as appropriate;

(C) the maintenance of complete medical or forensic records that include the documentation of any examination, treatment given, and referrals made, recording the location and nature of the pregnant woman's injuries, and the establishment of mechanisms to ensure the privacy and confidentiality of those medical records; and

(D) the identification and referral of the pregnant woman to appropriate public and private nonprofit entities that provide intervention services, accompaniment, and supportive social services.

(4) Eligible pregnant woman

In this subsection, the term "eligible pregnant woman" means any woman who is pregnant on the date on which such woman becomes a victim of domestic violence, sexual violence, sexual assault, or stalking or who was pregnant during the one-year period before such date.

(e) Public awareness and education

A State may use amounts received under a grant under section 18202 of this title to make funding available to increase public awareness and education concerning any services available to pregnant and parenting teens and women under this chapter, or any other resources available to pregnant and parenting women in keeping with the intent and purposes of this chapter. The State shall be responsible for setting guidelines or limits as to how much of funding may be utilized for public awareness and education in any funding award.

(Pub. L. 111–148, title X, §10213, Mar. 23, 2010, 124 Stat. 932.)

[1] So in original. Probably should be "establish".

[2] So in original. Probably should be "to".

§18204. Appropriations

There is authorized to be appropriated, and there are appropriated, $25,000,000 for each of fiscal years 2010 through 2019, to carry out this chapter.

(Pub. L. 111–148, title X, §10214, Mar. 23, 2010, 124 Stat. 935.)

CHAPTER 159—SPACE EXPLORATION, TECHNOLOGY, AND SCIENCE

Sec.

§18301. Findings

Congress makes the following findings:

(1) The United States human space flight program has, since the first Mercury flight on May 5, 1961, been a source of pride and inspiration for the Nation.

(2) The establishment of and commitment to human exploration goals is essential for providing the necessary long term focus and programmatic consistency and robustness of the United States civilian space program.

(3) The National Aeronautics and Space Administration is and should remain a multi-mission agency with a balanced and robust set of core missions in science, aeronautics, and human space flight and exploration.

(4) In the 50 years since the establishment of NASA, the arena of space has evolved substantially. As the uses and users of space continue to expand, the issues and operations in the regions closest to Earth have become increasingly complex, with a growing number of overlaps between civil, commercial and national security activities. These developments present opportunities and challenges to the space activities of NASA and the United States.

(5) The extraordinary challenges of achieving access to space both motivated and accelerated the development of technologies and industrial capabilities that have had widespread applications which have contributed to the technological excellence of the United States. It is essential to tie space activity to human challenges ranging from enhancing the influence, relationships, security, economic development, and commerce of the United States to improving the overall human condition.

(6) It is essential to the economic well-being of the United States that the aerospace industrial capacity, highly skilled workforce, and embedded expertise remain engaged in demanding, challenging, and exciting efforts that ensure United States leadership in space exploration and related activities.

(7) Crewmembers provide the essential component to ensure the return on investment from and the growth and safe operation of the ISS. The Russian Soyuz vehicle has allowed continued human presence on the ISS for United States crewmembers with its ability to serve as both a routine and backup capability for crew delivery, rescue, and return. With the impending retirement of the Space Shuttle, the United States will find itself with no national crew delivery and return system. Without any other system, the United States and all the ISS partners will have no redundant system for human access to and from the ISS. It is therefore essential that a United States capability be developed as soon as possible.

(8) Existing and emerging United States commercial launch capabilities and emerging launch capabilities offer the potential for providing crew support assets. New capabilities for human crew access to the ISS should be developed in a manner that ensures ISS mission assurance and safety. Commercial services offer the potential to broaden the availability and access to space at lower costs.

(9) While commercial transportation systems have the promise to contribute valuable services, it is in the United States national interest to maintain a government operated space transportation system for crew and cargo delivery to space.

(10) Congress restates its commitment, expressed in the National Aeronautics and Space

Administration Authorization Act of 2005 [1] (Public Law 109–155) and the National Aeronautics and Space Administration Authorization Act of 2008 [1] (Public Law 110–422), to the development of commercially developed launch and delivery systems to the ISS for crew and cargo missions. Congress reaffirms that NASA shall make use of United States commercially provided ISS crew transfer and crew rescue services to the maximum extent practicable.

(11) It is critical to identify an appropriate combination of NASA and related United States Government programs, while providing a framework that allows partnering, leveraging and stimulation of the existing and emerging commercial and international efforts in both near Earth space and the regions beyond.

(12) The designation of the United States segment of the ISS as a National Laboratory, as provided by the National Aeronautics and Space Administration Authorization Act of 2005 [1] and the National Aeronautics and Space Administration Authorization Act of 2008,[1] provides an opportunity for multiple United States Government agencies, university-based researchers, research organizations, and others to utilize the unique environment of microgravity for fundamental scientific research and potential economic development.

(13) For some potential replacement elements necessary for ISS sustainability, the Space Shuttle may represent the only vehicle, existing or planned, capable of carrying those elements to the ISS in the near term. Additional or alternative transportation capabilities must be identified as contingency delivery options, and accompanied by an independent analysis of projected availability of such capabilities.

(14) The United States must develop, as rapidly as possible, replacement vehicles capable of providing both human and cargo launch capability to low-Earth orbit and to destinations beyond low-Earth orbit.

(15) There is a need for national space and export control policies that protect the national security of the United States while also enabling the United States and its aerospace industry to undertake cooperative programs in science and human space flight in an effective and efficient manner and to compete effectively in the global market place.

(Pub. L. 111–267, §2, Oct. 11, 2010, 124 Stat. 2807.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Aeronautics and Space Administration Authorization Act of 2005, referred to in pars. (10) and (12), is Pub. L. 109–155, Dec. 30, 2005, 119 Stat. 2895, which was classified principally to chapter 150 (§16601 et seq.) of this title, and was substantially repealed and restated in chapters 305 (§30501 et seq.), 401 (§40101 et seq.), 603 (§60301 et seq.) and 707 (§70701 et seq.) and sections 20301, 20302, 30103(a), (b), 30104, 30306, 30703, 30704, 30902, 31301, 31501, 40701, 40904 to 40909, 50505, 50116, 60505, 70501 to 70503, and 70902 to 70905 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444. For complete classification of this Act to the Code, see Short Title of 2005 Act note set out under section 10101 of Title 51 and Tables.

The National Aeronautics and Space Administration Authorization Act of 2008, referred to in pars. (10) and (12), is Pub. L. 110–422, Oct. 15, 2008, 122 Stat. 4779, which was classified principally to chapter 155 (§17701 et seq.) of this title, and was substantially repealed and restated as chapters 711 (§71101 et seq.) and 713 (§71301 et seq.) and sections 20305, 30305, 30310, 31302, 31502 to 31505, 40104, 40311, 40702 to 40704, 40903(d), 50111(b), 60501 to 60504, 60506, 70504 to 70508, 70906, and 70907 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444. For complete classification of this Act to the Code, see Short Title of 2008 Act note set out under section 10101 of Title 51 and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 111–267, §1(a), Oct. 11, 2010, 124 Stat. 2805, provided that: "This Act [enacting this chapter] may

be cited as the 'National Aeronautics and Space Administration Authorization Act of 2010'."

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

§18302. Definitions

In this chapter:

(1) Administrator

The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) Appropriate committees of Congress

The term "appropriate committees of Congress" means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Science [1] of the House of Representatives.

(3) Cis-lunar space

The term "cis-lunar space" means the region of space from the Earth out to and including the region around the surface of the Moon.

(4) Deep space

The term "deep space" means the region of space beyond cis-lunar space.

(5) ISS

The term "ISS" means the International Space Station.

(6) NASA

The term "NASA" means the National Aeronautics and Space Administration.

(7) Near-Earth space

The term "near-Earth space" means the region of space that includes low-Earth orbit and extends out to and includes geo-synchronous orbit.

(8) NOAA

The term "NOAA" means the National Oceanic and Atmospheric Administration.

(9) OSTP

The term "OSTP" means the Office of Science and Technology Policy.

(10) Space Launch System

The term "Space Launch System" means the follow-on government-owned civil launch system developed, managed, and operated by NASA to serve as a key component to expand human presence beyond low-Earth orbit.

(Pub. L. 111–267, §3, Oct. 11, 2010, 124 Stat. 2808.)

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

SUBCHAPTER I—POLICY, GOALS, AND OBJECTIVES FOR HUMAN SPACE FLIGHT AND EXPLORATION

§18311. United States human space flight policy

(a) Use of non-United States human space flight transportation services

(1) In general

The Federal Government may not acquire human space flight transportation services from a foreign entity unless—

(A) no United States Government-operated human space flight capability is available;

(B) no United States commercial provider is available; and

(C) it is a qualified foreign entity.

(2) Definitions

In this subsection:

(A) Commercial provider

The term "commercial provider" means any person providing human space flight transportation services, primary control of which is held by persons other than the Federal Government, a State or local government, or a foreign government.

(B) Qualified foreign entity

The term "qualified foreign entity" means a foreign entity that is in compliance with all applicable safety standards and is not prohibited from providing space transportation services under other law.

(C) United States commercial provider

The term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, that is more than 50 percent owned by United States nationals.

(3) Arrangements with foreign entities

Nothing in this subsection shall prevent the Administrator from negotiating or entering into human space flight transportation arrangements with foreign entities to ensure safety of flight and continued ISS operations.

(b) United States human space flight capabilities

Congress reaffirms the policy stated in section 70501(a) of title 51, that the United States shall maintain an uninterrupted capability for human space flight and operations in low-Earth orbit, and beyond, as an essential instrument of national security and of the capacity to ensure continued United States participation and leadership in the exploration and utilization of space.

(Pub. L. 111–267, title II, §201, Oct. 11, 2010, 124 Stat. 2811; Pub. L. 115–10, title III, §302(d), Mar. 21, 2017, 131 Stat. 25.)

EDITORIAL NOTES

CODIFICATION

In subsec. (b), "section 70501(a) of title 51" substituted for "section 501(a) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16761(a))" on authority of Pub. L. 111–314, §5(e), Dec. 18, 2010, 124 Stat. 3443, which Act enacted Title 51, National and Commercial Space Programs.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115–10 amended subsec. (a) generally. Prior to amendment, text read as follows: "It is the policy of the United States that reliance upon and use of non-United States human space flight capabilities shall be undertaken only as a contingency in circumstances where no United States-owned and operated human space flight capability is available, operational, and certified for flight by appropriate Federal agencies."

§18312. Goals and objectives

(a) Long-term goals

The long-term goals of the human space flight and exploration efforts of NASA shall be—

(1) to expand permanent human presence beyond low-Earth orbit and to do so, where practical, in a manner involving international, academic, and industry partners;

(2) crewed missions and progress toward achieving the goal in paragraph (1) to enable the potential for subsequent human exploration and the extension of human presence throughout the solar system; and

(3) to enable a capability to extend human presence, including potential human habitation on another celestial body and a thriving space economy in the 21st Century.[1]

(b) Key objectives

The key objectives of the United States for human expansion into space shall be—

(1) to sustain the capability for long-duration presence in low-Earth orbit, initially through continuation of the ISS and full utilization of the United States segment of the ISS as a National Laboratory, and through assisting and enabling an expanded commercial presence in, and access to, low-Earth orbit, as elements of a low-Earth orbit infrastructure;

(2) to determine if humans can live in an extended manner in space with decreasing reliance on Earth, starting with utilization of low-Earth orbit infrastructure, to identify potential roles that space resources such as energy and materials may play, to meet national and global needs and challenges, such as potential cataclysmic threats, and to explore the viability of and lay the foundation for sustainable economic activities in space;

(3) to maximize the role that human exploration of space can play in advancing overall knowledge of the universe, supporting United States national and economic security and the United States global competitive posture, and inspiring young people in their educational pursuits;

(4) to build upon the cooperative and mutually beneficial framework established by the ISS partnership agreements and experience in developing and undertaking programs and meeting objectives designed to realize the goal of human space flight set forth in subsection (a); and

(5) to achieve human exploration of Mars and beyond through the prioritization of those technologies and capabilities best suited for such a mission in accordance with the stepping stone approach to exploration under section 70504 of title 51.

(Pub. L. 111–267, title II, §202, Oct. 11, 2010, 124 Stat. 2812; Pub. L. 115–10, title IV, §§411, 412, Mar. 21, 2017, 131 Stat. 33.)

EDITORIAL NOTES

AMENDMENTS

2017—Subsec. (a). Pub. L. 115–10, §411, amended subsec. (a) generally. Prior to amendment, text read as follows: "The long term goal of the human space flight and exploration efforts of NASA shall be to expand permanent human presence beyond low-Earth orbit and to do so, where practical, in a manner involving international partners."

Subsec. (b)(5). Pub. L. 115–10, §412, added par. (5).

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

§18313. Assurance of core capabilities

(a) Sense of Congress

It is the sense of Congress that—

(1) the ISS, technology developments, the current Space Shuttle program, and follow-on transportation systems authorized by this chapter form the foundation of initial capabilities for missions beyond low-Earth orbit to a variety of lunar and Lagrangian orbital locations; and

(2) these initial missions and related capabilities should be utilized to provide operational

experience, technology development, and the placement and assured use of in-space infrastructure and in-space servicing of existing and future assets.

(b) Sense of Congress regarding human space flight capability assurance

It is the sense of Congress that the Administrator shall proceed with the utilization of the ISS, technology development, and follow-on transportation systems (including the Space Launch System, multi-purpose crew vehicle, and commercial crew and cargo transportation capabilities) under subchapters II and III of this chapter in a manner that ensures—

(1) that these capabilities remain inherently complementary and interrelated;

(2) a balance of the development, sustainment, and use of each of these capabilities, which are of critical importance to the viability and sustainability of the U.S. space program; and

(3) that resources required to support the timely and sustainable development of these capabilities authorized in either subchapter II or subchapter III of this chapter are not derived from a reduction in resources for the capabilities authorized in the other subchapter.

(c) Limitation

Nothing in subsection (b) shall apply to or affect any capability authorized by any other subchapter of this chapter [1]

(Pub. L. 111–267, title II, §203, Oct. 11, 2010, 124 Stat. 2812; Pub. L. 112–273, §2, Jan. 14, 2013, 126 Stat. 2454; Pub. L. 115–10, title IV, §416(a), Mar. 21, 2017, 131 Stat. 34.)

EDITORIAL NOTES

REFERENCES IN TEXT

Any other subchapter of this chapter, referred to in subsec. (d), was in the original "any other title of this Act", meaning any other title of Pub.L. 111–267, Oct. 11, 2010, 124 Stat. 2805. In addition to title II which is classified generally to this subchapter, Pub. L. 111–267 contains titles III to XII which are classified generally to subchapters II to XI, respectively, of this chapter and titles I and XIII, 126 Stat. 2809, 2846, which are not classified to the Code.

AMENDMENTS

2017—Subsec. (b). Pub. L. 115–10, §416(a)(1), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows:

"(1) DEVELOPMENT OF FOLLOW-ON SPACE TRANSPORTATION SYSTEMS.—The Administrator shall proceed with the development of follow-on space transportation systems in a manner that ensures that the national capability to restart and fly Space Shuttle missions can be initiated if required by the Congress, in an Act enacted after October 11, 2010, or by a Presidential determination transmitted to the Congress, before the last Space Shuttle mission authorized by this chapter is completed.

"(2) REQUIRED ACTIONS.—In carrying out the requirement in paragraph (1), the Administrator shall authorize refurbishment of the manufactured external tank of the Space Shuttle, designated as ET–94, and take all actions necessary to enable its readiness for use in the Space Launch System development as a critical skills and capability retention effort or for test purposes, while preserving the ability to use this tank if needed for an ISS contingency if deemed necessary under paragraph (1)."

Subsecs. (c), (d). Pub. L. 115–10, §416(a)(2), (3), substituted "subsection (b)" for "subsection (c)" in subsec. (d) and redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

2013—Subsecs. (c), (d). Pub. L. 112–273 added subsecs. (c) and (d).

[1] *So in original. Probably should be followed by a period.*

SUBCHAPTER II—EXPANSION OF HUMAN SPACE FLIGHT BEYOND THE INTERNATIONAL SPACE STATION AND LOW-EARTH ORBIT

§18321. Human space flight beyond low-Earth orbit

(a) Findings

Congress makes the following findings:

(1) The extension of the human presence from low-Earth orbit to other regions of space beyond low-Earth orbit will enable missions to the surface of the Moon and missions to deep space destinations such as near-Earth asteroids and Mars.

(2) The regions of cis-lunar space are accessible to other national and commercial launch capabilities, and such access raises a host of national security concerns and economic implications that international human space endeavors can help to address.

(3) The ability to support human missions in regions beyond low-Earth orbit and on the surface of the Moon can also drive developments in emerging areas of space infrastructure and technology.

(4) Developments in space infrastructure and technology can stimulate and enable increased space applications, such as in-space servicing, propellant resupply and transfer, and in situ resource utilization, and open opportunities for additional users of space, whether national, commercial, or international.

(5) A long term objective for human exploration of space should be the eventual international exploration of Mars.

(6) Future international missions beyond low-Earth orbit should be designed to incorporate capability development and availability, affordability, and international contributions.

(7) Human space flight and future exploration beyond low-Earth orbit should be based around a pay-as-you-go approach. Requirements in new launch and crew systems authorized in this chapter should be scaled to the minimum necessary to meet the core national mission capability needed to conduct cis-lunar missions. These initial missions, along with the development of new technologies and in-space capabilities can form the foundation for missions to other destinations. These initial missions also should provide operational experience prior to the further human expansion into space.

(b) Report on international collaboration

(1) Report required

Not later than 120 days after October 11, 2010, the Administrator shall submit to the appropriate committees of Congress a report on the following assets and capabilities:

(A) Any effort by NASA to expand and ensure effective international collaboration on the ISS.

(B) The efforts of NASA, including its approach and progress, in defining near-term, cis-lunar space human missions.

(2) NASA contributions

In preparing the report required by paragraph (1), the Administrator shall assume that NASA will contribute to the efforts described in that paragraph the following:

(A) A Space Launch System.

(B) A multi-purpose crew vehicle.

(C) Such other technology elements the Administrator may consider appropriate, and which the Administrator shall specifically identify in the report.

(Pub. L. 111–267, title III, §301, Oct. 11, 2010, 124 Stat. 2813.)

§18322. Space Launch System as follow-on launch vehicle to the Space Shuttle

(a) United States policy

It is the policy of the United States that NASA develop a Space Launch System as a follow-on to the Space Shuttle that can access cis-lunar space and the regions of space beyond low-Earth orbit in order to enable the United States to participate in global efforts to access and develop this

increasingly strategic region.

(b) Initiation of development

(1) In general

The Administrator shall, as soon as practicable after October 11, 2010, initiate development of a Space Launch System meeting the minimum capabilities requirements specified in subsection (c).

(2) Modification of current contracts

In order to limit NASA's termination liability costs and support critical capabilities, the Administrator shall, to the extent practicable, extend or modify existing vehicle development and associated contracts necessary to meet the requirements in paragraph (1), including contracts for ground testing of solid rocket motors, if necessary, to ensure their availability for development of the Space Launch System.

(c) Minimum capability requirements

(1) IN GENERAL.—The Space Launch System developed pursuant to subsection (b) shall be designed to have, at a minimum, the following:

(A) The initial capability of the core elements, without an upper stage, of lifting payloads weighing between 70 tons and 100 tons into low-Earth orbit in preparation for transit for missions beyond low-Earth orbit.

(B) The capability to carry an integrated upper Earth departure stage bringing the total lift capability of the Space Launch System to 130 tons or more.

(C) The capability to lift the multipurpose crew vehicle.

(D) The capability to serve as a backup system for supplying and supporting ISS cargo requirements or crew delivery requirements not otherwise met by available commercial or partner-supplied vehicles.

(2) FLEXIBILITY.—The Space Launch System shall be designed from inception as a fully-integrated vehicle capable of carrying a total payload of 130 tons or more into low-Earth orbit in preparation for transit for missions beyond low-Earth orbit. The Space Launch System shall, to the extent practicable, incorporate capabilities for evolutionary growth to carry heavier payloads. Developmental work and testing of the core elements and the upper stage should proceed in parallel subject to appropriations. Priority should be placed on the core elements with the goal for operational capability for the core elements not later than December 31, 2016.

(3) TRANSITION NEEDS.—The Administrator shall ensure critical skills and capabilities are retained, modified, and developed, as appropriate, in areas related to solid and liquid engines, large diameter fuel tanks, rocket propulsion, and other ground test capabilities for an effective transition to the follow-on Space Launch System.

(4) The capacity for efficient and timely evolution, including the incorporation of new technologies, competition of sub-elements, and commercial operations.

(Pub. L. 111–267, title III, §302, Oct. 11, 2010, 124 Stat. 2814.)

§18323. Multi-purpose crew vehicle

(a) Initiation of development

(1) In general

The Administrator shall continue the development of a multi-purpose crew vehicle to be available as soon as practicable, and no later than for use with the Space Launch System. The vehicle shall continue to advance development of the human safety features, designs, and systems in the Orion project.

(2) Goal for operational capability

It shall be the goal to achieve full operational capability for the transportation vehicle developed

pursuant to this subsection by not later than December 31, 2016. For purposes of meeting such goal, the Administrator may undertake a test of the transportation vehicle at the ISS before that date.

(b) Minimum capability requirements

The multi-purpose crew vehicle developed pursuant to subsection (a) shall be designed to have, at a minimum, the following:

(1) The capability to serve as the primary crew vehicle for missions beyond low-Earth orbit.

(2) The capability to conduct regular in-space operations, such as rendezvous, docking, and extra-vehicular activities, in conjunction with payloads delivered by the Space Launch System developed pursuant to section 18322 of this title, or other vehicles, in preparation for missions beyond low-Earth orbit or servicing of assets described in section 18383 of this title, or other assets in cis-lunar space.

(3) The capability to provide an alternative means of delivery of crew and cargo to the ISS, in the event other vehicles, whether commercial vehicles or partner-supplied vehicles, are unable to perform that function.

(4) The capacity for efficient and timely evolution, including the incorporation of new technologies, competition of sub-elements, and commercial operations.

(Pub. L. 111–267, title III, §303, Oct. 11, 2010, 124 Stat. 2815.)

§18324. Utilization of existing workforce and assets in development of Space Launch System and multi-purpose crew vehicle

(a) In general

In developing the Space Launch System pursuant to section 18322 of this title and the multi-purpose crew vehicle pursuant to section 18323 of this title, the Administrator shall, to the extent practicable utilize—

(1) existing contracts, investments, workforce, industrial base, and capabilities from the Space Shuttle and Orion and Ares 1 projects, including—

(A) space-suit development activities for application to, and coordinated development of, a multi-purpose crew vehicle suit and associated life-support requirements with potential development of standard NASA-certified suit and life support systems for use in alternative commercially-developed crew transportation systems; and

(B) Space Shuttle-derived components and Ares 1 components that use existing United States propulsion systems, including liquid fuel engines, external tank or tank-related capability, and solid rocket motor engines; and

(2) associated testing facilities, either in being or under construction as of October 11, 2010.

(b) Discharge of requirements

In meeting the requirements of subsection (a), the Administrator—

(1) shall, to the extent practicable, utilize ground-based manufacturing capability, ground testing activities, launch and operations infrastructure, and workforce expertise;

(2) shall, to the extent practicable, minimize the modification and development of ground infrastructure and maximize the utilization of existing software, vehicle, and mission operations processes;

(3) shall complete construction and activation of the A–3 test stand with a completion goal of September 30, 2013;

(4) may procure, develop, and flight test applicable components; and

(5) shall take appropriate actions to ensure timely and cost-effective development of the Space Launch System and the multi-purpose crew vehicle, including the use of a procurement approach that incorporates adequate and effective oversight, the facilitation of contractor efficiencies, and the stream-lining of contract and procurement requirements.

(Pub. L. 111–267, title III, §304, Oct. 11, 2010, 124 Stat. 2816.)

§18325. NASA launch support and infrastructure modernization program

(a) In general

The Administrator shall carry out a program the primary purpose of which is to prepare infrastructure at the Kennedy Space Center that is needed to enable processing and launch of the Space Launch System. Vehicle interfaces and other ground processing and payload integration areas should be simplified to minimize overall costs, enhance safety, and complement the purpose of this section.

(b) Elements

The program required by this section shall include—

(1) investments to improve civil and national security operations at the Kennedy Space Center, to enhance the overall capabilities of the Center, and to reduce the long term cost of operations and maintenance;

(2) measures to provide multi-vehicle support, improvements in payload processing, and partnering at the Kennedy Space Center; and

(3) such other measures, including investments to improve launch infrastructure at NASA flight facilities scheduled to launch cargo to the ISS under the commercial orbital transportation services program as the Administrator may consider appropriate.

(c) Report on NASA launch support and infrastructure modernization program

(1) Report required

Not later than 120 days after October 11, 2010, the Administrator shall submit to the appropriate committees of Congress a report on the plan for the implementation of the NASA launch support and infrastructure modernization program.

(2) Elements

The report required by this subsection shall include—

(A) a description of the ground infrastructure plan tied to the Space Launch System and potential ground investment activities at other NASA centers related to supporting the development of the Space Launch System;

(B) a description of proposed initiatives intended to be conducted jointly or in cooperation with Cape Canaveral Air Force Station, Florida, or other installations or components of the United States Government; and

(C) a description of plans to use funds authorized to be appropriated by this chapter to improve non-NASA facilities, which plans shall include a business plan outlining the nature and scope of investments planned by other parties.

(Pub. L. 111–267, title III, §305, Oct. 11, 2010, 124 Stat. 2817.)

§18326. Development of technologies and in-space capabilities for beyond near-Earth space missions

(a) Development authorized

The Administrator may initiate activities to develop the following:

(1) Technologies identified as necessary elements of missions beyond low-Earth orbit.

(2) In-space capabilities such as refueling and storage technology, orbital transfer stages, innovative in-space propulsion technology, communications, and data management that facilitate a broad range of users (including military and commercial) and applications defining the architecture and design of such missions.

(3) Spacesuit development and associated life support technology.

(4) Flagship missions.

(b) Investments

In developing technologies and capabilities under subsection (a), the Administrator may make investments—

(1) in space technologies such as advanced propulsion, propellant depots, in situ resource utilization, and robotic payloads or capabilities that enable human missions beyond low-Earth orbit ultimately leading to Mars;

(2) in a space-based transfer vehicle including these technologies with an ability to conduct space-based operations that provide capabilities—

(A) to integrate with the Space Launch System and other space-based systems;

(B) to provide opportunities for in-space servicing of and delivery to multiple space-based platforms; and

(C) to facilitate international efforts to expand human presence to deep space destinations;

(3) in advanced life support technologies and capabilities;

(4) in technologies and capabilities relating to in-space power, propulsion, and energy systems;

(5) in technologies and capabilities relating to in-space propellant transfer and storage;

(6) in technologies and capabilities relating to in situ resource utilization; and

(7) in expanded research to understand the greatest biological impediments to human deep space missions, especially the radiation challenge.

(c) Utilization of ISS as testbed

The Administrator may utilize the ISS as a testbed for any technology or capability developed under subsection (a) in a manner consistent with the provisions of this chapter.

(d) Coordination

The Administrator shall coordinate development of technologies and capabilities under this section through an overall agency technology approach, as authorized by section 905 of this Act.

(Pub. L. 111–267, title III, §308, Oct. 11, 2010, 124 Stat. 2818.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 905 of this Act, referred to in subsec. (d), is Pub. L. 111–267, title IX, §905, Oct. 11, 2010, 124 Stat. 2836, which is not classified to the Code.

§18327. Report requirement

Within 90 days after October 11, 2010, or upon completion of reference designs for the Space Launch System and Multi-purpose Crew Vehicle authorized by this chapter, whichever occurs first, the Administrator shall provide a detailed report to the appropriate committees of Congress that provides an overall description of the reference vehicle design, the assumptions, description, data, and analysis of the systems trades and resolution process, justification of trade decisions, the design factors which implement the essential system and vehicle capability requirements established by this chapter, the explanation and justification of any deviations from those requirements, the plan for utilization of existing contracts, civil service and contract workforce, supporting infrastructure utilization and modifications, and procurement strategy to expedite development activities through modification of existing contract vehicles, and the schedule of design and development milestones and related schedules leading to the accomplishment of operational goals established by this chapter. The Administrator shall provide an update of this report as part of the President's annual Budget Request.

(Pub. L. 111–267, title III, §309, Oct. 11, 2010, 124 Stat. 2819.)

SUBCHAPTER III—DEVELOPMENT AND USE OF COMMERCIAL CREW AND CARGO TRANSPORTATION CAPABILITIES

§18341. Commercial Cargo Development program

The Administrator shall continue to support the existing Commercial Resupply Services program, aimed at enabling the commercial space industry in support of NASA to develop reliable means of launching cargo and supplies to the ISS throughout the duration of the facility's operation. The Administrator may apply funds towards the reduction of risk to the timely start of these services, specifically—

(1) efforts to conduct a flight test;

(2) accelerate development; and

(3) develop the ground infrastructure needed for commercial cargo capability.

(Pub. L. 111–267, title IV, §401, Oct. 11, 2010, 124 Stat. 2820; Pub. L. 115–10, title III, §302(f), Mar. 21, 2017, 131 Stat. 26.)

EDITORIAL NOTES

AMENDMENTS

2017—Pub. L. 115–10 substituted "Commercial Resupply Services" for "Commercial Orbital Transportation Services" in introductory provisions.

§18342. Requirements applicable to development of commercial crew transportation capabilities and services

(a) FY 2011 contracts and procurement agreements

(1) In general

Except as provided in paragraph (2), the Administrator may not execute a contract or procurement agreement with respect to follow-on commercial crew services during fiscal year 2011.

(2) Exception

Notwithstanding paragraph (1), the Administrator may execute a contract or procurement agreement with respect to follow-on commercial crew services during fiscal year 2011 if—

(A) the requirements of paragraphs (1), (2), and (3) of subsection (b) are met; and

(B) the total amount involved for all such contracts and procurement agreements executed during fiscal year 2011 does not exceed $50,000,000 for fiscal year 2011.

(b) Support

The Administrator may, beginning in fiscal year 2012 through the duration of the program, support follow-on commercially-developed crew transportation systems dependent upon the completion of each of the following:

(1) Human rating requirements

Not later than 60 days after October 11, 2010, the Administrator shall develop and make available to the public detailed human rating processes and requirements to guide the design of commercially-developed crew transportation capabilities, which requirements shall be at least equivalent to proven requirements for crew transportation in use as of October 11, 2010.

(2) Commercial market assessment

Not later than 180 days after October 11, 2010, the Administrator shall submit to the appropriate committees of Congress an assessment, conducted, in coordination with the Federal Aviation Administration's Office of Commercial Space Transportation, for purposes of this paragraph, of the potential non-Government market for commercially-developed crew and cargo transportation systems and capabilities, including an assessment of the activities associated with potential private sector utilization of the ISS research and technology development capabilities and other potential activities in low-Earth orbit.

(3) Procurement system review

The Administrator shall review current Government procurement and acquisition practices and processes, including agreement authorities under the National Aeronautics and Space Act of 1958, [1] to determine the most cost-effective means of procuring commercial crew transportation capabilities and related services in a manner that ensures appropriate accountability, transparency, and maximum efficiency in the procurement of such capabilities and services, which review shall include an identification of proposed measures to address risk management and means of indemnification of commercial providers of such capabilities and services, and measures for quality control, safety oversight, and the application of Federal oversight processes within the jurisdiction of other Federal agencies. A description of the proposed procurement process and justification of the proposed procurement for its selection shall be included in any proposed initiation of procurement activity for commercially-developed crew transportation capabilities and services and shall be subject to review by the appropriate committees of Congress before the initiation of any competitive process to procure such capabilities or services. In support of the review by such committees, the Comptroller General shall undertake an assessment of the proposed procurement process and provide a report to the appropriate committees of Congress within 90 days after the date on which the Administrator provides the description and justification to such committees.

(4) Use of government-supplied capabilities and infrastructure

In evaluating any proposed development activity for commercially-developed crew or cargo launch capabilities, the Administrator shall identify the anticipated contribution of government personnel, expertise, technologies, and infrastructure to be utilized in support of design, development, or operations of such capabilities. This assessment shall include a clear delineation of the full requirements for the commercial crew service (including the contingency for crew rescue). The Administrator shall include details and associated costs of such support as part of any proposed development initiative for the procurement of commercially-developed crew or cargo launch capabilities or services.

(5) Flight demonstration and readiness requirements

The Administrator shall establish appropriate milestones and minimum performance objectives to be achieved before authority is granted to proceed to the procurement of commercially-developed crew transportation capabilities or systems. The guidelines shall include a procedure to provide independent assurance of flight safety and flight readiness before the authorization of United States government personnel to participate as crew onboard any commercial launch vehicle developed pursuant to this section.

(6) Commercial crew rescue capabilities

The provision of a commercial capability to provide ISS crew services shall include crew rescue requirements, and shall be undertaken through the procurement process initiated in conformance with this section. In the event such development is initiated, the Administrator shall make available any relevant government-owned intellectual property deriving from the development of a multi-purpose crew vehicle authorized by this chapter to commercial entities involved with such crew rescue capability development which shall be relevant to the design of a crew rescue capability. In addition, the Administrator shall seek to ensure that contracts for development of the multi-purpose crew vehicle contain provisions for the licensing of relevant intellectual property to participating commercial providers of any crew rescue capability development undertaken

pursuant to this section. If one or more contractors involved with development of the multi-purpose crew vehicle seek to compete in development of a commercial crew service with crew rescue capability, separate legislative authority must be enacted to enable the Administrator to provide funding for any modifications of the multi-purpose crew vehicle necessary to fulfill the ISS crew rescue function.

(Pub. L. 111–267, title IV, §403, Oct. 11, 2010, 124 Stat. 2820.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Aeronautics and Space Act of 1958, referred to in subsec. (b)(3), is Pub. L. 85–568, July 29, 1958, 72 Stat. 426, which was classified principally to chapter 26 (§2451 et seq.) of this title and was substantially repealed and restated as chapter 201 (§20101 et seq.) of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444. For complete classification of this Act to the Code, see Short Title of 1958 Act note set out under section 10101 of Title 51 and Tables.

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

SUBCHAPTER IV—CONTINUATION, SUPPORT, AND EVOLUTION OF THE INTERNATIONAL SPACE STATION

§18351. Continuation of the International Space Station

(a) Policy of the United States

It shall be the policy of the United States, in consultation with its international partners in the ISS program, to support full and complete utilization of the ISS through at least 2024.

(b) NASA action

In furtherance of the policy set forth in subsection (a), NASA shall—

(1) pursue international, commercial, and intragovernmental means to maximize ISS logistics supply, maintenance, and operational capabilities, reduce risks to ISS systems sustainability, and offset and minimize United States operations costs relating to the ISS;

(2) utilize, to the extent practicable, the ISS for the development of capabilities and technologies needed for the future of human space exploration beyond low-Earth orbit; and

(3) utilize, if practical and cost effective, the ISS for Science Mission Directorate missions in low-Earth orbit.

(Pub. L. 111–267, title V, §501, Oct. 11, 2010, 124 Stat. 2822; Pub. L. 114–90, title I, §114(b)(1), Nov. 25, 2015, 129 Stat. 715; Pub. L. 115–10, title III, §301(c), Mar. 21, 2017, 131 Stat. 23.)

EDITORIAL NOTES

AMENDMENTS

2017—Pub. L. 115–10 amended section generally. Prior to amendment, section read as follows:

"(a) POLICY OF THE UNITED STATES.—It shall be the policy of the United States, in consultation with its international partners in the ISS program, to support full and complete utilization of the ISS through at least 2024.

"(b) NASA ACTIONS.—In furtherance of the policy set forth in subsection (a), NASA shall pursue international, commercial, and intragovernmental means to maximize ISS logistics supply, maintenance, and operational capabilities, reduce risks to ISS systems sustainability, and offset and minimize United States operations costs relating to the ISS."

2015—Pub. L. 114–90, §114(b)(1)(A), struck out "through 2020" after "Station" in section catchline.

Subsec. (a). Pub. L. 114–90, §114(b)(1)(B), substituted "through at least 2024" for "through at least 2020".

§18352. Maximum utilization of the International Space Station

(a) In general

With assembly of the ISS complete, NASA shall take steps to maximize the productivity and use of the ISS with respect to scientific and technological research and development, advancement of space exploration, and international collaboration.

(b) NASA actions

In carrying out subsection (a), NASA shall, at a minimum, undertake the following:

(1) Innovative use of U.S. segment

The United States segment of the ISS, which has been designated as a National Laboratory, shall be developed, managed and utilized in a manner that enables the effective and innovative use of such facility, as provided in section 18354 of this title.

(2) International cooperation

The ISS shall continue to be utilized as a key component of international efforts to build missions and capabilities that further the development of a human presence beyond near-Earth space and advance United States security and economic goals. The Administrator shall actively seek ways to encourage and enable the use of ISS capabilities to support these efforts.

(3) Domestic collaboration

The operations, management, and utilization of the ISS shall be conducted in a manner that provides opportunities for collaboration with other research programs and objectives of the United States Government in cooperation with commercial suppliers, users, and developers.

(Pub. L. 111–267, title V, §502, Oct. 11, 2010, 124 Stat. 2823.)

§18353. Maintenance of the United States segment and assurance of continued operations of the International Space Station.

(a) In general

The Administrator shall take all actions necessary to ensure the safe and effective operation, maintenance, and maximum utilization of the United States segment of the ISS through at least September 30, 2024.

(b) Vehicle and component review

(1) In general

The Administrator shall, as soon as is practicable after October 11, 2010, carry out a comprehensive assessment of the essential modules, operational systems and components, structural elements, and permanent scientific equipment on board or planned for delivery and installation aboard the ISS, including both United States and international partner elements, for purposes of identifying the spare or replacement modules, systems and components, elements, and equipment that are required to ensure complete, effective, and safe functioning and full scientific utilization of the ISS through September 30, 2020.[1]

(2) Data

In carrying out the assessment, the Administrator shall assemble any existing data, and provide for the development of any data or analysis not currently available, that is necessary for purposes of the assessment.

(c) Reports

(1) Report on assessment

(A) Report required

Not later than 90 days after October 11, 2010, the Administrator shall submit to the appropriate committees of Congress a report on the assessment required by subsection (b).

(B) Elements

The report required by this paragraph shall include, at minimum, the following:

(i) A description of the spare or replacement modules, systems and components, elements, and equipment identified pursuant to the assessment that are currently produced, in inventory, or on order, a description of the state of their readiness, and a schedule for their delivery to the ISS (including the planned transportation means for such delivery), including for each such module, system or component, element, or equipment a description of—

(I) its specifications, including size, weight, and necessary configuration for launch and delivery to the ISS;

(II) its function;

(III) its location; and

(IV) its criticality for ISS system integrity.

(ii) A description of the spare or replacement modules, systems and components, elements, and equipment identified pursuant to the assessment that are not currently produced, in inventory, or on order, including for each such module, system or component, element, or equipment a description of—

(I) its specifications, including size, weight, and necessary configuration for launch and delivery to the ISS;

(II) its function;

(III) its location;

(IV) its criticality for ISS system integrity; and

(V) the anticipated cost and schedule for its design, procurement, manufacture, and delivery to the ISS.

(iii) A detailed summary of the delivery schedule and associated delivery vehicle requirements necessary to transport all spare and replacement elements considered essential for the ongoing and sustained functionality of all critical systems of the ISS, both in and of themselves and as an element of an integrated, mutually dependent essential capability, including an assessment of the current schedule for delivery, the availability of delivery vehicles to meet that schedule, and the likelihood of meeting that schedule through such vehicles.

(2) GAO report

(A) Report required

Not later than 90 days after the submittal to Congress under paragraph (1) of the assessment required by subsection (b), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the assessment. The report shall set forth an evaluation of the assessment by the Comptroller General, including an evaluation of the accuracy and level of confidence in the findings of the assessment.

(B) Cooperation with GAO

The Administrator shall provide for the monitoring and participation of the Comptroller General in the assessment in a manner that permits the Comptroller General to prepare and submit the report required by subparagraph (A).

(d) Utilization of research facilities and capabilities

Utilization of research facilities and capabilities aboard the ISS (other than exploration-related research and technology development facilities and capabilities, and associated ground support and

logistics), shall be planned, managed, and supported as provided in section 18354 of this title. Exploration-related research and technology development facilities, capabilities, and associated ground support and logistics shall be planned, managed, and supported by the appropriate NASA organizations and officials in a manner that does not interfere with other activities under section 18354 of this title.

(e) Space Shuttle mission to ISS

(1) Space Shuttle mission

The Administrator shall fly the Launch-On-Need Shuttle mission currently designated in the Shuttle Flight Manifest dated February 28, 2010, to the ISS in fiscal year 2011, but no earlier than June 1, 2011, unless required earlier by an operations contingency, and pending the results of the assessment required by paragraph (2) and the determination under paragraph (3)(A).

(2) Assessment of safe means of return

The Administrator shall provide for an assessment by the NASA Engineering and Safety Center of the procedures and plans developed to ensure the safety of the Space Shuttle crew, and alternative means of return, in the event the Space Shuttle is damaged or otherwise unable to return safely to Earth.

(3) Schedule and payload

The determination of the schedule and payload for the mission authorized by paragraph (1) shall take into account the following:

(A) The supply and logistics delivery requirements of the ISS.

(B) The findings of the study required by paragraph (2).

(4) Funds

Amounts authorized to be appropriated by section 101(2)(B) [1] shall be available for the mission authorized by paragraph (1).

(f) Space Shuttle manifest flight assurance

(1) In general

The Administrator shall take all actions necessary to preserve Space Shuttle launch capability through fiscal year 2011 in a manner that enables the launch, at a minimum, of missions and primary payloads in the Shuttle flight manifest as of February 28, 2010.

(2) Continuation of contractor support

The Administrator may not terminate any contract that provides the system transitions necessary for shuttle-derived hardware to be used on either the multi-purpose crew vehicle described in section 18323 of this title or the Space Launch System described in section 18322 of this title.

(Pub. L. 111–267, title V, §503, Oct. 11, 2010, 124 Stat. 2823; Pub. L. 114–90, title I, §114(b)(2), Nov. 25, 2015, 129 Stat. 716.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reference to September 30, 2020, referred to in subsec. (b)(1), was not amended by section 114(b) of Pub. L. 114–90, which substituted references to "2024" for references to "2020" in other provisions throughout this subchapter. See also section 70907 of Title 51, National and Commercial Space Programs, as amended by section 114(b) of Pub. L. 114–90.

Section 101(2)(B), referred to in subsec. (e)(4), is Pub. L. 111–267, title I, §101(2)(B), Oct. 11, 2010, 124 Stat. 2809, which is not classified to the Code.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–90, §114(b)(2)(A), substituted "through at least September 30, 2024" for "through at least September 30, 2020".

Subsec. (b)(1). Pub. L. 114–90, §114(b)(2)(B), substituted "The Administrator" for "In carrying out subsection (a), the Administrator".

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

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

§18354. Management of the ISS national laboratory

(a) Cooperative agreement with not-for-profit entity for management of national laboratory

(1) In general

The Administrator shall provide initial financial assistance and enter into a cooperative agreement with an appropriate organization that is exempt from taxation under section 501(c)(3) of title 26 to manage the activities of the ISS national laboratory in accordance with this section.

(2) Qualifications

The organization with which the Administrator enters into the cooperative agreement shall develop the capabilities to implement research and development projects utilizing the ISS national laboratory and to otherwise manage the activities of the ISS national laboratory.

(3) Prohibition on other activities

The cooperative agreement shall require the organization entering into the agreement to engage exclusively in activities relating to the management of the ISS national laboratory and activities that promote its long term research and development mission as required by this section, without any other organizational objectives or responsibilities on behalf of the organization or any parent organization or other entity.

(b) NASA liaison

(1) Designation

The Administrator shall designate an official or employee of the Space Operations Mission Directorate of NASA to act as liaison between NASA and the organization with which the Administrator enters into a cooperative agreement under subsection (a) with regard to the management of the ISS national laboratory.

(2) Consultation with liaison

The cooperative agreement shall require the organization entering into the agreement to carry out its responsibilities under the agreement in cooperation and consultation with the official or employee designated under paragraph (1).

(c) Planning and coordination of ISS national laboratory research activities

The Administrator shall provide initial financial assistance to the organization with which the Administrator enters into a cooperative agreement under subsection (a), in order for the organization to initiate the following:

(1) Planning and coordination of the ISS national laboratory research activities.

(2) Development and implementation of guidelines, selection criteria, and flight support requirements for non-NASA scientific utilization of ISS research capabilities and facilities available in United States-owned modules of the ISS or in partner-owned facilities of the ISS allocated to United States utilization by international agreement.

(3) Interaction with and integration of the International Space Station National Laboratory Advisory Committee established under section 70906 of title 51 with the governance of the organization, and review recommendations provided by that Committee regarding agreements

with non-NASA departments and agencies of the United States Government, academic institutions and consortia, and commercial entities leading to the utilization of the ISS national laboratory facilities.

(4) Coordination of transportation requirements in support of the ISS national laboratory research and development objectives, including provision for delivery of instruments, logistics support, and related experiment materials, and provision for return to Earth of collected samples, materials, and scientific instruments in need of replacement or upgrade.

(5) Cooperation with NASA, other departments and agencies of the United States Government, the States, and commercial entities in ensuring the enhancement and sustained operations of non-exploration-related research payload ground support facilities for the ISS, including the Space Life Sciences Laboratory, the Space Station Processing Facility and Payload Operations Integration Center.

(6) Development and implementation of scientific outreach and education activities designed to ensure effective utilization of ISS research capabilities including the conduct of scientific assemblies, conferences, and other fora for the presentation of research findings, methods, and mechanisms for the dissemination of non-restricted research findings and the development of educational programs, course supplements, interaction with educational programs at all grade levels, including student-focused research opportunities for conduct of research in the ISS national laboratory facilities.

(7) Such other matters relating to the utilization of the ISS national laboratory facilities for research and development as the Administrator may consider appropriate.

(d) Research capacity allocation and integration of research payloads

(1) Allocation of ISS research capacity

As soon as practicable after October 11, 2010, but not later than October 1, 2011, ISS national laboratory managed experiments shall be guaranteed access to, and utilization of, not less than 50 percent of the United States research capacity allocation, including power, cold stowage, and requisite crew time onboard the ISS through at least September 30, 2024. Access to the ISS research capacity includes provision for the adequate upmass and downmass capabilities to utilize the ISS research capacity, as available. The Administrator may allocate additional capacity to the ISS national laboratory should such capacity be in excess of NASA research requirements.

(2) Additional research capabilities

If any NASA research plan is determined to require research capacity onboard the ISS beyond the percentage allocated under paragraph (1), such research plan shall be prepared in the form of a requested research opportunity to be submitted to the process established under this section for the consideration of proposed research within the capacity allocated to the ISS national laboratory. A proposal for such a research plan may include the establishment of partnerships with non-NASA institutions eligible to propose research to be conducted within the ISS national laboratory capacity. Until at least September 30, 2024, the official or employee designated under subsection (b) may grant an exception to this requirement in the case of a proposed experiment considered essential for purposes of preparing for exploration beyond low-Earth orbit, as determined by joint agreement between the organization with which the Administrator enters into a cooperative agreement under subsection (a) and the official or employee designated under subsection (b).

(3) Research priorities and enhanced capacity

The organization with which the Administrator enters into the cooperative agreement shall consider recommendations of the National Academies Decadal Survey on Biological and Physical Sciences in Space in establishing research priorities and in developing proposed enhancements of research capacity and opportunities for the ISS national laboratory.

(4) Responsibility for research payload

NASA shall retain its roles and responsibilities in providing research payload physical, analytical, and operations integration during pre-flight, post-flight, transportation, and orbital

phases essential to ensure safe and effective flight readiness and vehicle integration of research activities approved and prioritized by the organization with which the Administrator enters into the cooperative agreement and the official or employee designated under subsection (b).

(Pub. L. 111–267, title V, §504, Oct. 11, 2010, 124 Stat. 2825; Pub. L. 114–90, title I, §114(b)(3), Nov. 25, 2015, 129 Stat. 716.)

EDITORIAL NOTES

CODIFICATION

In subsec. (c)(3), "section 70906 of title 51" substituted for "section 602 of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17752)" on authority of Pub. L. 111–314, §5(e), Dec. 18, 2010, 124 Stat. 3443, which Act enacted Title 51, National and Commercial Space Programs.

AMENDMENTS

2015—Subsec. (d)(1), (2). Pub. L. 114–90 substituted "at least September 30, 2024" for "September 30, 2020".

SUBCHAPTER V—SPACE SHUTTLE RETIREMENT AND TRANSITION

§18361. Sense of Congress on the Space Shuttle program

(a) Findings

Congress makes the following findings:

(1) The Space Shuttle program represents a national asset consisting of critical skills and capabilities, including the ability to lift large payloads into space and return them to Earth.

(2) The Space Shuttle has carried more than 355 people from 16 nations into space.

(3) The Space Shuttle has projected the best of American values around the world, and Space Shuttle crews have sparked the imagination and dreams of the world's youth and young at heart.

(b) Sense of Congress

It is the sense of Congress that—

(1) it is essential that the retirement of the Space Shuttle and the transition to new human space flight capabilities be done in a manner that builds upon the legacy of this national asset; and

(2) it is imperative for the United States to retain the skills and the industrial capability to provide a follow-on Space Launch System that is primarily designed for missions beyond near-Earth space, while offering some potential for supplanting shuttle delivery capabilities to low-Earth orbit, particularly in support of ISS requirements, if necessary.

(Pub. L. 111–267, title VI, §601, Oct. 11, 2010, 124 Stat. 2828.)

§18362. Retirement of Space Shuttle orbiters and transition of Space Shuttle program

(a) In general

The Administrator shall retire the Space Shuttle orbiters pursuant to a schedule established by the Administrator and in a manner consistent with provisions of this chapter regarding potential requirements for contingency utilization of Space Shuttle orbiters for ISS requirements.

(b) Utilization of workforce and assets in follow-on Space Launch System

(1) Utilization of vehicle assets

In carrying out subsection (a), the Administrator shall, to the maximum extent practicable,

utilize workforce, assets, and infrastructure of the Space Shuttle program in efforts relating to the initiation of a follow-on Space Launch System developed pursuant to section 18322 of this title.

(2) Other assets

With respect to the workforce, assets, and infrastructure not utilized as described in paragraph (1), the Administrator shall work closely with other departments and agencies of the Federal Government, and the private sector, to divest unneeded assets and to assist displaced workers with retraining and other placement efforts. Amounts authorized to be appropriated by section 101(2)(B) [1] shall be available for activities pursuant to this paragraph.

(Pub. L. 111–267, title VI, §602, Oct. 11, 2010, 124 Stat. 2828.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 101(2)(B), referred to in subsec. (b)(2), is Pub. L. 111–267, title I, §101(2)(B), Oct. 11, 2010, 124 Stat. 2809, which is not classified to the Code.

[1] See References in Text note below.

§18363. Disposition of orbiter vehicles

(a) In general

Upon the termination of the Space Shuttle program as provided in section 18362 of this title, the Administrator shall decommission any remaining Space Shuttle orbiter vehicles according to established safety and historic preservation procedures prior to their designation as surplus government property. The orbiter vehicles shall be made available and located for display and maintenance through a competitive procedure established pursuant to the disposition plan developed under section 613(a) of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17761(a)),[1] with priority consideration given to eligible applicants meeting all conditions of that plan which would provide for the display and maintenance of orbiters at locations with the best potential value to the public, including where the location of the orbiters can advance educational opportunities in science, technology, engineering, and mathematics disciplines, and with an historical relationship with either the launch, flight operations, or processing of the Space Shuttle orbiters or the retrieval of NASA manned space vehicles, or significant contributions to human space flight. The Smithsonian Institution, which, as of October 11, 2001, houses the Space Shuttle Enterprise, shall determine any new location for the Enterprise.

(b) Display and maintenance

The orbiter vehicles made available under subsection (a) shall be displayed and maintained through agreements and procedures established pursuant to section 613(a) of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17761(a)).[1]

(c) Authorization of appropriations

There are authorized to be appropriated to NASA such sums as may be necessary to carry out this section. The amounts authorized to be appropriated by this subsection shall be in addition to any amounts authorized to be appropriated by title I, and may be requested by the President as supplemental requirements, if needed, in the appropriate fiscal years.

(Pub. L. 111–267, title VI, §603, Oct. 11, 2010, 124 Stat. 2829.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 613(a) of the National Aeronautics and Space Administration Authorization Act of 2008, referred to in subsecs. (a) and (b), is section 613(a) of Pub. L. 110–422, formerly classified to section 17761(a) of this title, which was transferred and is set out as a note under section 70501 of Title 51, National and Commercial Space Programs.

Title I, referred to in subsec. (c), is title I of Pub. L. 111–267, Oct. 11, 2010, 124 Stat. 2809, which is not classified to the Code.

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

SUBCHAPTER VI—EARTH SCIENCE

§18371. Interagency collaboration implementation approach

The Director of OSTP shall establish a mechanism to ensure greater coordination of the research, operations, and activities relating to civilian Earth observation of those Agencies, including NASA, that have active programs that either contribute directly or indirectly to these areas. This mechanism should include the development of a strategic implementation plan that is updated at least every 3 years, and includes a process for external independent advisory input. This plan should include a description of the responsibilities of the various Agency roles in Earth observations, recommended cost-sharing and procurement arrangements between Agencies and other entities, including international arrangements, and a plan for ensuring the provision of sustained, long term space-based climate observations. The Director shall provide a report to Congress within 90 days after October 11, 2010, on the implementation plan for this mechanism.

(Pub. L. 111–267, title VII, §702, Oct. 11, 2010, 124 Stat. 2830.)

§18372. Transitioning experimental research to operations

The Administrator shall coordinate with the Administrator of NOAA and the Director of the United States Geological Survey to establish a formal mechanism that plans, coordinates, and supports the transitioning of NASA research findings, assets, and capabilities to NOAA operations and United States Geological Survey operations. In defining this mechanism, NASA should consider the establishment of a formal or informal Interagency Transition Office. The Administrator of NASA shall provide an implementation plan for this mechanism to Congress within 90 days after October 11, 2010.

(Pub. L. 111–267, title VII, §703, Oct. 11, 2010, 124 Stat. 2830.)

§18373. Decadal Survey missions implementation for Earth observation

The Administrator shall undertake to implement, as appropriate, missions identified in the National Research Council's Earth Science Decadal Survey within the scope of the funds authorized for the Earth Science Mission Directorate.

(Pub. L. 111–267, title VII, §704, Oct. 11, 2010, 124 Stat. 2831.)

§18374. Instrument test-beds and venture class missions

The Administrator shall pursue innovative ways to fly instrument-level payloads for early demonstration or as co-manifested payloads. The Congress encourages the use of the ISS as an

accessible platform for the conduct of such activities. Additionally, in order to address the cost and schedule challenges associated with large flight systems, NASA should pursue smaller systems where practicable and warranted.

(Pub. L. 111–267, title VII, §706, Oct. 11, 2010, 124 Stat. 2831.)

SUBCHAPTER VII—SPACE SCIENCE

§18381. Technology development

The Administrator shall ensure that the Science Mission Directorate maintains a long term technology development program for space and Earth science. This effort should be coordinated with an overall Agency technology investment approach, as authorized in section 905 of this Act.

(Pub. L. 111–267, title VIII, §801, Oct. 11, 2010, 124 Stat. 2832.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 905 of this Act, referred to in text, is Pub. L. 111–267, title IX, §905, Oct. 11, 2010, 124 Stat. 2836, which is not classified to the Code.

§18382. Suborbital research activities

(a) In general

The report of the National Academy of Sciences, Revitalizing NASA's Suborbital Program: Advancing Science, Driving Innovation and Developing Workforce, found that suborbital science missions were absolutely critical to building an aerospace workforce capable of meeting the needs of current and future human and robotic space exploration.

(b) Management

The Administrator shall designate an officer or employee of the Science Mission Directorate to act as the responsible official for all Suborbital Research in the Science Mission Directorate. The designee shall be responsible for the development of short- and long term strategic plans for maintaining, renewing and extending suborbital facilities and capabilities, monitoring progress towards goals in the plans, and be responsible for integration of suborbital activities and workforce development within the agency, thereby ensuring the long term recognition of their combined value to the directorate, to NASA, and to the Nation.

(c) Establishment of Suborbital Research Program

The Administrator shall establish a Suborbital Research Program within the Science Mission Directorate that shall include the use of sounding rockets, aircraft, high altitude balloons, suborbital reusable launch vehicles, and commercial launch vehicles to advance science and train the next generation of scientists and engineers in systems engineering and systems integration which are vital to maintaining critical skills in the aerospace workforce. The program shall integrate existing suborbital research programs with orbital missions at the discretion of the designated officer or employee and shall emphasize the participation of undergraduate and graduate students and post-doctoral researchers when formulating announcements of opportunity.

(d) Report

The Administrator shall report to the appropriate committees of Congress on the number and type of suborbital missions conducted in each fiscal year and the number of undergraduate and graduate

students participating in the missions. The report shall be made annually for each fiscal year under this section.

(e) Authorization

There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this section.

(Pub. L. 111–267, title VIII, §802, Oct. 11, 2010, 124 Stat. 2832.)

§18383. In-space servicing

The Administrator shall continue to take all necessary steps to ensure that provisions are made for in-space or human servicing and repair of all future observatory-class scientific spacecraft intended to be deployed in Earth-orbit or at a Lagrangian point to the extent practicable and appropriate. The Administrator should ensure that agency investments and future capabilities for space technology, robotics, and human space flight take the ability to service and repair these spacecraft into account, where appropriate, and incorporate such capabilities into design and operational plans.

(Pub. L. 111–267, title VIII, §804, Oct. 11, 2010, 124 Stat. 2833.)

§18384. Decadal results

NASA shall take into account the current decadal surveys from the National Academies' Space Studies Board when submitting the President's budget request to the Congress.

(Pub. L. 111–267, title VIII, §805, Oct. 11, 2010, 124 Stat. 2833.)

§18385. On-going restoration of radioisotope thermoelectric generator material production

(a) Findings

The Congress finds the following:

(1) The United States has led the world in the scientific exploration of space for nearly 50 years.

(2) Missions such as Viking, Voyager, Cassini, and New Horizons have greatly expanded knowledge of our solar system and planetary characteristics and evolution.

(3) Radioisotope power systems are the only available power sources for deep space missions making it possible to travel to such distant destinations as Mars, Jupiter, Saturn, Pluto, and beyond and maintain operational control and systems viability for extended mission durations.

(4) Current radioisotope power systems supplies and production will not fully support NASA missions planned even in the next decade and, without a new domestic production capability, the United States will no longer have the means to explore the majority of the solar system by the end of this decade.

(5) Continuing to rely on Russia or other foreign sources for radioisotope power system fuel production is not a secure option.

(6) Reestablishing domestic production will require a long lead-time. Thus, meeting future space exploration mission needs requires that a restart project begin at the earliest opportunity.

(b) In general

The Administrator shall, in coordination with the Secretary of Energy, pursue a joint approach beginning in fiscal year 2011 towards restarting and sustaining the domestic production of radioisotope thermoelectric generator material for deep space and other science and exploration missions. Funds authorized by this chapter for NASA shall be made available under a reimbursable agreement with the Department of Energy for the purpose of reestablishing facilities to produce fuel required for radioisotope thermoelectric generators to enable future missions.

(c) Report

Within 120 days after October 11, 2010, the Administrator and the Secretary of Energy shall submit a joint report to the appropriate committees of Congress on coordinated agreements, planned implementation, and anticipated schedule, production quantities, and mission applications under this section.

(Pub. L. 111–267, title VIII, §806, Oct. 11, 2010, 124 Stat. 2833.)

§18386. Collaboration with ESMD and SOMD on robotic missions

The Administrator shall ensure that the Exploration Systems Mission Directorate and the Space Operations Mission Directorate coordinate with the Science Mission Directorate on an overall approach and plan for interagency and international collaboration on robotic missions that are NASA or internationally developed, including lunar, Lagrangian, near-Earth orbit, and Mars spacecraft, such as the International Lunar Network. Within 90 days after October 11, 2010, the Administrator shall provide a plan to the appropriate committees of Congress for implementation of the collaborative approach required by this section. The Administrator may not cancel or initiate any Exploration Systems Mission Directorate or Science Mission Directorate robotic project before the plan is submitted to the appropriate committees of Congress.

(Pub. L. 111–267, title VIII, §807, Oct. 11, 2010, 124 Stat. 2834.)

§18387. Near-Earth object survey and policy with respect to threats posed

(a) Policy reaffirmation

Congress reaffirms the policy set forth in section 20102(g) of title 51 relating to surveying near-Earth asteroids and comets.

(b) Implementation

The Director of the OSTP shall implement, before September 30, 2012, a policy for notifying Federal agencies and relevant emergency response institutions of an impending near-Earth object threat if near-term public safety is at risk, and assign a Federal agency or agencies to be responsible for protecting the United States and working with the international community on such threats.

(Pub. L. 111–267, title VIII, §808, Oct. 11, 2010, 124 Stat. 2834.)

EDITORIAL NOTES

CODIFICATION

In subsec. (a), "section 20102(g) of title 51" substituted for "section 102(g) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(g))" on authority of Pub. L. 111–314, §5(e), Dec. 18, 2010, 124 Stat. 3443, which Act enacted Title 51, National and Commercial Space Programs.

§18388. Repealed. Pub. L. 116–181, §2(c)(2), Oct. 21, 2020, 134 Stat. 892

Section, Pub. L. 111–267, title VIII, §809, Oct. 11, 2010, 124 Stat. 2834, related to space weather. See chapter 606 of Title 51, National and Commercial Space Programs.

SUBCHAPTER VIII—AERONAUTICS AND SPACE TECHNOLOGY

§18401. Aeronautics research goals

The Administrator should ensure that NASA maintains a strong aeronautics research portfolio ranging from fundamental research through systems research with specific research goals, including the following:

(1) Airspace capacity

NASA's Aeronautics Research Mission Directorate shall address research needs of the Next Generation Air Transportation System, including the ability of the National Airspace System to handle up to 3 times the current travel demand by 2025.

(2) Environmental sustainability

The Directorate shall consider and pursue concepts to reduce noise, emissions, and fuel consumption while maintaining high safety standards and shall pursue research related to alternative fuels.

(3) Aviation safety

The Directorate shall proactively address safety challenges with new and current air vehicles and with operations in the Nation's current and future air transportation system.

(Pub. L. 111–267, title IX, §902, Oct. 11, 2010, 124 Stat. 2835.)

§18402. Research collaboration

(a) Department of Defense

The Administrator shall continue to coordinate with the Secretary of Defense, through the National Partnership for Aeronautics Testing, to develop and implement joint plans for those elements of the Nation's research, development, testing, and engineering infrastructure that are of common interest and use.

(b) Federal Aviation Administration

The Administrator shall continue to coordinate with, and work closely with, the Administrator of the Federal Aviation Administration, under the framework of the Senior Policy Council, in development of the Next Generation Air Transportation Program. The Administrator shall encourage the Council to explore areas for greater collaboration, including areas where NASA can help to accelerate the development and demonstration of NextGen technologies.

(Pub. L. 111–267, title IX, §903, Oct. 11, 2010, 124 Stat. 2835.)

§18403. Goal for Agency space technology

It is critical that NASA maintain an Agency space technology base that helps align mission directorate investments and supports long term needs to complement mission-directorate funded research and support, where appropriate, multiple users, building upon its Innovative Partnerships Program and other partnering approaches.

(Pub. L. 111–267, title IX, §904, Oct. 11, 2010, 124 Stat. 2836.)

§18404. National space technology policy

(a) In general

The President or the President's designee, in consultation with appropriate Federal agencies, shall develop a national policy to guide the space technology development programs of the United States through 2020. The policy shall include national goals for technology development and shall describe the role and responsibilities of each Federal agency that will carry out the policy. In developing the

policy, the President or the President's designee shall utilize external studies that have been conducted on the state of United States technology development and have suggested policies to ensure continued competitiveness.

(b) Content

(1) At a minimum, the national space technology development policy shall describe for NASA—

(A) the priority areas of research for technology investment;

(B) the basis on which and the process by which priorities for ensuing fiscal years will be selected;

(C) the facilities and personnel needed to carry out the technology development program; and

(D) the budget assumptions on which the policy is based, which for fiscal years 2011, 2012, and 2013 shall be the authorized level for NASA's technology program authorized by this chapter.

(2) The policy shall be based on the premise that the Federal Government has an established interest in conducting research and development programs that help preserve the role of the United States as a global leader in space technologies and their application.

(3) CONSIDERATIONS.—In developing the national space technology development policy, the President or the President's designee shall consider, and include a discussion in the report required by subsection (c), of the following issues:

(A) The extent to which NASA should focus on long term, high-risk research or more incremental technology development, and the expected impact of that decision on the United States economy.

(B) The extent to which NASA should address military and commercial needs.

(C) How NASA will coordinate its technology program with other Federal agencies.

(D) The extent to which NASA will conduct research in-house, fund university research, and collaborate on industry research and the expected impact of that mix of funding on the supply of United States workers for industry.

(4) CONSULTATION.—In the development of the national space technology development policy, the President or the President's designee shall consult widely with academic and industry experts and with other Federal agencies. The Administrator may enter into an arrangement with the National Academy of Sciences to help develop the policy.

(c) Report

(1) Policy

Not later than 1 year after October 11, 2010, the President shall transmit a report setting forth national space technology policy to the appropriate committees of Congress and to the Senate Committee on Appropriations and the House of Representatives Committee on Appropriations.

(2) Implementation

Not later than 60 days after the President transmits the report required by paragraph (1) to the Congress, the Administrator shall transmit a report to the same committees describing how NASA will carry out the policy.

(Pub. L. 111–267, title IX, §906, Oct. 11, 2010, 124 Stat. 2836.)

§18405. Commercial Reusable Suborbital Research Program

(a) In general

The report of the National Academy of Sciences, Revitalizing NASA's Suborbital Program: Advancing Science, Driving Innovation and Developing Workforce, found that suborbital science missions were absolutely critical to building an aerospace workforce capable of meeting the needs of

current and future human and robotic space exploration.

(b) Management

The Administrator shall designate an officer or employee of the Space Technology Program to act as the responsible official for the Commercial Reusable Suborbital Research Program in the Space Technology Program. The designee shall be responsible for the development of short- and long term strategic plans for maintaining, renewing and extending suborbital facilities and capabilities.

(c) Establishment

The Administrator shall establish a Commercial Reusable Suborbital Research Program within the Space Technology Program that shall fund the development of payloads for scientific research, technology development, and education, and shall provide flight opportunities for those payloads to microgravity environments and suborbital altitudes. The Commercial Reusable Suborbital Research Program may fund engineering and integration demonstrations, proofs of concept, or educational experiments for commercial reusable vehicle flights. The program shall endeavor to work with NASA's Mission Directorates to help achieve NASA's research, technology, and education goals.

(d) Report

The Administrator shall submit a report annually to the appropriate committees of Congress describing progress in carrying out the Commercial Reusable Suborbital Research program, including the number and type of suborbital missions planned in each fiscal year.

(e) Authorization

There are authorized to be appropriated to the Administrator $15,000,000 for each of fiscal years 2011 through 2013 to carry out this section.

(Pub. L. 111–267, title IX, §907, Oct. 11, 2010, 124 Stat. 2837.)

SUBCHAPTER IX—EDUCATION

§18421. Study of potential commercial orbital platform program impact on science, technology, engineering, and mathematics

A fundamental and unique capability of NASA is in stimulating science, technology, engineering, and mathematics education in the United States. In ensuring maximum use of that capability, the Administrator shall carry out a study to—

(1) identify the benefits of and lessons learned from ongoing and previous NASA orbital student programs including, at a minimum, the Get Away Special (GAS) and Earth Knowledge Acquired by Middle School Students (EarthKAM) programs, on science, technology, engineering, and mathematics education;

(2) assess the potential impacts on science, technology, engineering, and mathematics education of a program that would facilitate the development of scientific and educational payloads involving United States students and educators and the flights of those payloads on commercially available orbital platforms, when available and operational, with the goal of providing frequent and regular payload launches;

(3) identify NASA expertise, such as NASA science, engineering, payload development, and payload operations, that could be made available to facilitate a science, technology, engineering, and mathematics program using commercial orbital platforms; and

(4) identify the issues that would need to be addressed before NASA could properly assess the merits and feasibility of the program described in paragraph (2).

(Pub. L. 111–267, title X, §1003, Oct. 11, 2010, 124 Stat. 2838; Pub. L. 111–358, title II, §205(a), Jan. 4, 2011, 124 Stat. 3995.)

EDITORIAL NOTES

AMENDMENTS

2011—Pub. L. 111–358 amended section generally. Prior to amendment, text read as follows: "A fundamental and unique capability of NASA is in stimulating science, technology, engineering, and mathematics education in the United States. In ensuring maximum use of that capability, NASA shall—

"(1) establish a program to annually sponsor scientific and educational payloads developed with United States student and educator involvement to be flown on commercially available orbital platforms, when available and operational, with the goal of launching at least 50 such payloads (with at least one from each of the 50 States) to orbit on at least one mission per year;

"(2) contract with providers of commercial orbital platform services for their use by the STEM-Commercial Orbital Platform program, preceded by the issuance of a request for proposal, not later than 90 days after October 11, 2010, to enter into at least one funded, competitively-awarded contract for commercial orbital platform services and make awards within 180 days after such date; and

"(3) engage with United States students and educators and make available NASA's science, engineering, payload development, and payload operations expertise to student teams selected to participate in the STEM-Commercial Orbital Platform program."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–358, title II, §205(c), Jan. 4, 2011, 124 Stat. 3996, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 12, 2010."

SUBCHAPTER X—RE-SCOPING AND REVITALIZING INSTITUTIONAL CAPABILITIES

§18431. Workforce stabilization and critical skills preservation

Prior to receipt by the Congress of the study, recommendations, and implementation strategy developed pursuant to section 1103,[1] none of the funds authorized for use under this Act may be used to transfer the functions, missions, or activities, and associated civil service and contractor positions, from any NASA facility without authorization by the Congress to implement the proposed strategy. The Administrator shall preserve the critical skills and competencies in place at NASA centers prior to October 11, 2010, in order to facilitate timely implementation of the requirements of this chapter and to minimize disruption to the workforce. The Administrator may not implement any reduction-in-force or other involuntary separations of permanent, non-Senior-Executive-Service, civil servant employees before September 30, 2013, except for cause on charges of misconduct, delinquency, or inefficiency.

(Pub. L. 111–267, title XI, §1105, Oct. 11, 2010, 124 Stat. 2840.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1103, referred to in text, is Pub. L. 111–267, title XI, §1103, Oct. 11, 2010, 124 Stat. 2840, which is not classified to the Code.

This Act, referred to in text, is Pub. L. 111–267, Oct. 11, 2010, 124 Stat. 2805, known as the National Aeronautics and Space Administration Authorization Act of 2010, which enacted this chapter (§18301 et seq.) and various other provisions, including provisions authorizing appropriations, which were not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 18301 of this title and Tables.

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

SUBCHAPTER XI—OTHER MATTERS

§18441. National and international orbital debris mitigation

(a) Findings

Congress makes the following findings:

(1) A national and international effort is needed to develop a coordinated approach towards the prevention, negation, and removal of orbital debris.

(2) The guidelines issued by the Inter-Agency Space Debris Coordination Committee provide a consensus understanding of 10 national space agencies (including NASA) plus the European Space Agency on the necessity of mitigating the creation of space debris and measures for doing so. NASA's participation on the Committee should be robust, and NASA should urge other space-relevant Federal agencies (including the Departments of State, Defense, and Commerce) to work to ensure that their counterpart agencies in foreign governments are aware of these national commitments and the importance in which the United States holds them.

(3) Key components of such an approach should include—

(A) a process for debris prevention through agreements regarding spacecraft design, operations, and end-of-life disposition plans to minimize orbiting vehicles or elements which are nonfunctional;

(B) the development of a robust Space Situational Awareness network that can identify potential collisions and provide sufficient trajectory and orbital data to enable avoidance maneuvers;

(C) the interagency development of an overall strategy for review by the President, with recommendations for proposed international collaborative efforts to address this challenge.

(b) International discussion

(1) In general

The Administrator shall, in consultation with such other departments and agencies of the Federal Government as the Administrator considers appropriate, continue and strengthen discussions with the representatives of other space-faring countries, within the Inter-Agency Space Debris Coordination Committee and elsewhere, to deal with this orbital debris mitigation.

(2) Interagency effort

For purposes of carrying out this subsection, the Director of OSTP, in coordination with the Director of the National Security Council and using the President's Council of Advisors on Science and Technology coordinating mechanism, shall develop an overall strategy for review by the President, with recommendations for proposed international collaborative efforts to address this challenge.

(Pub. L. 111–267, title XII, §1202, Oct. 11, 2010, 124 Stat. 2841.)

§18442. Reports on program and cost assessment and control assessment

(a) Findings

Congress makes the following findings:

(1) The adherence of NASA to program cost and schedule targets and discipline across NASA programs remains a concern.

(2) The James Webb Space Telescope has exceeded its cost estimate.

(3) In 2007 the Government Accountability Office issued a report on NASA's high risk acquisition performance.

(4) In response, NASA prepared a corrective action plan two years ago.

(b) Reports

(1) Reports required

Not later than 90 days after October 11, 2010, and not later than April 30 of each year thereafter, the Administrator shall submit to the appropriate committees of Congress a report on the implementation during the preceding year for the corrective action plan referred to in subsection (a)(4).

(2) Elements

Each report under this subsection shall set forth, for the year covered by such report, the following:

(A) A description of each NASA program that has exceeded its cost baseline by 15 percent or more or is more than 2 years behind its projected development schedule.

(B) For each program specified under subparagraph (A), a plan for such decrease in scope or requirements, or other measures, to be undertaken to control cost and schedule, including any cost monitoring or corrective actions undertaken pursuant to the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155),[1] and the amendments made by that Act.

(Pub. L. 111–267, title XII, §1203, Oct. 11, 2010, 124 Stat. 2841.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Aeronautics and Space Administration Authorization Act of 2005, referred to in subsec. (b)(2)(B), is Pub. L. 109–155, Dec. 30, 2005, 119 Stat. 2895, which was classified principally to chapter 150 (§16601 et seq.) of this title and was substantially repealed and restated in chapters 305 (§30501 et seq.), 401 (§40101 et seq.), 603 (§60301 et seq.) and 707 (§70701 et seq.) and sections 20301, 20302, 30103(a), (b), 30104, 30306, 30703, 30704, 30902, 31301, 31501, 40701, 40904 to 40909, 50505, 50116, 60505, 70501 to 70503, and 70902 to 70905 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444. For complete classification of this Act to the Code, see Short Title of 2005 Act note set out under section 10101 of Title 51 and Tables.

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

§18443. Eligibility for service of individual currently serving as Administrator of NASA

The individual serving in the position of Administrator of the National Aeronautics and Space Administration as of October 11, 2010, comes from civilian life and is therefore eligible to serve in such position, in conformance with section 20111 of title 51.

(Pub. L. 111–267, title XII, §1204, Oct. 11, 2010, 124 Stat. 2842.)

EDITORIAL NOTES

CODIFICATION

In text, "section 20111 of title 51" substituted for "section 202 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(a))" on authority of Pub. L. 111–314, §5(e), Dec. 18, 2010, 124 Stat. 3443, which Act enacted Title 51, National and Commercial Space Programs.

§18444. Counterfeit parts

(a) In general

The Administrator shall plan, develop, and implement a program, in coordination with other Federal agencies, to detect, track, catalog, and reduce the number of counterfeit electronic parts in the NASA supply chain.

(b) Requirements

In carrying out the program, the Administrator shall establish—

(1) counterfeit part identification training for all employees that procure, process, distribute, and install electronic parts that will—

(A) teach employees how to identify counterfeit parts;

(B) educate employees on procedures to follow if they suspect a part is counterfeit;

(C) regularly update employees on new threats, identification techniques, and reporting requirements; and

(D) integrate industry associations, manufacturers, suppliers, and other Federal agencies, as appropriate;

(2) an internal database to track all suspected and confirmed counterfeit electronic parts that will maintain, at a minimum—

(A) companies and individuals known and suspected of selling counterfeit parts;

(B) parts known and suspected of being counterfeit, including lot and date codes, part numbers, and part images;

(C) countries of origin;

(D) sources of reporting;

(E) United States Customs seizures; and

(F) Government-Industry Data Exchange Program reports and other public or private sector database notifications; and

(3) a mechanism to report all information on suspected and confirmed counterfeit electronic parts to law enforcement agencies, industry associations, and other databases, and to issue bulletins to industry on counterfeit electronic parts and related counterfeit activity.

(c) Review of procurement and acquisition policy

(1) In general

In establishing the program, the Administrator shall amend existing acquisition and procurement policy to purchase electronic parts from trusted or approved manufacturers. To determine trusted or approved manufacturers, the Administrator shall establish a list, assessed and adjusted at least annually, and create criteria for manufacturers to meet in order to be placed onto the list.

(2) Criteria

The criteria may include—

(A) authentication or encryption codes;

(B) embedded security markings in parts;

(C) unique, harder to copy labels and markings;

(D) identifying distinct lot and serial codes on external packaging;

(E) radio frequency identification embedded into high-value parts;

(F) physical destruction of all defective, damaged, and sub-standard parts that are by-products of the manufacturing process;

(G) testing certifications;

(H) maintenance of procedures for handling any counterfeit parts that slip through;

(I) maintenance of secure facilities to prevent unauthorized access to proprietary information; and

(J) maintenance of product return, buy back, and inventory control practices that limit counterfeiting.

(d) Report to Congress

Within one year after October 11, 2010, the Administrator shall report on the progress of implementing this section to the appropriate committees of Congress.

(Pub. L. 111–267, title XII, §1206, Oct. 11, 2010, 124 Stat. 2843.)

§18445. Information security

(a) Monitoring risk

(1) Update on system implementation

Not later than 120 days after October 11, 2010, and on a biennial basis thereafter, the chief information officer of NASA, in coordination with other national security agencies, shall provide to the appropriate committees of Congress—

(A) an update on efforts to implement a system to provide dynamic, comprehensive, real-time information regarding risk of unauthorized remote, proximity, and insider use or access, for all information infrastructure under the responsibility of the chief information officer, and mission-related networks, including contractor networks;

(B) an assessment of whether the system has demonstrably and quantifiably reduced network risk compared to alternative methods of measuring security; and

(C) an assessment of the progress that each center and facility has made toward implementing the system.

(2) Existing assessments

The assessments required of the Inspector General under section 3545 [1] of title 44 shall evaluate the effectiveness of the system described in this subsection.

(b) Information security awareness and education

(1) In general

In consultation with the Department of Education, other national security agencies, and other agency directorates, the chief information officer shall institute an information security awareness and education program for all operators and users of NASA information infrastructure, with the goal of reducing unauthorized remote, proximity, and insider use or access.

(2) Program requirements

(A) The program shall include, at a minimum, ongoing classified and unclassified threat-based briefings, and automated exercises and examinations that simulate common attack techniques.

(B) All agency employees and contractors engaged in the operation or use of agency information infrastructure shall participate in the program.

(C) Access to NASA information infrastructure shall only be granted to operators and users who regularly satisfy the requirements of the program.

(D) The chief human capital officer of NASA, in consultation with the chief information officer, shall create a system to reward operators and users of agency information infrastructure for continuous high achievement in the program.

(c) Information infrastructure defined

In this section, the term "information infrastructure" means the underlying framework that information systems and assets rely on to process, transmit, receive, or store information electronically, including programmable electronic devices and communications networks and any associated hardware, software, or data.

(Pub. L. 111–267, title XII, §1207, Oct. 11, 2010, 124 Stat. 2844.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3545 of title 44, referred to in subsec. (a)(2), was repealed by Pub. L. 113–283, §2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions similar to section 3545 of title 44 are now contained in section 3555 of title 44, as enacted by Pub. L. 113–283.

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

CHAPTER 160—TREATMENT OF CERTAIN PAYMENTS IN EUGENICS COMPENSATION

Sec.

§18501. Exclusion of payments from State eugenics compensation programs from consideration in determining eligibility for, or the amount of, Federal public benefits

(a) In general

Notwithstanding any other provision of law, payments made under a State eugenics compensation program shall not be considered as income or resources in determining eligibility for, or the amount of, any Federal public benefit.

(b) Definitions

For purposes of this section:

(1) Federal public benefit

The term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) State eugenics compensation program

The term "State eugenics compensation program" means a program established by State law that is intended to compensate individuals who were sterilized under the authority of the State.

(Pub. L. 114–241, §2, Oct. 7, 2016, 130 Stat. 976.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 114–241, §1, Oct. 7, 2016, 130 Stat. 976, provided that: "This Act [enacting this chapter] may be cited as the 'Treatment of Certain Payments in Eugenics Compensation Act'."

CHAPTER 161—DEPARTMENT OF ENERGY RESEARCH AND INNOVATION

§18601. Definitions

In this chapter:

(1) Department

The term "Department" means the Department of Energy.

(2) Director

The term "Director" means the Director of the Office of Science of the Department, except as otherwise indicated.

(3) National Laboratory

The term "National Laboratory" has the meaning given that term in section 15801 of this title.

(4) Secretary

The term "Secretary" means the Secretary of Energy.

(Pub. L. 115–246, §2, Sept. 28, 2018, 132 Stat. 3130.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 115–246, Sept. 28, 2018, 132 Stat. 3130, known as the Department of Energy Research and Innovation Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE

Pub. L. 115–246, §1(a), Sept. 28, 2018, 132 Stat. 3130, provided that: "This Act [see Short Title notes below and Tables for classification] may be cited as the 'Department of Energy Research and Innovation Act'."

Pub. L. 115–246, title I, §101, Sept. 28, 2018, 132 Stat. 3131, provided that: "This title [enacting subchapter I of this chapter and amending sections 16352 and 16391 of this title] may be cited as the 'Laboratory Modernization and Technology Transfer Act'."

Pub. L. 115–246, title II, §201, Sept. 28, 2018, 132 Stat. 3134, provided that: "This title [enacting

subchapter II of this chapter and section 16358 of this title, amending sections 16357 and 16538 of this title, and repealing section 16358 of this title] may be cited as the 'Department of Energy Research Coordination Act'."

Pub. L. 115–246, title III, §301, Sept. 28, 2018, 132 Stat. 3140, provided that: "This title [enacting subchapter III of this chapter and amending sections 2053, 7139, 16313, 16315, 16316, and 16321 of this title, sections 5541 and 5542 of Title 15, Commerce and Trade, and provisions set out as a note under section 5501 of Title 15] may be cited as the 'Department of Energy Office of Science Policy Act'."

SUBCHAPTER I—LABORATORY MODERNIZATION AND TECHNOLOGY TRANSFER

§18611. Sense of Congress on accelerating energy innovation

It is the sense of Congress that—

(1) although important progress has been made in cost reduction and deployment of clean energy technologies, accelerating clean energy innovation will help meet critical competitiveness, energy security, and environmental goals;

(2) accelerating the pace of clean energy innovation in the United States calls for—

(A) supporting existing research and development programs at the Department and the world-class National Laboratories;

(B) exploring and developing new pathways for innovators, investors, and decision-makers to leverage the resources of the Department for addressing the challenges and comparative strengths of geographic regions; and

(C) recognizing the financial constraints of the Department, regularly reviewing clean energy programs to ensure that taxpayer investments are maximized;

(3) the energy supply, demand, policies, markets, and resource options of the United States vary by geographic region;

(4) a regional approach to innovation can bridge the gaps between local talent, institutions, and industries to identify opportunities and convert United States investment into domestic companies; and

(5) Congress, the Secretary, and energy industry participants should advance efforts that promote international, domestic, and regional cooperation on the research and development of energy innovations that—

(A) provide clean, affordable, and reliable energy for everyone;

(B) promote economic growth;

(C) are critical for energy security; and

(D) are sustainable without government support.

(Pub. L. 115–246, title I, §103, Sept. 28, 2018, 132 Stat. 3131.)

§18612. Restoration of laboratory directed research and development program

(a) In general

Except as provided in subsection (b), the Secretary shall ensure that laboratory operating contractors do not allocate costs of general and administrative overhead to laboratory directed research and development.

(b) Exception for national security laboratories

This section shall not apply to the national security laboratories with respect to which section 3119 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328) applies.

(Pub. L. 115–246, title I, §104, Sept. 28, 2018, 132 Stat. 3132.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 3119 of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (b), is section 3119 of Pub. L. 114–328, which is set out as a note under section 2791 of Title 50, War and National Defense.

§18613. Research grants database

(a) In general

The Secretary shall establish and maintain a public database, accessible on the website of the Department, that contains a searchable listing of each unclassified research and development project contract, grant, cooperative agreement, task order for a federally funded research and development center, or other transaction administered by the Department.

(b) Requirements

Each listing described in subsection (a) shall include, at a minimum, for each listed project, the Department office carrying out the project, the project name, an abstract or summary of the project, funding levels, project duration, contractor or grantee name (including the names of any subcontractors), and expected objectives and milestones.

(c) Relevant literature and patents

The Secretary shall provide information through the public database established under subsection (a) on relevant literature and patents that are associated with each research and development project contract, grant, or cooperative agreement, or other transaction, of the Department.

(Pub. L. 115–246, title I, §105, Sept. 28, 2018, 132 Stat. 3132.)

§18614. Technology transfer and transitions assessment

Not later than 1 year after September 28, 2018, and as often as the Secretary determines to be necessary thereafter, the Secretary shall transmit to the appropriate committees of Congress a report that includes recommended changes to the policy of the Department and legislative changes to section 16391 of this title to improve the ability of the Department to successfully transfer new energy technologies to the private sector.

(Pub. L. 115–246, title I, §106, Sept. 28, 2018, 132 Stat. 3132.)

§18615. Agreements for commercializing technology pilot program

(a) In general

The Secretary shall carry out the Agreements for Commercializing Technology pilot program of the Department, as announced by the Secretary on December 8, 2011, in accordance with this section.

(b) Terms

Each agreement entered into pursuant to the pilot program referred to in subsection (a) shall provide to the contractor of the applicable National Laboratory, to the maximum extent determined to be appropriate by the Secretary, increased authority to negotiate contract terms, such as intellectual property rights, payment structures, performance guarantees, and multiparty collaborations.

(c) Eligibility

(1) In general

Any director of a National Laboratory may enter into an agreement pursuant to the pilot program referred to in subsection (a).

(2) Agreements with non-Federal entities

To carry out paragraph (1) and subject to paragraph (3), the Secretary shall permit the directors of the National Laboratories to execute agreements with a non-Federal entity, including a non-Federal entity already receiving Federal funding that will be used to support activities under agreements executed pursuant to paragraph (1), provided that such funding is solely used to carry out the purposes of the Federal award.

(3) Restriction

The requirements of chapter 18 of title 35 (commonly known as the "Bayh-Dole Act") shall apply if—

(A) the agreement is a funding agreement (as that term is defined in section 201 of that title); and

(B) at least one of the parties to the funding agreement is eligible to receive rights under that chapter.

(d) Submission to Secretary

Each affected director of a National Laboratory shall submit to the Secretary, with respect to each agreement entered into under this section—

(1) a summary of information relating to the relevant project;

(2) the total estimated costs of the project;

(3) estimated commencement and completion dates of the project; and

(4) other documentation determined to be appropriate by the Secretary.

(e) Certification

The Secretary shall require the contractor of the affected National Laboratory to certify that each activity carried out under a project for which an agreement is entered into under this section—

(1) is not in direct competition with the private sector; and

(2) does not present, or minimizes, any apparent conflict of interest, and avoids or neutralizes any actual conflict of interest, as a result of the agreement under this section.

(f) Extension

The pilot program referred to in subsection (a) shall be extended until September 30, 2019.

(g) Reports

(1) Overall assessment

Not later than 60 days after the date described in subsection (f), the Secretary, in coordination with directors of the National Laboratories, shall submit to the appropriate committees of Congress a report that—

(A) assesses the overall effectiveness of the pilot program referred to in subsection (a);

(B) identifies opportunities to improve the effectiveness of the pilot program;

(C) assesses the potential for program activities to interfere with the responsibilities of the National Laboratories to the Department; and

(D) provides a recommendation regarding the future of the pilot program.

(2) Transparency

The Secretary, in coordination with directors of the National Laboratories, shall submit to the appropriate committees of Congress an annual report that accounts for all incidences of, and provides a justification for, non-Federal entities using funds derived from a Federal contract or award to carry out agreements pursuant to this section.

(Pub. L. 115–246, title I, §107, Sept. 28, 2018, 132 Stat. 3132.)

SUBCHAPTER II—DEPARTMENT OF ENERGY RESEARCH COORDINATION

§18631. Crosscutting research and development

(a) In general

The Secretary shall use the capabilities of the Department to identify strategic opportunities for collaborative research, development, demonstration, and commercial application of innovative science and technologies.

(b) Existing programs; coordination of activities

To the maximum extent practicable, the Secretary shall seek—

(1) to leverage existing programs of the Department; and

(2) to consolidate and coordinate activities throughout the Department to promote collaboration and crosscutting approaches within programs of the Department.

(c) Additional actions

The Secretary shall—

(1) prioritize activities that use all affordable domestic resources;

(2) develop a planning, evaluation, and technical assessment framework for setting objective long-term strategic goals and evaluating progress that—

(A) ensures integrity and independence; and

(B) provides the flexibility to adapt to market dynamics;

(3) ensure that activities shall be undertaken in a manner that does not duplicate other activities within the Department or other Federal Government activities; and

(4) identify programs that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders.

(Pub. L. 115–246, title II, §203, Sept. 28, 2018, 132 Stat. 3135.)

§18632. Energy Innovation Hubs

(a) Definitions

In this section:

(1) Advanced energy technology

The term "advanced energy technology" means—

(A) an innovative technology—

(i) that produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, or other renewable energy resources;

(ii) that produces nuclear energy;

(iii) for carbon capture and sequestration;

(iv) that enables advanced vehicles, vehicle components, and related technologies that result in significant energy savings;

(v) that generates, transmits, distributes, uses, or stores energy more efficiently than conventional technologies, including through Smart Grid technologies; or

(vi) that enhances the energy independence and security of the United States by enabling improved or expanded supply and production of domestic energy resources, including coal, oil, and natural gas;

(B) a research, development, demonstration, or commercial application activity necessary to ensure the long-term, secure, and sustainable supply of an energy-critical element; or

(C) any other innovative energy technology area identified by the Secretary.

(2) Hub

(A) In general

The term "Hub" means an Energy Innovation Hub established under this section.

(B) Inclusion

The term "Hub" includes any Energy Innovation Hub in existence on September 28, 2018.

(3) Qualifying entity

The term "qualifying entity" means—

(A) an institution of higher education;

(B) an appropriate State or Federal entity, including a federally funded research and development center of the Department;

(C) a nongovernmental organization with expertise in advanced energy technology research, development, demonstration, or commercial application; or

(D) any other relevant entity the Secretary determines appropriate.

(b) Authorization of program

(1) In general

The Secretary shall carry out a program to enhance the economic, environmental, and energy security of the United States by making awards to consortia for establishing and operating hubs, to be known as "Energy Innovation Hubs", to conduct and support, at, if practicable, one centralized location, multidisciplinary, collaborative research, development, demonstration, and commercial application of advanced energy technologies.

(2) Technology development focus

The Secretary shall designate for each Hub a unique advanced energy technology or basic research focus.

(3) Coordination

The Secretary shall ensure the coordination of, and avoid unnecessary duplication of, the activities of each Hub with the activities of—

(A) other research entities of the Department, including the National Laboratories, the Advanced Research Projects Agency—Energy, and Energy Frontier Research Centers; and

(B) industry.

(c) Application process

(1) Eligibility

To be eligible to receive an award for the establishment and operation of a Hub under subsection (b)(1), a consortium shall—

(A) be composed of not fewer than two qualifying entities;

(B) operate subject to a binding agreement, entered into by each member of the consortium, that documents—

(i) the proposed partnership agreement, including the governance and management structure of the Hub;

(ii) measures the consortium will undertake to enable cost-effective implementation of activities under the program described in subsection (b)(1); and

(iii) a proposed budget, including financial contributions from non-Federal sources; and

(C) operate as a nonprofit organization.

(2) Application

(A) In general

A consortium seeking to establish and operate a Hub under subsection (b)(1) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a detailed description of each element of the consortium agreement required under paragraph (1)(B).

(B) Requirement

If the consortium members will not be located at one centralized location, the application under subparagraph (A) shall include a communications plan that ensures close coordination and integration of Hub activities.

(3) Selection

(A) In general

The Secretary shall select consortia for awards for the establishment and operation of Hubs through a competitive selection process.

(B) Considerations

In selecting consortia under subparagraph (A), the Secretary shall consider—

(i) the information disclosed by the consortium under this subsection; and

(ii) any existing facilities a consortium will provide for Hub activities.

(d) Term

(1) In general

An award made to a Hub under this section shall be for a period of not more than 5 years, subject to the availability of appropriations, after which the award may be renewed, subject to a rigorous merit review.

(2) Existing Hubs

A Hub already in existence on, or undergoing a renewal process on, September 28, 2018—

(A) may continue to receive support during the 5-year period beginning on the date of establishment of that Hub; and

(B) shall be eligible for renewal of that support at the end of that 5-year period.

(e) Hub operations

(1) In general

Each Hub shall conduct or provide for multidisciplinary, collaborative research, development, demonstration, and commercial application of advanced energy technologies within the technology development focus designated under subsection (b)(2).

(2) Activities

Each Hub shall—

(A) encourage collaboration and communication among the member qualifying entities of the consortium and awardees;

(B) develop and publish proposed plans and programs on a publicly accessible website;

(C) submit an annual report to the Department summarizing the activities of the Hub, including—

(i) detailing organizational expenditures; and

(ii) describing each project undertaken by the Hub; and

(D) monitor project implementation and coordination.

(3) Conflicts of interest

Each Hub shall maintain conflict of interest procedures, consistent with the conflict of interest procedures of the Department.

(4) Prohibition on construction

(A) In general

Except as provided in subparagraph (B)—

(i) no funds provided under this section may be used for construction of new buildings or facilities for Hubs; and

(ii) construction of new buildings or facilities shall not be considered as part of the non-Federal share of a Hub cost-sharing agreement.

(B) Test bed and renovation exception

Nothing in this paragraph prohibits the use of funds provided under this section or non-Federal cost share funds for the construction of a test bed or renovations to existing buildings or facilities for the purposes of research if the Secretary determines that the test bed or renovations are limited to a scope and scale necessary for the research to be conducted.

(Pub. L. 115–246, title II, §206, Sept. 28, 2018, 132 Stat. 3137.)

SUBCHAPTER III—DEPARTMENT OF ENERGY OFFICE OF SCIENCE POLICY

§18641. Basic energy sciences

(a) Energy Frontier Research Centers

(1) In general

The Director shall carry out a program to provide awards, on a competitive, merit-reviewed basis, to multi-institutional collaborations or other appropriate entities to conduct fundamental and use-inspired energy research to accelerate scientific breakthroughs.

(2) Collaborations

A collaboration receiving an award under this subsection may include multiple types of institutions and private sector entities.

(3) Selection and duration

(A) In general

A collaboration under this subsection shall be selected for a period of 4 years.

(B) Existing centers

An Energy Frontier Research Center in existence and supported by the Director on September 28, 2018, may continue to receive support for a period of 4 years beginning on the date of establishment of that center.

(C) Reapplication

After the end of the period described in subparagraph (A) or (B), as applicable, a recipient of an award may reapply for selection on a competitive, merit-reviewed basis.

(D) Termination

Consistent with the existing authorities of the Department, the Director may terminate an underperforming center for cause during the performance period.

(4) No funding for construction

No funding provided pursuant to this subsection may be used for the construction of new buildings or facilities.

(b) Basic energy sciences user facilities

(1) In general

The Director shall carry out a program for the development, construction, operation, and maintenance of national user facilities.

(2) Requirements

To the maximum extent practicable, the national user facilities developed, constructed, operated, or maintained under paragraph (1) shall serve the needs of the Department, industry, the academic community, and other relevant entities to create and examine materials and chemical processes for the purpose of improving the competitiveness of the United States.

(3) Included facilities

The national user facilities developed, constructed, operated, or maintained under paragraph (1) shall include—

(A) x-ray light sources;

(B) neutron sources;

(C) nanoscale science research centers; and

(D) such other facilities as the Director considers appropriate, consistent with section 7139 of this title.

(c) Accelerator research and development

The Director shall carry out research and development on advanced accelerator and storage ring technologies relevant to the development of basic energy sciences user facilities, in consultation with the High Energy Physics and Nuclear Physics programs of the Office of Science.

(Pub. L. 115–246, title III, §303(a)–(c), Sept. 28, 2018, 132 Stat. 3140, 3141.)

§18642. Advanced scientific computing research

(a) Omitted

(b) High-performance computing and networking research

The Director shall support research in high-performance computing and networking relevant to energy applications, including modeling, simulation, and advanced data analytics for basic and applied energy research programs carried out by the Secretary.

(c) Applied mathematics and software development for high-end computing systems

The Director shall carry out activities to develop, test, and support—

(1) mathematics, models, and algorithms for complex systems and programming environments; and

(2) tools, languages, and operating systems for high-end computing systems (as defined in section 5541 of title 15).

(Pub. L. 115–246, title III, §304, Sept. 28, 2018, 132 Stat. 3145.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of section 304 of Pub. L. 115–246. Subsec. (a) of section 304 of Pub. L. 115–246 amended sections 16316 of this title, sections 5541 and 5542 of Title 15, Commerce and Trade, and provisions set out as a note under section 5501 of Title 15.

§18643. High-energy physics

(a) Sense of Congress

It is the sense of Congress that—

(1) the Director should incorporate the findings and recommendations of the report of the Particle Physics Project Prioritization Panel entitled "Building for Discovery: Strategic Plan for U.S. Particle Physics in the Global Context" into the planning process of the Department; and

(2) the nations that lead in particle physics by hosting international teams dedicated to a common scientific goal attract the world's best talent and inspire future generations of physicists and technologists.

(b) International collaboration

The Director, as practicable and in coordination with other appropriate Federal agencies as necessary, shall ensure the access of United States researchers to the most advanced accelerator facilities and research capabilities in the world, including the Large Hadron Collider.

(c) Neutrino research

The Director shall carry out research activities on rare decay processes and the nature of the neutrino, which may include collaborations with the National Science Foundation or international collaborations.

(d) Dark energy and dark matter research

The Director shall carry out research activities on the nature of dark energy and dark matter, which may include collaborations with the National Aeronautics and Space Administration or the National Science Foundation; or international collaborations.

(Pub. L. 115–246, title III, §305, Sept. 28, 2018, 132 Stat. 3147.)

§18644. Biological and environmental research

(a) Biological systems

The Director shall carry out research and development activities in fundamental, structural, computational, and systems biology to increase systems-level understanding of the complex biological systems, which may include activities—

(1) to accelerate breakthroughs and new knowledge that would enable the cost-effective, sustainable production of—

(A) biomass-based liquid transportation fuels;

(B) bioenergy; and

(C) biobased materials;

(2) to improve understanding of the global carbon cycle, including processes for removing carbon dioxide from the atmosphere, through photosynthesis and other biological processes, for sequestration and storage; and

(3) to understand the biological mechanisms used to transform, immobilize, or remove contaminants from subsurface environments.

(b) Limitation for research funds

The Director shall not approve new climate science-related initiatives without making a determination that such work is well-coordinated with any relevant work carried out by other Federal agencies.

(c) Low-dose radiation research program

(1) In general

The Secretary shall carry out a research program on low-dose and low dose-rate radiation to—

(A) enhance the scientific understanding of, and reduce uncertainties associated with, the effects of exposure to low-dose and low dose-rate radiation; and

(B) inform improved risk-assessment and risk-management methods with respect to such radiation.

(2) Program components

In carrying out the program required under paragraph (1), the Secretary shall—

(A) support and carry out the directives under section 106(b) of the American Innovation and Competitiveness Act (42 U.S.C. 6601 note), except that such section shall be treated for purposes of this subsection as applying to low dose and low-dose rate radiation research, in coordination with the Physical Science Subcommittee of the National Science and Technology Council;

(B) identify and, to the extent possible, quantify, potential monetary and health-related impacts to Federal agencies, the general public, industry, research communities, and other users of information produced by such research program;

(C) leverage the collective body of knowledge from existing low-dose and low dose-rate radiation research;

(D) engage with other Federal agencies, research communities, and potential users of information produced under this section, including institutions performing or utilizing radiation research, medical physics, radiology, health physics, and emergency response measures; and

(E) support education and outreach activities to disseminate information and promote public understanding of low-dose radiation, with a focus on non-emergency situations such as medical physics, space exploration, and naturally occurring radiation.

(3) Research plan

(A) Not later than 90 days after December 27, 2020, the Secretary shall enter into an agreement with the National Academy of Sciences to develop a long-term strategic and prioritized research agenda for the program described in paragraph (2);

(B) Not later than one year after December 27, 2020, the Secretary shall transmit this research plan developed in subparagraph (A) to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) GAO study

Not later than 3 years after December 27, 2020, the Comptroller General shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report on:

(A) an evaluation of the program activities carried out under this section;

(B) the effectiveness of the coordination and management of the program; and

(C) the implementation of the research plan outlined in paragraph (3).

(6) [1] Definitions

In this subsection:

(A) Low-dose radiation

The term "low-dose radiation" means a radiation dose of less than 100 millisieverts.

(B) Low dose-rate radiation

The term "low dose-rate radiation" means a radiation dose rate of less than 5 millisieverts per hour.

(7) Rule of construction

Nothing in this subsection shall be construed to subject any research carried out by the Secretary for the program under this subsection to any limitations described in section 16317(e) of this title.

(8) Funding

For purposes of carrying out this subsection, the Secretary is authorized to make available from funds provided to the Biological and Environmental Research Program—

(A) $20,000,000 for fiscal year 2021;

(B) $20,000,000 for fiscal year 2022;

(C) $30,000,000 for fiscal year 2023; and

(D) $40,000,000 for fiscal year 2024.

(d) Space radiation research

The Secretary of Energy, shall continue and strengthen collaboration with the Administrator of the National Aeronautics and Space Administration on basic research to understand the effects and risks of human exposure to ionizing radiation in low Earth orbit, and in the space environment.

(Pub. L. 115–246, title III, §306, Sept. 28, 2018, 132 Stat. 3148; Pub. L. 116–260, div. Z, title XI, §11001, Dec. 27, 2020, 134 Stat. 2610.)

REFERENCES IN TEXT

Section 106(b) of the American Innovation and Competitiveness Act (42 U.S.C. 6601 note), referred to in subsec. (c)(2)(A), is section 106(b) of Pub. L. 114–329, title I, Jan. 6, 2017, 130 Stat. 2986, which is set out in a note under section 6601 of this title.

AMENDMENTS

2020—Subsec. (c). Pub. L. 116–260, §11001(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the establishment and purpose of a low-dose radiation research program.

Subsec. (d). Pub. L. 116–260, §11001(b), added subsec. (d).

[1] *So in original. No par. (5) has been enacted.*

§18645. Fusion energy

(a) Program

As part of the activities authorized under section 7139 of this title and section 16312 of this title, the Director shall carry out a fusion energy sciences research and enabling technology development program to effectively address the scientific and engineering challenges to building a cost competitive fusion power plant and to support the development of a competitive fusion power industry in the United States. As part of this program, the Director shall carry out research activities to expand the fundamental understandings of plasma and matter at very high temperatures and densities for fusion applications and for other engineering and plasma science applications.

(b) Fusion materials research and development

As part of the activities authorized in section 16318 of this title—

(1) the Director, in coordination with the Assistant Secretary for Nuclear Energy of the Department, shall carry out research and development activities to identify, characterize, and demonstrate materials that can endure the neutron, plasma, and heat fluxes expected in a fusion power system; and

(2) the Director shall provide an assessment of—

(A) the need for one or more facilities that can examine and test potential fusion and next generation fission materials and other enabling technologies relevant to the development of fusion power; and

(B) whether a single new facility that substantially addresses magnetic fusion and next generation fission materials research needs is feasible, in conjunction with the expected capabilities of facilities operational as of September 28, 2018.

(c) Tokamak research and development

The Director shall support research and development activities and facility operations to optimize the tokamak approach to fusion energy.

(d) Inertial fusion research and development

(1) In general

The Director shall carry out a program of research and technology development in inertial fusion for energy applications, including ion beam, laser, and pulsed power fusion systems.

(2) Activities

As part of the program described in paragraph (1), the Director shall support activities at and partnerships with universities and the National Laboratories to—

(A) develop novel target designs;

(B) support modeling of various inertial fusion energy concepts and systems;

(C) develop diagnostic tools; and

(D) improve inertial fusion energy driver technologies.

(3) Authorization of appropriations

Out of funds authorized to be appropriated under subsection (o), there are authorized to be appropriated to the Secretary to carry out the activities described in subsection (d) $25,000,000 for each of fiscal years 2021 through 2025.

(e) Alternative and enabling concepts

(1) In general

The Director shall support research and development activities and facility operations at institutions of higher education, National Laboratories, and private facilities in the United States for a portfolio of alternative and enabling fusion energy concepts that may provide solutions to significant challenges to the establishment of a commercial magnetic fusion power plant, prioritized based on the ability of the United States to play a leadership role in the international fusion research community.

(2) Activities

Fusion energy concepts and activities explored under paragraph (1) may include—

(A) alternative fusion energy concepts, including—

(i) advanced stellarator concepts;

(ii) non-tokamak confinement configurations operating at low magnetic fields;

(iii) magnetized target fusion energy concepts; or

(iv) other promising fusion energy concepts identified by the Director;

(B) enabling fusion technology development activities, including—

(i) high magnetic field approaches facilitated by high temperature superconductors;

(ii) liquid metals to address issues associated with fusion plasma interactions with the inner wall of the encasing device; and

(iii) advanced blankets for heat management and fuel breeding; and

(C) advanced scientific computing activities.

(3) Innovation network for fusion energy

(A) In general

The Secretary, acting through the Office of Science, shall support a program to provide fusion energy researchers with access to scientific and technical resources and expertise at facilities supported by the Department, including such facilities at National Laboratories and universities, to advance innovative fusion energy technologies toward commercial application.

(B) Awards

Financial assistance under the program established in subsection (a)—

(i) shall be awarded on a competitive, merit-reviewed basis; and

(ii) may be in the form of grants, vouchers, equipment loans, or contracts to private entities.

(4) Authorization of appropriations

Out of funds authorized to be appropriated under subsection (o), there are authorized to be appropriated to the Secretary to carry out the activities described in subsection (e) $50,000,000 for each of fiscal years 2021 through 2025.

(f) Coordination with ARPA–E

The Director shall coordinate with the Director of the Advanced Research Projects Agency-Energy (referred to in this subsection as "ARPA–E") to—

(1) assess the potential for any fusion energy project supported by ARPA–E to represent a promising approach to a commercially viable fusion power plant;

(2) determine whether the results of any fusion energy project supported by ARPA–E merit the support of follow-on research activities carried out by the Office of Science; and

(3) avoid the unintentional duplication of activities.

(g) Omitted

(h) Identification of priorities

(1) Report

(A) In general

Not later than 2 years after September 28, 2018, the Secretary shall submit to Congress a report on the fusion energy research and development activities that the Department proposes to carry out over the 10-year period following the date of the report under not fewer than 3 realistic budget scenarios, including a scenario based on 3-percent annual growth in the non-ITER portion of the budget for fusion energy research and development activities.

(B) Inclusions

The report required under subparagraph (A) shall—

(i) identify specific areas of fusion energy research and enabling technology development in which the United States can and should establish or solidify a lead in the global fusion energy development effort;

(ii) identify priorities for initiation of facility construction and facility decommissioning under each of the three budget scenarios described in subparagraph (A); and

(iii) assess the ability of the fusion workforce of the United States to carry out the activities identified under clauses (i) and (ii), including the adequacy of programs at institutions of higher education in the United States to train the leaders and workers of the next generation of fusion energy researchers.

(2) Process

In order to develop the report required under paragraph (1)(A), the Secretary shall leverage best practices and lessons learned from the process used to develop the most recent report of the Particle Physics Project Prioritization Panel of the High Energy Physics Advisory Panel.

(3) Requirement

No member of the Fusion Energy Sciences Advisory Committee shall be excluded from participating in developing or voting on final approval of the report required under paragraph (1)(A).

(i) Milestone-based development program

(1) In general

Using the authority of the Secretary under section 7256(g) of this title, notwithstanding paragraph (10) of such section, the Secretary shall establish, not later than 6 months after the date of enactment of this section, a milestone-based fusion energy development program that requires projects to meet particular technical milestones before a participant is awarded funds by the Department.

(2) Purpose

The purpose of the program established by paragraph (1) shall be to support the development of a U.S.-based fusion power industry through the research and development of technologies that will

enable the construction of new full-scale fusion systems capable of demonstrating significant improvements in the performance of such systems, as defined by the Secretary, within 10 years of the enactment of this section.

(3) Eligibility

Any entity is eligible to participate in the program provided that the Secretary has deemed it as having the necessary resources and expertise.

(4) Requirements

In carrying out the milestone-based program under paragraph (1), the Secretary shall, for each relevant project—

(A) request proposals from eligible entities, as determined by the Secretary, that include proposed technical milestones, including estimated project timelines and total costs;

(B) set milestones based on a rigorous technical review process;

(C) award funding of a predetermined amount to projects that successfully meet proposed milestones under paragraph (1), or for expenses deemed reimbursable by the Secretary, in accordance with terms negotiated for an individual award; and

(D) communicate regularly with selected eligible entities and, if the Secretary deems appropriate, exercise small amounts of flexibility for technical milestones as projects mature.

(5) Awards

For the program established under paragraph (1)—

(A) an award recipient shall be responsible for all costs until milestones are achieved, or reimbursable expenses are reviewed and verified by the Department;

(B) should an awardee not meet the milestones described in paragraph (4), the Secretary may end the partnership with an award recipient and use the remaining funds in the ended agreement for new or existing projects carried out under this section; and

(C) consistent with the existing authorities of the Department, the Secretary may end the partnership with an award recipient for cause during the performance period.

(6) Applications

Any project proposal submitted to the program under paragraph (1) shall be evaluated based upon its scientific, technical, and business merits through a peer-review process, which shall include reviewers with appropriate expertise from the private sector, the investment community, and experts in the science and engineering of fusion and plasma physics.

(7) Project management

In carrying out projects under this program and assessing the completion of their milestones in accordance with paragraph (4), the Secretary shall consult with experts that represent diverse perspectives and professional experiences, including those from the private sector, to ensure a complete and thorough review.

(8) Programmatic review

Not later than 4 years after the Secretary has established 3 milestones under this program, the Secretary shall enter into a contractual arrangement with the National Academy of Sciences to review and provide a report describing the findings of this review to the House Committee on Science, Space, and Technology and the Senate Committee on Energy and Natural Resources on the program established under this paragraph (1) that assesses—

(A) the benefits and drawbacks of a milestone-based fusion program as compared to traditional program structure funding models at the Department;

(B) lessons-learned from program operations; and

(C) any other matters the Secretary determines regarding the program.

(9) Annual report

As part of the annual budget request submitted for each fiscal year, the Secretary shall provide the House Committee on Science, Space, and Technology and the Senate Committee on Energy

and Natural Resources a report describing partnerships supported by the program established under paragraph (1) during the previous fiscal year.

(10) Authorization of appropriations

Out of funds authorized to be appropriated under subsection (o), there are authorized to be appropriated to the Secretary to carry out the activities described in subsection (i), to remain available until expended—

(A) $45,000,000 for fiscal year 2021;
(B) $65,000,000 for fiscal year 2022;
(C) $105,000,000 for fiscal year 2023;
(D) $65,000,000 for fiscal year 2024; and
(E) $45,000,000 for fiscal year 2025.

(j) Fusion reactor system design

The Director shall support research and development activities to design future fusion reactor systems and examine and address the technical drivers for the cost of these systems.

(k) General plasma science and applications

The Director shall support research in general plasma science and high energy density physics that advance the understanding of the scientific community of fundamental properties and complex behavior of matter to control and manipulate plasmas for a broad range of applications, including support for research relevant to advancements in chip manufacturing and microelectronics.

(l) Sense of Congress

It is the sense of Congress that the United States should support a robust, diverse program in addition to providing sufficient support to, at a minimum, meet its commitments to ITER and maintain the schedule of the project as determined by the Secretary in coordination with the ITER Organization at the time of the enactment of this section. It is further the sense of Congress that developing the scientific basis for fusion, providing research results key to the success of ITER, and training the next generation of fusion scientists are of critical importance to the United States and should in no way be diminished by participation of the United States in the ITER project.

(m) International collaboration

The Director shall—

(1) as practicable and in coordination with other appropriate Federal agencies as necessary, ensure the access of United States researchers to the most advanced fusion research facilities and research capabilities in the world, including ITER;

(2) to the maximum extent practicable, continue to leverage United States participation ITER,[1] and prioritize expanding international partnerships and investments in current and future fusion research facilities within the United States; and

(3) to the maximum extent practicable, prioritize engagement in collaborative efforts in support of future international facilities that would provide access to the most advanced fusion research facilities in the world to United States researchers.

(n) Fission and fusion research coordination report

(1) In general

Not later than 6 months after the date of enactment of this section, the Secretary shall transmit to Congress a report addressing opportunities for coordinating fusion energy research and development activities between the Office of Nuclear Energy, the Office of Science, and the Advanced Research Projects Agency—Energy.

(2) Components

The report shall assess opportunities for collaboration on research and development of—

(A) liquid metals to address issues associated with fusion plasma interactions with the inner wall of the encasing device and other components within the reactor;

(B) immersion blankets for heat management and fuel breeding;
(C) technologies and methods for instrumentation and control;
(D) computational methods and codes for system operation and maintenance;
(E) codes and standard development;
(F) radioactive waste handling;
(G) radiological safety;
(H) potential for non-electricity generation applications; and
(I) any other overlapping priority as identified by the Director of the Office of Science or the Assistant Secretary of Energy for Nuclear Energy.

(o) Authorization of appropriations

There are authorized to be appropriated to the Secretary to carry out the activities described in this section—

(1) $996,000,000 for fiscal year 2021;
(2) $921,000,000 for fiscal year 2022;
(3) $961,000,000 for fiscal year 2023;
(4) $921,000,000 for fiscal year 2024; and
(5) $901,000,000 for fiscal year 2025.

(Pub. L. 115–246, title III, §307, Sept. 28, 2018, 132 Stat. 3148; Pub. L. 116–260, div. Z, title II, §2008(a), Dec. 27, 2020, 134 Stat. 2474.)

EDITORIAL NOTES

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (i)(1) and (n)(1), probably means the date of enactment of Pub. L. 116—260, which enacted subsecs. (i) and (n) of this section and was approved Dec. 27, 2020.

The enactment of this section, referred to in subsecs. (i)(2) and (l), probably means the enactment of Pub. L. 116—260, which enacted subsecs. (i) and (l) of this section and made other amendments to this section.

CODIFICATION

Section is comprised of section 307 of Pub. L. 115–246. Subsec. (g) of section 307 of Pub. L. 115–246 amended section 2053 of this title.

AMENDMENTS

Subsec. (a). Pub. L. 116–260, §2008(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsecs. (b), (c). Pub. L. 116–260, §2008(a)(1), redesignated subsecs. (a) and (b) as (b) and (c), respectively. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 116–260, §2008(a)(3), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Director shall support research and development activities for inertial fusion for energy applications."

Pub. L. 116–260, §2008(a)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 116–260, §2008(a)(4), amended subsec. (e) generally. Prior to amendment, text read as follows: "The Director shall support research and development activities and facility operations at institutions of higher education, National Laboratories, and private facilities in the United States for a portfolio of alternative and enabling fusion energy concepts that may provide solutions to significant challenges to the establishment of a commercial magnetic fusion power plant, prioritized based on the ability of the United States to play a leadership role in the international fusion research community."

Pub. L. 116–260, §2008(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (h). Pub. L. 116–260, §2008(a)(1), redesignated subsecs. (f) and (g) as (g) and (h) respectively.

Subsecs. (i) to (o). Pub. L. 116–260, §2008(a)(5), added subsecs. (i) to (o).

[1] *So in original.*

§18646. Isotope development and production for research applications

The Director—

(1) may carry out a program for the production of isotopes, including the development of techniques to produce isotopes, that the Secretary determines are needed for research, medical, industrial, or related purposes; and

(2) shall ensure that isotope production activities carried out under the program under this paragraph do not compete with private industry unless the Director determines that critical national interests require the involvement of the Federal Government.

(Pub. L. 115–246, title III, §308(a), Sept. 28, 2018, 132 Stat. 3150.)

§18647. Science laboratories infrastructure program

(a) In general

The Director shall carry out a program to improve the safety, efficiency, and mission readiness of infrastructure at laboratories of the Office of Science.

(b) Inclusions

The program under subsection (a) shall include projects—

(1) to renovate or replace space that does not meet research needs;

(2) to replace facilities that are no longer cost effective to renovate or operate;

(3) to modernize utility systems to prevent failures and ensure efficiency;

(4) to remove excess facilities to allow safe and efficient operations; and

(5) to construct modern facilities to conduct advanced research in controlled environmental conditions.

(Pub. L. 115–246, title III, §309, Sept. 28, 2018, 132 Stat. 3150.)

CHAPTER 162—ENERGY INFRASTRUCTURE

Sec.

§18701. Definitions

In this chapter:

(1) Department

The term "Department" means the Department of Energy.

(2) Indian tribe

The term "Indian Tribe" has the meaning given the term in section 5304 of title 25.

(3) Secretary

The term "Secretary" means the Secretary of Energy.

(Pub. L. 117–58, div. D, §40001, Nov. 15, 2021, 135 Stat. 923.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this division", meaning div. D of Pub. L. 117–58, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of div. D of Pub. L. 117–58 to the Code, see Tables.

SUBCHAPTER I—GRID INFRASTRUCTURE AND RESILIENCY

PART A—GRID INFRASTRUCTURE RESILIENCE AND RELIABILITY

§18711. Preventing outages and enhancing the resilience of the electric grid

(a) Definitions

In this section:

(1) Disruptive event

The term "disruptive event" means an event in which operations of the electric grid are disrupted, preventively shut off, or cannot operate safely due to extreme weather, wildfire, or a natural disaster.

(2) Eligible entity

The term "eligible entity" means—

(A) an electric grid operator;
(B) an electricity storage operator;
(C) an electricity generator;
(D) a transmission owner or operator;
(E) a distribution provider;
(F) a fuel supplier; and
(G) any other relevant entity, as determined by the Secretary.

(3) Natural disaster

The term "natural disaster" has the meaning given the term in section 5195a(a) of this title.

(4) Power line

The term "power line" includes a transmission line or a distribution line, as applicable.

(5) Program

The term "program" means the program established under subsection (b).

(b) Establishment of program

Not later than 180 days after November 15, 2021, the Secretary shall establish a program under which the Secretary shall make grants to eligible entities, States, and Indian Tribes in accordance with this section.

(c) Grants to eligible entities

(1) In general

The Secretary may make a grant under the program to an eligible entity to carry out activities that—

(A) are supplemental to existing hardening efforts of the eligible entity planned for any given year; and

(B)(i) reduce the risk of any power lines owned or operated by the eligible entity causing a wildfire; or

(ii) increase the ability of the eligible entity to reduce the likelihood and consequences of disruptive events.

(2) Application

(A) In general

An eligible entity desiring a grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(B) Requirement

As a condition of receiving a grant under the program, an eligible entity shall submit to the Secretary, as part of the application of the eligible entity submitted under subparagraph (A), a report detailing past, current, and future efforts by the eligible entity to reduce the likelihood and consequences of disruptive events.

(3) Limitation

The Secretary may not award a grant to an eligible entity in an amount that is greater than the total amount that the eligible entity has spent in the previous 3 years on efforts to reduce the likelihood and consequences of disruptive events.

(4) Priority

In making grants to eligible entities under the program, the Secretary shall give priority to projects that, in the determination of the Secretary, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.

(5) Small utilities set aside

The Secretary shall ensure that not less than 30 percent of the amounts made available to eligible entities under the program are made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year.

(d) Grants to States and Indian Tribes

(1) In general

The Secretary, in accordance with this subsection, may make grants under the program to States and Indian Tribes, which each State or Indian Tribe may use to award grants to eligible entities.

(2) Annual application

(A) In general

For each fiscal year, to be eligible to receive a grant under this subsection, a State or Indian Tribe shall submit to the Secretary an application that includes a plan described in subparagraph (B).

(B) Plan required

A plan prepared by a State or Indian Tribe for purposes of an application described in subparagraph (A) shall—

(i) describe the criteria and methods that will be used by the State or Indian Tribe to award grants to eligible entities;

(ii) be adopted after notice and a public hearing; and

(iii) describe the proposed funding distributions and recipients of the grants to be provided by the State or Indian Tribe.

(3) Distribution of funds

(A) In general

The Secretary shall provide grants to States and Indian Tribes under this subsection based on a formula determined by the Secretary, in accordance with subparagraph (B).

(B) Requirement

The formula referred to in subparagraph (A) shall be based on the following factors:

(i) The total population of the State or Indian Tribe.

(ii)(I) The total area of the State or the land of the Indian Tribe; or

(II) the areas in the State or on the land of the Indian Tribe with a low ratio of electricity customers per mileage of power lines.

(iii) The probability of disruptive events in the State or on the land of the Indian Tribe during the previous 10 years, as determined based on the number of federally declared disasters or emergencies in the State or on the land of the Indian Tribe, as applicable, including—

(I) disasters for which Fire Management Assistance Grants are provided under section 5187 of this title;

(II) major disasters declared by the President under section 5170 of this title;

(III) emergencies declared by the President under section 5191 of this title; and

(IV) any other federally declared disaster or emergency in the State or on the land of the Indian Tribe.

(iv) The number and severity, measured by population and economic impacts, of disruptive events experienced by the State or Indian Tribe on or after January 1, 2011.

(v) The total amount, on a per capita basis, of public and private expenditures during the previous 10 years to carry out mitigation efforts to reduce the likelihood and consequences of disruptive events in the State or on the land of the Indian Tribe, with States or Indian Tribes with higher per capita expenditures receiving additional weight or consideration as compared to States or Indian Tribes with lower per capita expenditures.

(C) Annual update of data used in distribution of funds

Beginning 1 year after November 15, 2021, the Secretary shall annually update—

(i) all data relating to the factors described in subparagraph (B); and

(ii) all other data used in distributing grants to States and Indian Tribes under this subsection.

(4) Oversight

The Secretary shall ensure that each grant provided to a State or Indian Tribe under the program is allocated, pursuant to the applicable plan of the State or Indian Tribe, to eligible entities for projects within the State or on the land of the Indian Tribe.

(5) Priority

In making grants to eligible entities using funds made available to the applicable State or Indian Tribe under the program, the State or Indian Tribe shall give priority to projects that, in the determination of the State or Indian Tribe, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.

(6) Small utilities set aside

A State or Indian Tribe receiving a grant under the program shall ensure that, of the amounts made available to eligible entities from funds made available to the State or Indian Tribe under the program, the percentage made available to eligible entities that sell not more than 4,000,000

megawatt hours of electricity per year is not less than the percentage of all customers in the State or Indian Tribe that are served by those eligible entities.

(7) Technical assistance and administrative expenses

Of the amounts made available to a State or Indian Tribe under the program each fiscal year, the State or Indian Tribe may use not more than 5 percent for—

(A) providing technical assistance under subsection (g)(1)(A); and

(B) administrative expenses associated with the program.

(8) Matching requirement

Each State and Indian Tribe shall be required to match 15 percent of the amount of each grant provided to the State or Indian Tribe under the program.

(e) Use of grants

(1) In general

A grant awarded to an eligible entity under the program may be used for activities, technologies, equipment, and hardening measures to reduce the likelihood and consequences of disruptive events, including—

(A) weatherization technologies and equipment;

(B) fire-resistant technologies and fire prevention systems;

(C) monitoring and control technologies;

(D) the undergrounding of electrical equipment;

(E) utility pole management;

(F) the relocation of power lines or the reconductoring of power lines with low-sag, advanced conductors;

(G) vegetation and fuel-load management;

(H) the use or construction of distributed energy resources for enhancing system adaptive capacity during disruptive events, including—

(i) microgrids; and

(ii) battery-storage subcomponents;

(I) adaptive protection technologies;

(J) advanced modeling technologies;

(K) hardening of power lines, facilities, substations, of other systems; and

(L) the replacement of old overhead conductors and underground cables.

(2) Prohibitions and limitations

(A) In general

A grant awarded to an eligible entity under the program may not be used for—

(i) construction of a new—

(I) electric generating facility; or

(II) large-scale battery-storage facility that is not used for enhancing system adaptive capacity during disruptive events; or

(ii) cybersecurity.

(B) Certain investments eligible for recovery

(i) In general

An eligible entity may not seek cost recovery for the portion of the cost of any system, technology, or equipment that is funded through a grant awarded under the program.

(ii) Savings provision

Nothing in this subparagraph prohibits an eligible entity from recovering through traditional or incentive-based ratemaking any portion of an investment in a system,

technology, or equipment that is not funded by a grant awarded under the program.

(C) Application limitations

An eligible entity may not submit an application for a grant provided by the Secretary under subsection (c) and a grant provided by a State or Indian Tribe pursuant to subsection (d) during the same application cycle.

(f) Distribution of funding

Of the amounts made available to carry out the program for a fiscal year, the Secretary shall ensure that—

(1) 50 percent is used to award grants to eligible entities under subsection (c); and

(2) 50 percent is used to make grants to States and Indian Tribes under subsection (d).

(g) Technical and other assistance

(1) In general

The Secretary, States, and Indian Tribes may—

(A) provide technical assistance and facilitate the distribution and sharing of information to reduce the likelihood and consequences of disruptive events; and

(B) promulgate consumer-facing information and resources to inform the public of best practices and resources relating to reducing the likelihood and consequences of disruptive events.

(2) Use of funds by the Secretary

Of the amounts made available to the Secretary to carry out the program each fiscal year, the Secretary may use not more than 5 percent for—

(A) providing technical assistance under paragraph (1)(A); and

(B) administrative expenses associated with the program.

(h) Matching requirement

(1) In general

Except as provided in paragraph (2), an eligible entity that receives a grant under this section shall be required to match 100 percent of the amount of the grant.

(2) Exception for small utilities

An eligible entity that sells not more than 4,000,000 megawatt hours of electricity per year shall be required to match 1/3 of the amount of the grant.

(i) Biennial report to Congress

(1) In general

Not later than 2 years after November 15, 2021, and every 2 years thereafter through 2026, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the program.

(2) Requirements

The report under paragraph (1) shall include information and data on—

(A) the costs of the projects for which grants are awarded to eligible entities;

(B) the types of activities, technologies, equipment, and hardening measures funded by those grants; and

(C) the extent to which the ability of the power grid to withstand disruptive events has increased.

(j) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $5,000,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title I, §40101, Nov. 15, 2021, 135 Stat. 923.)

§18712. Electric grid reliability and resilience research, development, and demonstration

(a) Definition of Federal financial assistance

In this section, the term "Federal financial assistance" has the meaning given the term in section 200.1 of title 2, Code of Federal Regulations.

(b) Energy infrastructure Federal financial assistance program

(1) Definitions

In this subsection:

(A) Eligible entity

The term "eligible entity" means each of—

(i) a State;

(ii) a combination of 2 or more States;

(iii) an Indian Tribe;

(iv) a unit of local government; and

(v) a public utility commission.

(B) Program

The term "program" means the competitive Federal financial assistance program established under paragraph (2).

(2) Establishment

Not later than 180 days after November 15, 2021, the Secretary shall establish a program, to be known as the "Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency", to provide, on a competitive basis, Federal financial assistance to eligible entities to carry out the purpose described in paragraph (3).

(3) Purpose

The purpose of the program is to coordinate and collaborate with electric sector owners and operators—

(A) to demonstrate innovative approaches to transmission, storage, and distribution infrastructure to harden and enhance resilience and reliability; and

(B) to demonstrate new approaches to enhance regional grid resilience, implemented through States by public and rural electric cooperative entities on a cost-shared basis.

(4) Applications

To be eligible to receive Federal financial assistance under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of—

(A) how the Federal financial assistance would be used;

(B) the expected beneficiaries, and

(C) in the case of a proposal from an eligible entity described in paragraph (1)(A)(ii), how the proposal would improve regional energy infrastructure.

(5) Selection

The Secretary shall select eligible entities to receive Federal financial assistance under the program on a competitive basis.

(6) Cost share

Section 16352 of this title shall apply to Federal financial assistance provided under the program.

(7) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection, $5,000,000,000 for the period of fiscal years 2022 through 2026.

(c) Energy improvement in rural or remote areas

(1) Definition of rural or remote area

In this subsection, the term "rural or remote area" means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(2) Required activities

The Secretary shall carry out activities to improve in rural or remote areas of the United States—

(A) the resilience, safety, reliability, and availability of energy; and

(B) environmental protection from adverse impacts of energy generation.

(3) Federal financial assistance

The Secretary, in consultation with the Secretary of the Interior, may provide Federal financial assistance to rural or remote areas for the purpose of—

(A) overall cost-effectiveness of energy generation, transmission, or distribution systems;

(B) siting or upgrading transmission and distribution lines;

(C) reducing greenhouse gas emissions from energy generation by rural or remote areas;

(D) providing or modernizing electric generation facilities;

(E) developing microgrids; and

(F) increasing energy efficiency.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection, $1,000,000,000 for the period of fiscal years 2022 through 2026.

(d) Energy infrastructure resilience framework

(1) In general

The Secretary, in collaboration with the Secretary of Homeland Security, the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, and interested energy infrastructure stakeholders, shall develop common analytical frameworks, tools, metrics, and data to assess the resilience, reliability, safety, and security of energy infrastructure in the United States, including by developing and storing an inventory of easily transported high-voltage recovery transformers and other required equipment.

(2) Assessment and report

(A) Assessment

The Secretary shall carry out an assessment of—

(i) with respect to the inventory of high-voltage recovery transformers, new transformers, and other equipment proposed to be developed and stored under paragraph (1)—

(I) the policies, technical specifications, and logistical and program structures necessary to mitigate the risks associated with the loss of high-voltage recovery transformers;

(II) the technical specifications for high-voltage recovery transformers;

(III) where inventory of high-voltage recovery transformers should be stored;

(IV) the quantity of high-voltage recovery transformers necessary for the inventory;

(V) how the stored inventory of high-voltage recovery transformers would be secured and maintained;

(VI) how the high-voltage recovery transformers may be transported;

(VII) opportunities for developing new flexible advanced transformer designs; and

(VIII) whether new Federal regulations or cost-sharing requirements are necessary to carry out the storage of high-voltage recovery transformers; and

(ii) any efforts carried out by industry as of the date of the assessment—

(I) to share transformers and equipment;

(II) to develop plans for next generation transformers; and

(III) to plan for surge and long-term manufacturing of, and long-term standardization of, transformer designs.

(B) Protection of information

Information that is provided to, generated by, or collected by the Secretary under subparagraph (A) shall be considered to be critical electric infrastructure information under section 824o–1 of title 16.

(C) Report

Not later than 180 days after November 15, 2021, the Secretary shall submit to Congress a report describing the results of the assessment carried out under subparagraph (A).

(Pub. L. 117–58, div. D, title I, §40103, Nov. 15, 2021, 135 Stat. 928.)

§18713. Transmission facilitation program

(a) Definitions

In this section:

(1) Capacity contract

The term "capacity contract" means a contract entered into by the Secretary and an eligible entity under subsection (e)(1)(A) for the right to the use of the transmission capacity of an eligible project.

(2) Eligible electric power transmission line

The term "eligible electric power transmission line" means an electric power transmission line that is capable of transmitting not less than—

(A) 1,000 megawatts; or

(B) in the case of a project that consists of upgrading an existing transmission line or constructing a new transmission line in an existing transmission, transportation, or telecommunications infrastructure corridor, 500 megawatts.

(3) Eligible entity

The term "eligible entity" means an entity seeking to carry out an eligible project.

(4) Eligible project

The term "eligible project" means a project (including any related facility)—

(A) to construct a new or replace an existing eligible electric power transmission line;

(B) to increase the transmission capacity of an existing eligible electric power transmission line; or

(C) to connect an isolated microgrid to an existing transmission, transportation, or telecommunications infrastructure corridor located in Alaska, Hawaii, or a territory of the United States.

(5) Fund

The term "Fund" means the Transmission Facilitation Fund established by subsection (d)(1).

(6) Program

The term "program" means the Transmission Facilitation Program established by subsection (b).

(7) Related facility

(A) In general

The term "related facility" means a facility related to an eligible project described in paragraph (4).

(B) Exclusions

The term "related facility" does not include—

(i) facilities used primarily to generate electric energy; or

(ii) facilities used in the local distribution of electric energy.

(b) Establishment

There is established a program, to be known as the "Transmission Facilitation Program", under which the Secretary shall facilitate the construction of electric power transmission lines and related facilities in accordance with subsection (e).

(c) Applications

(1) In general

To be eligible for assistance under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) Procedures

The Secretary shall establish procedures for the solicitation and review of applications from eligible entities.

(d) Funding

(1) Transmission Facilitation Fund

There is established in the Treasury a fund, to be known as the "Transmission Facilitation Fund", consisting of—

(A) all amounts received by the Secretary, including receipts, collections, and recoveries, from any source relating to expenses incurred by the Secretary in carrying out the program, including—

(i) costs recovered pursuant to paragraph (4);

(ii) amounts received as repayment of a loan issued to an eligible entity under subsection (e)(1)(B); and

(iii) amounts contributed by eligible entities for the purpose of carrying out an eligible project with respect to which the Secretary is participating with the eligible entity under subsection (e)(1)(C);

(B) all amounts borrowed from the Secretary of the Treasury by the Secretary for the program under paragraph (2); and

(C) any amounts appropriated to the Secretary for the program.

(2) Borrowing authority

The Secretary of the Treasury may, without further appropriation and without fiscal year limitation, loan to the Secretary on such terms as may be fixed by the Secretary and the Secretary of the Treasury, such sums as, in the judgment of the Secretary, are from time to time required for the purpose of carrying out the program, not to exceed, in the aggregate (including deferred interest), $2,500,000,000 in outstanding repayable balances at any 1 time.

(3) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program, including for any administrative expenses of carrying out the program that are not recovered under paragraph (4), $10,000,000 for each of fiscal years 2022 through 2026.

(4) Cost recovery

(A) In general

Except as provided in subparagraph (B), the cost of any facilitation activities carried out by the Secretary under subsection (e)(1) shall be collected—

(i) from eligible entities receiving the benefit of the applicable facilitation activity, on a schedule to be determined by the Secretary; or

(ii) with respect to a contracted transmission capacity under subsection (e)(1)(A) through rates charged for the use of the contracted transmission capacity.

(B) Forgiveness of balances

(i) Termination or end of useful life

If, at the end of the useful life of an eligible project or the termination of a capacity contract under subsection (f)(5), there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

(ii) Unconstructed projects

Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

(C) Recovery of costs of eligible projects

The Secretary may collect the costs of any activities carried out by the Secretary with respect to an eligible project in which the Secretary participates with an eligible entity under subsection (e)(1)(C) through rates charged to customers benefitting from the new transmission capability provided by the eligible project.

(e) Facilitation of eligible projects

(1) In general

To facilitate eligible projects, the Secretary may—

(A) subject to subsections (f) and (i), enter into a capacity contract with respect to an eligible project prior to the date on which the eligible project is completed;

(B) subject to subsections (g) and (i), issue a loan to an eligible entity for the costs of carrying out an eligible project; or

(C) subject to subsections (h) and (i), participate with an eligible entity in designing, developing, constructing, operating, maintaining, or owning an eligible project.

(2) Requirement

The provision and receipt of assistance for an eligible project under paragraph (1) shall be subject to such terms and conditions as the Secretary determines to be appropriate—

(A) to ensure the success of the program; and

(B) to protect the interests of the United States.

(f) Capacity contracts

(1) Purpose

In entering into capacity contracts under subsection (e)(1)(A), the Secretary shall seek to enter into capacity contracts that will encourage other entities to enter into contracts for the transmission capacity of the eligible project.

(2) Payment

The amount paid by the Secretary to an eligible entity under a capacity contract for the right to the use of the transmission capacity of an eligible project shall be—

(A) the fair market value for the use of the transmission capacity, as determined by the Secretary, taking into account, as the Secretary determines to be necessary, the comparable value for the use of the transmission capacity of other electric power transmission lines; and

(B) on a schedule and in such divided amounts, which may be a single amount, that the Secretary determines are likely to facilitate construction of the eligible project, taking into account standard industry practice and factors specific to each applicant, including, as applicable—

(i) potential review by a State regulatory entity of the revenue requirement of an electric utility; and

(ii) the financial model of an independent transmission developer.

(3) Limitations

A capacity contract shall—

(A) be for a term of not more than 40 years; and

(B) be for not more than 50 percent of the total proposed transmission capacity of the applicable eligible project.

(4) Transmission marketing

(A) In general

If the Secretary has not terminated a capacity contract under paragraph (5) before the applicable eligible project enters into service, the Secretary may enter into 1 or more contracts with a third party to market the transmission capacity of the eligible project to which the Secretary holds rights under the capacity contract.

(B) Return

Subject to subparagraph (D), the Secretary shall seek to ensure that any contract entered into under subparagraph (A) maximizes the financial return to the Federal Government.

(C) Competitive solicitation

The Secretary shall only select third parties for contracts under this paragraph through a competitive solicitation.

(D) Requirement

The marketing of capacity pursuant to this subsection, including any marketing by a third party under subparagraph (A), shall be undertaken consistent with the requirements of the Federal Power Act (16 U.S.C. 791a et seq.).

(5) Termination

(A) In general

The Secretary shall seek to terminate a capacity contract as soon as practicable after determining that sufficient transmission capacity of the eligible project has been secured by other entities to ensure the long-term financial viability of the eligible project, including through 1 or more transfers under subparagraph (B).

(B) Transfer

On payment to the Secretary by a third party for transmission capacity to which the Secretary has rights under a capacity contract, the Secretary may transfer the rights to that transmission capacity to that third party.

(C) Relinquishment

On payment to the Secretary by the applicable eligible entity for transmission capacity to which the Secretary has rights under a capacity contract, the Secretary may relinquish the rights to that transmission capacity to the eligible entity.

(D) Requirement

A payment under subparagraph (B) or (C) shall be in an amount sufficient for the Secretary to recover any remaining costs incurred by the Secretary with respect to the quantity of transmission capacity affected by the transfer under subparagraph (B) or the relinquishment under subparagraph (C), as applicable.

(6) Other Federal capacity positions

The existence of a capacity contract does not preclude a Federal entity, including a Federal power marketing administration, from otherwise securing transmission capacity at any time from

an eligible project, to the extent that the Federal entity is authorized to secure that transmission capacity.

(7) Form of financial assistance

Entering into a capacity contract under subsection (e)(1)(A) shall be considered a form of financial assistance described in section 1508.1(q)(1)(vii) of title 40, Code of Federal Regulations (as in effect on November 15, 2021).

(8) Transmission planning region consultation

Prior to entering into a capacity contract under this subsection, the Secretary shall consult with the relevant transmission planning region regarding the transmission planning region's identification of needs, and the Secretary shall minimize, to the extent possible, duplication or conflict with the transmission planning region's needs determination and selection of projects that meet such needs.

(g) Interest rate on loans

The rate of interest to be charged in connection with any loan made by the Secretary to an eligible entity under subsection (e)(1)(B) shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

(h) Public-private partnerships

The Secretary may participate with an eligible entity with respect to an eligible project under subsection (e)(1)(C) if the Secretary determines that the eligible project—

(1)(A) is located in an area designated as a national interest electric transmission corridor pursuant to section 216(a) of the Federal Power Act [16 U.S.C. 824p(a)]; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity across more than 1 State or transmission planning region;

(2) is consistent with efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practices;

(4) will be operated in conformance with the rules of—

(A) a Transmission Organization (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)), if applicable; or

(B) a regional reliability organization; and

(5) is not duplicative of the functions of existing transmission facilities that are the subject of ongoing siting and related permitting proceedings.

(i) Certification

Prior to taking action to facilitate an eligible project under subparagraph (A), (B), or (C) of subsection (e)(1), the Secretary shall certify that—

(1) the eligible project is in the public interest;

(2) the eligible project is unlikely to be constructed in as timely a manner or with as much transmission capacity in the absence of facilitation under this section, including with respect to an eligible project for which a Federal investment tax credit may be allowed; and

(3) it is reasonable to expect that the proceeds from the eligible project will be adequate, as applicable—

(A) to recover the cost of a capacity contract entered into under subsection (e)(1)(A);

(B) to repay a loan provided under subsection (e)(1)(B); or

(C) to repay any amounts borrowed from the Secretary of the Treasury under subsection (d)(2).

(j) Other authorities, limitations, and effects

(1) Participation

The Secretary may permit other entities to participate in the financing, construction, and

ownership of eligible projects facilitated under this section.

(2) Operations and maintenance

Facilitation by the Secretary of an eligible project under this section does not create any obligation on the part of the Secretary to operate or maintain the eligible project.

(3) Federal facilities

For purposes of cost recovery under subsection (d)(4) and repayment of a loan issued under subsection (e)(1)(B), each eligible project facilitated by the Secretary under this section shall be treated as separate and distinct from—

(A) each other eligible project; and

(B) all other Federal power and transmission facilities.

(4) Effect on ancillary services authority and obligations

Nothing in this section confers on the Secretary or any Federal power marketing administration any additional authority or obligation to provide ancillary services to users of transmission facilities constructed or upgraded under this section.

(5) Effect on western area power administration projects

Nothing in this section affects—

(A) any pending project application before the Western Area Power Administration under section 16421a of this title; or

(B) any agreement entered into by the Western Power Administration under that section.

(6) Third-party finance

Nothing in this section precludes an eligible project facilitated under this section from being eligible as a project under section 16421 of this title.

(7) Limitation on loans

An eligible project may not be the subject of both—

(A) a loan under subsection (e)(1)(B); and

(B) a Federal loan under section 16421a of this title.

(8) Considerations

In evaluating eligible projects for possible facilitation under this section, the Secretary shall prioritize projects that, to the maximum extent practicable—

(A) use technology that enhances the capacity, efficiency, resiliency, or reliability of an electric power transmission system, including—

(i) reconductoring of an existing electric power transmission line with advanced conductors; and

(ii) hardware or software that enables dynamic line ratings, advanced power flow control, or grid topology optimization;

(B) will improve the resiliency and reliability of an electric power transmission system;

(C) facilitate interregional transfer capacity that supports strong and equitable economic growth; and

(D) contribute to national or subnational goals to lower electricity sector greenhouse gas emissions.

(Pub. L. 117–58, div. D, title I, §40106, Nov. 15, 2021, 135 Stat. 934.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (f)(4)(D), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

PART B—CYBERSECURITY

§18721. Enhancing grid security through public-private partnerships

(a) Definitions

In this section:

(1) Bulk-power system; electric reliability organization

The terms "bulk-power system" and "Electric Reliability Organization" has the meaning given the terms in section 824o(a) of title 16.

(2) Electric utility; State regulatory authority

The terms "electric utility" and "State regulatory authority" have the meanings given the terms in section 796 of title 16.

(b) Program to promote and advance physical security and cybersecurity of electric utilities

(1) Establishment

The Secretary, in coordination with the Secretary of Homeland Security and in consultation with, as the Secretary determines to be appropriate, the heads of other relevant Federal agencies, State regulatory authorities, industry stakeholders, and the Electric Reliability Organization, shall carry out a program—

(A) to develop, and provide for voluntary implementation of, maturity models, self-assessments, and auditing methods for assessing the physical security and cybersecurity of electric utilities;

(B) to assist with threat assessment and cybersecurity training for electric utilities;

(C) to provide technical assistance for electric utilities subject to the program;

(D) to provide training to electric utilities to address and mitigate cybersecurity supply chain management risks;

(E) to advance, in partnership with electric utilities, the cybersecurity of third-party vendors that manufacture components of the electric grid;

(F) to increase opportunities for sharing best practices and data collection within the electric sector; and

(G) to assist, in the case of electric utilities that own defense critical electric infrastructure (as defined in section 824o–1(a) of title 16), with full engineering reviews of critical functions and operations at both the utility and defense infrastructure levels—

(i) to identify unprotected avenues for cyber-enabled sabotage that would have catastrophic effects to national security; and

(ii) to recommend and implement engineering protections to ensure continued operations of identified critical functions even in the face of constant cyber attacks and achieved perimeter access by sophisticated adversaries.

(2) Scope

In carrying out the program under paragraph (1), the Secretary shall—

(A) take into consideration—

(i) the different sizes of electric utilities; and

(ii) the regions that electric utilities serve;

(B) prioritize electric utilities with fewer available resources due to size or region; and

(C) to the maximum extent practicable, use and leverage—

(i) existing Department and Department of Homeland Security programs; and

(ii) existing programs of the Federal agencies determined to be appropriate under

paragraph (1).

(c) Report on cybersecurity of distribution systems

Not later than 1 year after November 15, 2021, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with, as the Secretary determines to be appropriate, the heads of other Federal agencies, State regulatory authorities, and industry stakeholders, shall submit to Congress a report that assesses—

(1) priorities, policies, procedures, and actions for enhancing the physical security and cybersecurity of electricity distribution systems, including behind-the-meter generation, storage, and load management devices, to address threats to, and vulnerabilities of, electricity distribution systems; and

(2) the implementation of the priorities, policies, procedures, and actions assessed under paragraph (1), including—

(A) an estimate of potential costs and benefits of the implementation; and

(B) an assessment of any public-private cost-sharing opportunities.

(d) Protection of information

Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(Pub. L. 117–58, div. D, title I, §40121, Nov. 15, 2021, 135 Stat. 949.)

§18722. Energy cyber sense program

(a) Definitions

In this section:

(1) Bulk-power system

The term "bulk-power system" has the meaning given the term in section 824o(a) of title 16.

(2) Program

The term "program" means the voluntary Energy Cyber Sense program established under subsection (b).

(b) Establishment

The Secretary, in coordination with the Secretary of Homeland Security and in consultation with the heads of other relevant Federal agencies, shall establish a voluntary Energy Cyber Sense program to test the cybersecurity of products and technologies intended for use in the energy sector, including in the bulk-power system.

(c) Program requirements

In carrying out subsection (b), the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the heads of other relevant Federal agencies, shall—

(1) establish a testing process under the program to test the cybersecurity of products and technologies intended for use in the energy sector, including products relating to industrial control systems and operational technologies, such as supervisory control and data acquisition systems;

(2) for products and technologies tested under the program, establish and maintain cybersecurity vulnerability reporting processes and a related database that are integrated with Federal vulnerability coordination processes;

(3) provide technical assistance to electric utilities, product manufacturers, and other energy sector stakeholders to develop solutions to mitigate identified cybersecurity vulnerabilities in

products and technologies tested under the program;

(4) biennially review products and technologies tested under the program for cybersecurity vulnerabilities and provide analysis with respect to how those products and technologies respond to and mitigate cyber threats;

(5) develop guidance that is informed by analysis and testing results under the program for electric utilities and other components of the energy sector for the procurement of products and technologies;

(6) provide reasonable notice to, and solicit comments from, the public prior to establishing or revising the testing process under the program;

(7) oversee the testing of products and technologies under the program; and

(8) consider incentives to encourage the use of analysis and results of testing under the program in the design of products and technologies for use in the energy sector.

(d) Protection of information

Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any component of the energy sector, including any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(e) Federal Government liability

Nothing in this section authorizes the commencement of an action against the United States with respect to the testing of a product or technology under the program.

(Pub. L. 117–58, div. D, title I, §40122, Nov. 15, 2021, 135 Stat. 950.)

§18723. Rural and municipal utility advanced cybersecurity grant and technical assistance program

(a) Definitions

In this section:

(1) Advanced cybersecurity technology

The term "advanced cybersecurity technology" means any technology, operational capability, or service, including computer hardware, software, or a related asset, that enhances the security posture of electric utilities through improvements in the ability to protect against, detect, respond to, or recover from a cybersecurity threat (as defined in section 1501 of title 6).

(2) Bulk-power system

The term "bulk-power system" has the meaning given the term in section 824o(a) of title 16.

(3) Eligible entity

The term "eligible entity" means—

(A) a rural electric cooperative;

(B) a utility owned by a political subdivision of a State, such as a municipally owned electric utility;

(C) a utility owned by any agency, authority, corporation, or instrumentality of 1 or more political subdivisions of a State;

(D) a not-for-profit entity that is in a partnership with not fewer than 6 entities described in subparagraph (A), (B), or (C); and

(E) an investor-owned electric utility that sells less than 4,000,000 megawatt hours of electricity per year.

(4) Program

The term "Program" means the Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program established under subsection (b).

(b) Establishment

Not later than 180 days after November 15, 2021, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, and the Electricity Subsector Coordinating Council, shall establish a program, to be known as the "Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program", to provide grants and technical assistance to, and enter into cooperative agreements with, eligible entities to protect against, detect, respond to, and recover from cybersecurity threats.

(c) Objectives

The objectives of the Program shall be—

(1) to deploy advanced cybersecurity technologies for electric utility systems; and

(2) to increase the participation of eligible entities in cybersecurity threat information sharing programs.

(d) Awards

(1) In general

The Secretary—

(A) shall award grants and provide technical assistance under the Program to eligible entities on a competitive basis;

(B) shall develop criteria and a formula for awarding grants and providing technical assistance under the Program;

(C) may enter into cooperative agreements with eligible entities that can facilitate the objectives described in subsection (c); and

(D) shall establish a process to ensure that all eligible entities are informed about and can become aware of opportunities to receive grants or technical assistance under the Program.

(2) Priority for grants and technical assistance

In awarding grants and providing technical assistance under the Program, the Secretary shall give priority to an eligible entity that, as determined by the Secretary—

(A) has limited cybersecurity resources;

(B) owns assets critical to the reliability of the bulk-power system; or

(C) owns defense critical electric infrastructure (as defined in section 824o–1(a) of title 16).

(e) Protection of information

Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(f) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $250,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title I, §40124, Nov. 15, 2021, 135 Stat. 953.)

§18724. Enhanced grid security

(a) Definitions

In this section:

(1) Electric utility

The term "electric utility" has the meaning given the term in section 796 of title 16).

(2) E-ISAC

The term "E-ISAC" means the Electricity Information Sharing and Analysis Center.

(b) Cybersecurity for the energy sector research, development, and demonstration program

(1) In general

The Secretary, in coordination with the Secretary of Homeland Security and in consultation with, as determined appropriate, other Federal agencies, the energy sector, the States, Indian Tribes, Tribal organizations, territories or freely associated states, and other stakeholders, shall develop and carry out a program—

(A) to develop advanced cybersecurity applications and technologies for the energy sector—

(i) to identify and mitigate vulnerabilities, including—

(I) dependencies on other critical infrastructure;

(II) impacts from weather and fuel supply;

(III) increased dependence on inverter-based technologies; and

(IV) vulnerabilities from unpatched hardware and software systems; and

(ii) to advance the security of field devices and third-party control systems, including—

(I) systems for generation, transmission, distribution, end use, and market functions;

(II) specific electric grid elements including advanced metering, demand response, distribution, generation, and electricity storage;

(III) forensic analysis of infected systems;

(IV) secure communications; and

(V) application of in-line edge security solutions;

(B) to leverage electric grid architecture as a means to assess risks to the energy sector, including by implementing an all-hazards approach to communications infrastructure, control systems architecture, and power systems architecture;

(C) to perform pilot demonstration projects with the energy sector to gain experience with new technologies;

(D) to develop workforce development curricula for energy sector-related cybersecurity; and

(E) to develop improved supply chain concepts for secure design of emerging digital components and power electronics.

(2) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $250,000,000 for the period of fiscal years 2022 through 2026.

(c) Energy sector operational support for cyberresilience program

(1) In general

The Secretary may develop and carry out a program—

(A) to enhance and periodically test—

(i) the emergency response capabilities of the Department; and

(ii) the coordination of the Department with other agencies, the National Laboratories, and private industry;

(B) to expand cooperation of the Department with the intelligence community for energy sector-related threat collection and analysis;

(C) to enhance the tools of the Department and E-ISAC for monitoring the status of the

energy sector;

(D) to expand industry participation in E-ISAC; and

(E) to provide technical assistance to small electric utilities for purposes of assessing and improving cybermaturity levels and addressing gaps identified in the assessment.

(2) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $50,000,000 for the period of fiscal years 2022 through 2026.

(d) Modeling and assessing energy infrastructure risk

(1) In general

The Secretary, in coordination with the Secretary of Homeland Security, shall develop and carry out an advanced energy security program to secure energy networks, including—

(A) electric networks;

(B) natural gas networks; and

(C) oil exploration, transmission, and delivery networks.

(2) Security and resiliency objective

The objective of the program developed under paragraph (1) is to increase the functional preservation of electric grid operations or natural gas and oil operations in the face of natural and human-made threats and hazards, including electric magnetic pulse and geomagnetic disturbances.

(3) Eligible activities

In carrying out the program developed under paragraph (1), the Secretary may—

(A) develop capabilities to identify vulnerabilities and critical components that pose major risks to grid security if destroyed or impaired;

(B) provide modeling at the national level to predict impacts from natural or human-made events;

(C) add physical security to the cybersecurity maturity model;

(D) conduct exercises and assessments to identify and mitigate vulnerabilities to the electric grid, including providing mitigation recommendations;

(E) conduct research on hardening solutions for critical components of the electric grid;

(F) conduct research on mitigation and recovery solutions for critical components of the electric grid; and

(G) provide technical assistance to States and other entities for standards and risk analysis.

(4) Savings provision

Nothing in this section authorizes new regulatory requirements.

(5) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this subsection $50,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title I, §40125, Nov. 15, 2021, 135 Stat. 954.)

§18725. Cybersecurity plan

(a) In general

The Secretary may require, as the Secretary determines appropriate, a recipient of any award or other funding under this chapter—

(1) to submit to the Secretary, prior to the issuance of the award or other funding, a cybersecurity plan that demonstrates the cybersecurity maturity of the recipient in the context of the project for which that award or other funding was provided; and

(2) establish a plan for maintaining and improving cybersecurity throughout the life of the proposed solution of the project.

(b) Contents of cybersecurity plan

A cybersecurity plan described in subsection (a) shall, at a minimum, describe how the recipient described in that subsection—

(1) plans to maintain cybersecurity between networks, systems, devices, applications, or components—

(A) within the proposed solution of the project; and

(B) at the necessary external interfaces at the proposed solution boundaries;

(2) will perform ongoing evaluation of cybersecurity risks to address issues as the issues arise throughout the life of the proposed solution;

(3) will report known or suspected network or system compromises of the project to the Secretary; and

(4) will leverage applicable cybersecurity programs of the Department, including cyber vulnerability testing and security engineering evaluations.

(c) Additional guidance

Each recipient described in subsection (a) should—

(1) maximize the use of open guidance and standards, including, wherever possible—

(A) the Cybersecurity Capability Maturity Model of the Department (or a successor model); and

(B) the Framework for Improving Critical Infrastructure Cybersecurity of the National Institute of Standards and Technology; and

(2) document —

(A) any deviation from open standards; and

(B) the utilization of proprietary standards where the recipient determines that such deviation necessary.

(d) Coordination

The Office of Cybersecurity, Energy Security, and Emergency Response of the Department shall review each cybersecurity plan submitted under subsection (a) to ensure integration with Department research, development, and demonstration programs.

(e) Protection of information

Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(Pub. L. 117–58, div. D, title I, §40126, Nov. 15, 2021, 135 Stat. 956.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this division", meaning div. D of Pub. L. 117–58, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of div. D of Pub. L. 117–58 to the Code, see Tables.

§18726. Savings provision

Nothing in this part affects the authority, existing on the day before November 15, 2021, of any other Federal department or agency, including the authority provided to the Secretary of Homeland

Security and the Director of the Cybersecurity and Infrastructure Security Agency in title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.).

(Pub. L. 117–58, div. D, title I, §40127, Nov. 15, 2021, 135 Stat. 957.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Homeland Security Act of 2002, referred to in text, is Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135. Title XXII of the Act is classified generally to subchapter XVIII (§651 et seq.) of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

SUBCHAPTER II—SUPPLY CHAINS FOR CLEAN ENERGY TECHNOLOGIES

§18741. Battery processing and manufacturing

(a) Definitions

In this section:

(1) Advanced battery

The term "advanced battery" means a battery that consists of a battery cell that can be integrated into a module, pack, or system to be used in energy storage applications, including electric vehicles and the electric grid.

(2) Advanced battery component

(A) In general

The term "advanced battery component" means a component of an advanced battery.

(B) Inclusions

The term "advanced battery component" includes materials, enhancements, enclosures, anodes, cathodes, electrolytes, cells, and other associated technologies that comprise an advanced battery.

(3) Battery material

The term "battery material" means the raw and processed form of a mineral, metal, chemical, or other material used in an advanced battery component.

(4) Eligible entity

The term "eligible entity" means an entity described in any of paragraphs (1) through (5) of section 16353(b) of this title.

(5) Foreign entity of concern

The term "foreign entity of concern" means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 1189(a) of title 8;

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the "SDN list");

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d) [1] of title 10);

(D) alleged by the Attorney General to have been involved in activities for which a

conviction was obtained under—

(i) chapter 37 of title 18 (commonly known as the "Espionage Act");

(ii) section 951 or 1030 of title 18;

(iii) chapter 90 of title 18 (commonly known as the "Economic Espionage Act of 1996");

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and [2] 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

(6) Manufacturing

The term "manufacturing", with respect to an advanced battery and an advanced battery component, means the industrial and chemical steps taken to produce that advanced battery or advanced battery component, respectively.

(7) Processing

The term "processing", with respect to battery material, means the refining of materials, including the treating, baking, and coating processes used to convert raw products into constituent materials employed directly in advanced battery manufacturing.

(8) Recycling

The term "recycling" means the recovery of materials from advanced batteries to be reused in similar applications, including the extracting, processing, and recoating of battery materials and advanced battery components.

(b) Battery material processing grants

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall establish within the Office of Fossil Energy a program, to be known as the "Battery Material Processing Grant Program" (referred to in this subsection as the "program"), under which the Secretary shall award grants in accordance with this subsection.

(2) Purposes

The purposes of the program are—

(A) to ensure that the United States has a viable battery materials processing industry to supply the North American battery supply chain;

(B) to expand the capabilities of the United States in advanced battery manufacturing;

(C) to enhance national security by reducing the reliance of the United States on foreign competitors for critical materials and technologies; and

(D) to enhance the domestic processing capacity of minerals necessary for battery materials and advanced batteries.

(3) Grants

(A) In general

Under the program, the Secretary shall award grants to eligible entities—

(i) to carry out 1 or more demonstration projects in the United States for the processing of battery materials;

(ii) to construct 1 or more new commercial-scale battery material processing facilities in the United States; and

(iii) to retool, retrofit, or expand 1 or more existing battery material processing facilities located in the United States and determined qualified by the Secretary.

(B) Amount limitation

The amount of a grant awarded under the program shall be not less than—

(i) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(i);

(ii) $100,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(ii); and

(iii) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(iii).

(C) Priority; consideration

In awarding grants to eligible entities under the program, the Secretary shall—

(i) give priority to an eligible entity that—

(I) is located and operates in the United States;

(II) is owned by a United States entity;

(III) deploys North American-owned intellectual property and content;

(IV) represents consortia or industry partnerships; and

(V) will not use battery material supplied by or originating from a foreign entity of concern; and

(ii) take into consideration whether a project—

(I) provides workforce opportunities in low- and moderate-income communities;

(II) encourages partnership with universities and laboratories to spur innovation and drive down costs;

(III) partners with Indian Tribes; and

(IV) takes into account—

(aa) greenhouse gas emissions reductions and energy efficient battery material processing opportunities throughout the manufacturing process; and

(bb) supply chain logistics.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $3,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(c) Battery manufacturing and recycling grants

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall establish within the Office of Energy Efficiency and Renewable Energy a battery manufacturing and recycling grant program (referred to in this subsection as the "program").

(2) Purpose

The purpose of the program is to ensure that the United States has a viable domestic manufacturing and recycling capability to support and sustain a North American battery supply chain.

(3) Grants

(A) In general

Under the program, the Secretary shall award grants to eligible entities—

(i) to carry out 1 or more demonstration projects for advanced battery component manufacturing, advanced battery manufacturing, and recycling;

(ii) to construct 1 or more new commercial-scale advanced battery component manufacturing, advanced battery manufacturing, or recycling facilities in the United States; and

(iii) to retool, retrofit, or expand 1 or more existing facilities located in the United States and determined qualified by the Secretary for advanced battery component manufacturing,

advanced battery manufacturing, and recycling.

(B) Amount limitation

The amount of a grant awarded under the program shall be not less than—

(i) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(i);

(ii) $100,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(ii); and

(iii) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(iii).

(C) Priority; consideration

In awarding grants to eligible entities under the program, the Secretary shall—

(i) give priority to an eligible entity that—

(I) is located and operates in the United States;

(II) is owned by a United States entity;

(III) deploys North American-owned intellectual property and content;

(IV) represents consortia or industry partnerships; and

(V)(aa) if the eligible entity will use the grant for advanced battery component manufacturing, will not use battery material supplied by or originating from a foreign entity of concern; or

(bb) if the eligible entity will use the grant for battery recycling, will not export recovered critical materials to a foreign entity of concern; and

(ii) take into consideration whether a project—

(I) provides workforce opportunities in low- and moderate-income or rural communities;

(II) provides workforce opportunities in communities that have lost jobs due to the displacements of fossil energy jobs;

(III) encourages partnership with universities and laboratories to spur innovation and drive down costs;

(IV) partners with Indian Tribes;

(V) takes into account—

(aa) greenhouse gas emissions reductions and energy efficient battery material processing opportunities throughout the manufacturing process; and

(bb) supply chain logistics; and

(VI) utilizes feedstock produced in the United States.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program $3,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(d) Reporting requirements

Not later than 1 year after November 15, 2021, and annually thereafter, the Secretary shall submit to Congress a report on the grant programs established under subsections (b) and (c), including, with respect to each grant program, a description of—

(1) the number of grant applications received;

(2) the number of grants awarded and the amount of each award;

(3) the purpose and status of each project carried out using a grant; and

(4) any other information the Secretary determines necessary.

(e) Lithium-ion battery recycling prize competition

(1) In general

The Secretary shall continue to carry out the Lithium-Ion Battery Recycling Prize Competition of the Department established pursuant to section 3719 of title 15 (referred to in this subsection as

the "competition").

(2) Authorization of appropriations for pilot projects

(A) In general

There is authorized to be appropriated to the Secretary to carry out Phase III of the competition, $10,000,000 for fiscal year 2022, to remain available until expended.

(B) Use of funds

The Secretary may use amounts made available under subparagraph (A)—

(i) to increase the number of winners of Phase III of the competition;

(ii) to increase the amount awarded to each winner of Phase III of the competition; and

(iii) to carry out any other activity that is consistent with the goals of Phase III of the competition, as determined by the Secretary.

(f) Battery and critical mineral recycling

(1) Definitions

In this subsection:

(A) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) Battery

The term "battery" means a device that—

(i) consists of 1 or more electrochemical cells that are electrically connected; and

(ii) is designed to store and deliver electric energy.

(C) Battery producer

The term "battery producer" means, with respect to a covered battery or covered battery-containing product that is sold, offered for sale, or distributed for sale in the United States, including through retail, wholesale, business-to-business, and online sale, the following applicable entity:

(i) A person who—

(I) manufactures the covered battery or covered battery-containing product; and

(II) sells or offers for sale the covered battery or covered battery-containing product under the brand of that person.

(ii) If there is no person described in clause (i) with respect to the covered battery or covered battery-containing product, the owner or licensee of the brand under which the covered battery or covered battery-containing product is sold, offered for sale, or distributed, regardless of whether the trademark of the brand is registered.

(iii) If there is no person described in clause (i) or (ii) with respect to the covered battery or covered battery-containing product, a person that imports the covered battery or covered battery-containing product into the United States for sale or distribution.

(D) Covered battery

The term "covered battery" means a new or unused primary battery or rechargeable battery.

(E) Covered battery-containing product

The term "covered battery-containing product" means a new or unused product that contains or is packaged with a primary battery or rechargeable battery.

(F) Critical mineral

The term "critical mineral" has the meaning given the term in section 1606(a) of title 30.

(G) Primary battery

The term "primary battery" means a nonrechargeable battery that weighs not more than 4.4

pounds, including an alkaline, carbon-zinc, and lithium metal battery.

(H) Rechargeable battery

(i) In general

The term "rechargeable battery" means a battery that—

(I) contains 1 or more voltaic or galvanic cells that are electrically connected to produce electric energy;

(II) is designed to be recharged;

(III) weighs not more than 11 pounds; and

(IV) has a watt-hour rating of not more than 300 watt-hours.

(ii) Exclusions

The term "rechargeable battery" does not include a battery that—

(I) contains electrolyte as a free liquid; or

(II) employs lead-acid technology, unless that battery is sealed and does not contain electrolyte as a free liquid.

(I) Recycling

The term "recycling" means the series of activities—

(i) during which recyclable materials are processed into specification-grade commodities, and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacturing of new products;

(ii) that may include collection, processing, and brokering; and

(iii) that result in subsequent consumption by a materials manufacturer, including for the manufacturing of new products.

(2) Battery recycling research, development, and demonstration grants

(A) In general

The Secretary, in coordination with the Administrator, shall award multiyear grants to eligible entities for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of batteries, including by addressing—

(i) recycling activities;

(ii) the development of methods to promote the design and production of batteries that take into full account and facilitate the dismantling, reuse, recovery, and recycling of battery components and materials;

(iii) strategies to increase consumer acceptance of, and participation in, the recycling of batteries;

(iv) the extraction or recovery of critical minerals from batteries that are recycled;

(v) the integration of increased quantities of recycled critical minerals in batteries and other products to develop markets for recycled battery materials and critical minerals;

(vi) safe disposal of waste materials and components recovered during the recycling process;

(vii) the protection of the health and safety of all persons involved in, or in proximity to, recycling and reprocessing activities, including communities located near recycling and materials reprocessing facilities;

(viii) mitigation of environmental impacts that arise from recycling batteries, including disposal of toxic reagents and byproducts related to recycling processes;

(ix) protection of data privacy associated with collected covered battery-containing products;

(x) the optimization of the value of material derived from recycling batteries; and

(xi) the cost-effectiveness and benefits of the reuse and recycling of batteries and critical minerals.

(B) Eligible entities

The Secretary, in coordination with the Administrator, may award a grant under subparagraph (A) to—

(i) an institution of higher education;
(ii) a National Laboratory;
(iii) a Federal research agency;
(iv) a State research agency;
(v) a nonprofit organization;
(vi) an industrial entity;
(vii) a manufacturing entity;
(viii) a private battery-collection entity;
(ix) an entity operating 1 or more battery recycling activities;
(x) a State or municipal government entity;
(xi) a battery producer;
(xii) a battery retailer; or
(xiii) a consortium of 2 or more entities described in clauses (i) through (xii).

(C) Applications

(i) In general

To be eligible to receive a grant under subparagraph (A), an eligible entity described in subparagraph (B) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) Contents

An application submitted under clause (i) shall describe how the project will promote collaboration among—

(I) battery producers and manufacturers;
(II) battery material and equipment manufacturers;
(III) battery recyclers, collectors, and refiners; and
(IV) retailers.

(D) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this paragraph $60,000,000 for the period of fiscal years 2022 through 2026.

(3) State and local programs

(A) In general

The Secretary, in coordination with the Administrator, shall establish a program under which the Secretary shall award grants, on a competitive basis, to States and units of local government to assist in the establishment or enhancement of State battery collection, recycling, and reprocessing programs.

(B) Non-Federal cost share

The non-Federal share of the cost of a project carried out using a grant under this paragraph shall be 50 percent of the cost of the project.

(C) Report

Not later than 2 years after November 15, 2021, and annually thereafter, the Secretary shall submit to Congress a report that describes the number of battery collection points established or enhanced, an estimate of jobs created, and the quantity of material collected as a result of the grants awarded under subparagraph (A).

(D) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this paragraph $50,000,000 for the period of fiscal years 2022 through 2026.

(4) Retailers as collection points

(A) In general

The Secretary shall award grants, on a competitive basis, to retailers that sell covered batteries or covered battery-containing products to establish and implement a system for the acceptance and collection of covered batteries and covered battery-containing products, as applicable, for reuse, recycling, or proper disposal.

(B) Collection system

A system described in subparagraph (A) shall include take-back of covered batteries—

(i) at no cost to the consumer; and

(ii) on a regular, convenient, and accessible basis.

(C) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this paragraph $15,000,000 for the period of fiscal years 2022 through 2026.

(5) Task force on producer responsibilities

(A) In general

The Secretary, in coordination with the Administrator, shall convene a task force to develop an extended battery producer responsibility framework that—

(i) addresses battery recycling goals, cost structures for mandatory recycling, reporting requirements, product design, collection models, and transportation of collected materials;

(ii) provides sufficient flexibility to allow battery producers to determine cost-effective strategies for compliance with the framework; and

(iii) outlines regulatory pathways for effective recycling.

(B) Task force members

Members of the task force convened under subparagraph (A) shall include—

(i) battery producers, manufacturers, retailers, recyclers, and collectors or processors;

(ii) States and municipalities; and

(iii) other relevant stakeholders, such as environmental, energy, or consumer organizations, as determined by the Secretary.

(C) Report

Not later than 1 year after the date on which the Secretary, in coordination with Administrator, convenes the task force under subparagraph (A), the Secretary shall submit to Congress a report that—

(i) describes the extended producer responsibility framework developed by the task force;

(ii) includes the recommendations of the task force on how best to implement a mandatory pay-in or other enforcement mechanism to ensure that battery producers and sellers are contributing to the recycling of batteries; and

(iii) suggests regulatory pathways for effective recycling.

(6) Effect on Mercury-Containing and Rechargeable Battery Management Act

Nothing in this subsection, or any regulation, guideline, framework, or policy adopted or promulgated pursuant to this subsection, shall modify or otherwise affect the provisions of the Mercury-Containing and Rechargeable Battery Management Act (42 U.S.C. 14301 et seq.).

(Pub. L. 117–58, div. D, title II, §40207, Nov. 15, 2021, 135 Stat. 963.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2533c(d) of title 10, referred to subsec. (a)(5)(C), was renumbered section 4872(d) of title 10 by Pub. L. 116–283, div. A, title XVIII, §1870(d)(2), Jan. 1, 2021, 134 Stat. 4286, as amended by Pub. L. 117–81, div. A, title XVII, §1701(t)(2)(B), (C), Dec. 27, 2021, 135 Stat. 2150.

The Arms Export Control Act, referred to in subsec. (a)(5)(D)(iv), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat.

1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Export Control Reform Act of 2018, referred to in subsec. (a)(5)(D)(vi), is subtitle B (§§1741–1781) of title XVII of div. A of Pub. L. 115–232, Aug. 13, 2018, 132 Stat. 2208, which is classified principally to chapter 58 (§4801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 50 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (a)(5)(D)(vii), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Mercury-Containing and Rechargeable Battery Management Act, referred to in subsec. (f)(6), is Pub. L. 104–142, May 13, 1996, 110 Stat. 1329, which is classified generally to chapter 137 (§14301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 14301 of this title and Tables.

[1] See References in Text note below.

[2] So in original. Probably should be "or".

§18742. Advanced energy manufacturing and recycling grant program

(a) Definitions

In this section:

(1) Advanced energy property

The term "advanced energy property" means—

(A) property designed to be used to produce energy from the sun, water, wind, geothermal or hydrothermal (as those terms are defined in section 17191 of this title) resources, enhanced geothermal systems (as defined in that section), or other renewable resources;

(B) fuel cells, microturbines, or energy storage systems and components;

(C) electric grid modernization equipment or components;

(D) property designed to capture, remove, use, or sequester carbon oxide emissions;

(E) equipment designed to refine, electrolyze, or blend any fuel, chemical, or product that is—

(i) renewable; or

(ii) low-carbon and low-emission;

(F) property designed to produce energy conservation technologies (including for residential, commercial, and industrial applications);

(G)(i) light-, medium-, or heavy-duty electric or fuel cell vehicles, electric or fuel cell locomotives, electric or fuel cell maritime vessels, or electric or fuel cell planes;

(ii) technologies, components, and materials of those vehicles, locomotives, maritime vessels, or planes; and

(iii) charging or refueling infrastructure associated with those vehicles, locomotives, maritime vessels, or planes;

(H)(i) hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds; and

(ii) technologies, components, and materials for those vehicles; and

(I) other advanced energy property designed to reduce greenhouse gas emissions, as may be determined by the Secretary.

(2) Covered census tract

The term "covered census tract" means a census tract—

(A) in which, after December 31, 1999, a coal mine had closed;

(B) in which, after December 31, 2009, a coal-fired electricity generating unit had been retired; or

(C) that is immediately adjacent to a census tract described in subparagraph (A) or (B).

(3) Eligible entity

The term "eligible entity" means a manufacturing firm—

(A) the gross annual sales of which are less than $100,000,000;

(B) that has fewer than 500 employees at the plant site of the manufacturing firm; and

(C) the annual energy bills of which total more than $100,000 but less than $2,500,000.

(4) Minority-owned

The term "minority-owned", with respect to an eligible entity, means an eligible entity not less than 51 percent of which is owned by 1 or more individuals who are—

(A) citizens of the United States; and

(B) Asian American, Native Hawaiian, Pacific Islander, African American, Hispanic, Puerto Rican, Native American, or Alaska Native.

(5) Program

The term "Program" means the grant program established under subsection (b).

(6) Qualifying advanced energy project

The term "qualifying advanced energy project" means a project that—

(A)(i) re-equips, expands, or establishes a manufacturing or recycling facility for the production or recycling, as applicable, of advanced energy property; or

(ii) re-equips an industrial or manufacturing facility with equipment designed to reduce the greenhouse gas emissions of that facility substantially below the greenhouse gas emissions under current best practices, as determined by the Secretary, through the installation of—

(I) low- or zero-carbon process heat systems;

(II) carbon capture, transport, utilization, and storage systems;

(III) technology relating to energy efficiency and reduction in waste from industrial processes; or

(IV) any other industrial technology that significantly reduces greenhouse gas emissions, as determined by the Secretary;

(B) has a reasonable expectation of commercial viability, as determined by the Secretary; and

(C) is located in a covered census tract.

(b) Establishment

Not later than 180 days after November 15, 2021, the Secretary shall establish a program to award grants to eligible entities to carry out qualifying advanced energy projects.

(c) Applications

(1) In general

Each eligible entity seeking a grant under the Program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the proposed qualifying advanced energy project to be carried out using the grant.

(2) Selection criteria

(A) Projects

In selecting eligible entities to receive grants under the Program, the Secretary shall, with respect to the qualifying advanced energy projects proposed by the eligible entities, give higher priority to projects that—

(i) will provide higher net impact in avoiding or reducing anthropogenic emissions of greenhouse gases;

(ii) will result in a higher level of domestic job creation (both direct and indirect) during the lifetime of the project;

(iii) will result in a higher level of job creation in the vicinity of the project, particularly with respect to—

(I) low-income communities (as described in section 45D(e) of the Internal Revenue Code of 1986); and

(II) dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining;

(iv) have higher potential for technological innovation and commercial deployment;

(v) have a lower levelized cost of—

(I) generated or stored energy; or

(II) measured reduction in energy consumption or greenhouse gas emission (based on costs of the full supply chain); and

(vi) have a shorter project time.

(B) Eligible entities

In selecting eligible entities to receive grants under the Program, the Secretary shall give priority to eligible entities that are minority-owned.

(d) Project completion and location; return of unobligated funds

(1) Completion; return of unobligated funds

An eligible entity that receives a grant under the Program shall be required—

(A) to complete the qualifying advanced energy project funded by the grant not later than 3 years after the date of receipt of the grant funds; and

(B) to return to the Secretary any grant funds that remain unobligated at the end of that 3-year period.

(2) Location

If the Secretary determines that an eligible entity awarded a grant under the Program has carried out the applicable qualifying advanced energy project at a location that is materially different from the location specified in the application for the grant, the eligible entity shall be required to return the grant funds to the Secretary.

(e) Technical assistance

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall provide technical assistance on a selective basis to eligible entities that are seeking a grant under the Program to enhance the impact of the qualifying advanced energy project to be carried out using the grant with respect to the selection criteria described in subsection (c)(2)(A).

(2) Applications

An eligible entity desiring technical assistance under paragraph (1) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) Factors for consideration

In selecting eligible entities for technical assistance under paragraph (1), the Secretary shall give higher priority to eligible entities that propose a qualifying advanced energy project that has greater potential for enhancement of the impact of the project with respect to the selection criteria described in subsection (c)(2)(A).

(f) Publication of grants

The Secretary shall make publicly available the identity of each eligible entity awarded a grant

under the Program and the amount of the grant.

(g) Report

Not later than 4 years after November 15, 2021, the Secretary shall—

(1) review the grants awarded under the Program; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing those grants.

(h) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the Program $750,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title II, §40209, Nov. 15, 2021, 135 Stat. 975.)

§18743. Critical minerals mining and recycling research

(a) Definitions

In this section:

(1) Critical mineral

The term "critical mineral" has the meaning given the term in section 1606(a) of title 30.

(2) Critical minerals and metals

The term "critical minerals and metals" includes any host mineral of a critical mineral.

(3) Director

The term "Director" means the Director of the Foundation.

(4) End-to-end

The term "end-to-end", with respect to the integration of mining or life cycle of minerals, means the integrated approach of, or the lifecycle determined by, examining the research and developmental process from the mining of the raw minerals to its processing into useful materials, its integration into components and devices, the utilization of such devices in the end-use application to satisfy certain performance metrics, and the recycling or disposal of such devices.

(5) Foreign entity of concern

The term "foreign entity of concern" means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 1189(a) of title 8;

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the SDN list);

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d [1]) of title 10);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18 (commonly known as the "Espionage Act");

(ii) section 951 or 1030 of title 18;

(iii) chapter 90 of title 18 (commonly known as the "Economic Espionage Act of 1996)";

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and [2] 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary of Commerce, in consultation with the Secretary of Defense

and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

(6) Foundation

The term "Foundation" means the National Science Foundation.

(7) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001 of title 20.

(8) National Laboratory

The term "National Laboratory" has the meaning given the term in section 15801 of this title.

(9) Recycling

The term "recycling" means the process of collecting and processing spent materials and devices and turning the materials and devices into raw materials or components that can be reused either partially or completely.

(10) Secondary recovery

The term "secondary recovery" means the recovery of critical minerals and metals from discarded end-use products or from waste products produced during the metal refining and manufacturing process, including from mine waste piles, acid mine drainage sludge, or byproducts produced through legacy mining and metallurgy activities.

(b) Critical minerals mining and recycling research and development

(1) In general

In order to support supply chain resiliency, the Secretary, in coordination with the Director, shall issue awards, on a competitive basis, to eligible entities described in paragraph (2) to support basic research that will accelerate innovation to advance critical minerals mining, recycling, and reclamation strategies and technologies for the purposes of—

(A) making better use of domestic resources; and

(B) eliminating national reliance on minerals and mineral materials that are subject to supply disruptions.

(2) Eligible entities

Entities eligible to receive an award under paragraph (1) are the following:

(A) Institutions of higher education.

(B) National Laboratories.

(C) Nonprofit organizations.

(D) Consortia of entities described in subparagraphs (A) through (C), including consortia that collaborate with private industry.

(3) Use of funds

Activities funded by an award under this section may include—

(A) advancing mining research and development activities to develop new mapping and mining technologies and techniques, including advanced critical mineral extraction and production—

(i) to improve existing, or to develop new, supply chains of critical minerals; and

(ii) to yield more efficient, economical, and environmentally benign mining practices;

(B) advancing critical mineral processing research activities to improve separation, alloying, manufacturing, or recycling techniques and technologies that can decrease the energy intensity, waste, potential environmental impact, and costs of those activities;

(C) advancing research and development of critical minerals mining and recycling technologies that take into account the potential end-uses and disposal of critical minerals, in order to improve end-to-end integration of mining and technological applications;

(D) conducting long-term earth observation of reclaimed mine sites, including the study of the evolution of microbial diversity at those sites;

(E) examining the application of artificial intelligence for geological exploration of critical minerals, including what size and diversity of data sets would be required;

(F) examining the application of machine learning for detection and sorting of critical minerals, including what size and diversity of data sets would be required;

(G) conducting detailed isotope studies of critical minerals and the development of more refined geologic models; or

(H) providing training and research opportunities to undergraduate and graduate students to prepare the next generation of mining engineers and researchers.

(c) Critical minerals interagency subcommittee

(1) In general

In order to support supply chain resiliency, the Critical Minerals Subcommittee of the National Science and Technology Council (referred to in this subsection as the "Subcommittee") shall coordinate Federal science and technology efforts to ensure secure and reliable supplies of critical minerals to the United States.

(2) Purposes

The purposes of the Subcommittee shall be—

(A) to advise and assist the National Science and Technology Council, including the Committee on Homeland and National Security of the National Science and Technology Council, on United States policies, procedures, and plans relating to critical minerals, including—

(i) Federal research, development, and deployment efforts to optimize methods for extractions, concentration, separation, and purification of conventional, secondary, and unconventional sources of critical minerals, including research that prioritizes end-to-end integration of mining and recycling techniques and the end-use target for critical minerals;

(ii) efficient use and reuse of critical minerals, including recycling technologies for critical minerals and the reclamation of critical minerals from components, such as spent batteries;

(iii) addressing the technology transitions between research or lab-scale mining and recycling and commercialization of these technologies;

(iv) the critical minerals workforce of the United States; and

(v) United States private industry investments in innovation and technology transfer from federally funded science and technology;

(B) to identify emerging opportunities, stimulate international cooperation, and foster the development of secure and reliable supply chains of critical minerals, including activities relating to the reuse of critical minerals via recycling;

(C) to ensure the transparency of information and data related to critical minerals; and

(D) to provide recommendations on coordination and collaboration among the research, development, and deployment programs and activities of Federal agencies to promote a secure and reliable supply of critical minerals necessary to maintain national security, economic well-being, and industrial production.

(3) Responsibilities

In carrying out paragraphs (1) and (2), the Subcommittee may, taking into account the findings and recommendations of relevant advisory committees—

(A) provide recommendations on how Federal agencies may improve the topographic, geologic, and geophysical mapping of the United States and improve the discoverability, accessibility, and usability of the resulting and existing data, to the extent permitted by law and subject to appropriate limitation for purposes of privacy and security;

(B) assess the progress toward developing critical minerals recycling and reprocessing technologies;

(C) assess the end-to-end lifecycle of critical minerals, including for mining, usage, recycling, and end-use material and technology requirements;

(D) examine, and provide recommendations for, options for accessing and developing critical minerals through investment and trade with allies and partners of the United States;

(E) evaluate and provide recommendations to incentivize the development and use of advances in science and technology in the private industry;

(F) assess the need for, and make recommendations to address, the challenges the United States critical minerals supply chain workforce faces, including—

(i) aging and retiring personnel and faculty;

(ii) public perceptions about the nature of mining and mineral processing; and

(iii) foreign competition for United States talent;

(G) develop, and update as necessary, a strategic plan to guide Federal programs and activities to enhance—

(i) scientific and technical capabilities across critical mineral supply chains, including a roadmap that identifies key research and development needs and coordinates ongoing activities for source diversification, more efficient use, recycling, and substitution for critical minerals; and

(ii) cross-cutting mining science, data science techniques, materials science, manufacturing science and engineering, computational modeling, and environmental health and safety research and development; and

(H) report to the appropriate committees of Congress on activities and findings under this subsection.

(4) Mandatory responsibilities

In carrying out paragraphs (1) and (2), the Subcommittee shall, taking into account the findings and recommendations of relevant advisory committees, identify and evaluate Federal policies and regulations that restrict the mining of critical minerals.

(d) Grant program for processing of critical minerals and development of critical minerals and metals

(1) Establishment

The Secretary, in consultation with the Director, the Secretary of the Interior, and the Secretary of Commerce, shall establish a grant program to finance pilot projects for—

(A) the processing or recycling of critical minerals in the United States; or

(B) the development of critical minerals and metals in the United States

(2) Limitation on grant awards

A grant awarded under paragraph (1) may not exceed $10,000,000.

(3) Economic viability

In awarding grants under paragraph (1), the Secretary shall give priority to projects that the Secretary determines are likely to be economically viable over the long term.

(4) Secondary recovery

In awarding grants under paragraph (1), the Secretary shall seek to award not less than 30 percent of the total amount of grants awarded during the fiscal year for projects relating to secondary recovery of critical minerals and metals.

(5) Domestic priority

In awarding grants for the development of critical minerals and metals under paragraph (1)(B), the Secretary shall prioritize pilot projects that will process the critical minerals and metals domestically.

(6) Prohibition on processing by foreign entity of concern

In awarding grants under paragraph (1), the Secretary shall ensure that pilot projects do not export for processing any critical minerals and metals to a foreign entity of concern.

(7) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the grant program established under paragraph (1) $100,000,000 for each of fiscal years 2021 through 2024.

(Pub. L. 117–58, div. D, title II, §40210, Nov. 15, 2021, 135 Stat. 978.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2533c(d) of title 10, referred to subsec. (a)(5)(C), was renumbered section 4872(d) of title 10 by Pub. L. 116–283, div. A, title XVIII, §1870(d)(2), Jan. 1, 2021, 134 Stat. 4286, as amended by Pub. L. 117–81, div. A, title XVII, §1701(t)(2)(B), (C), Dec. 27, 2021, 135 Stat. 2150.

The Arms Export Control Act, referred to in subsec. (a)(5)(D)(iv), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Export Control Reform Act of 2018, referred to in subsec. (a)(5)(D)(vi), is subtitle B (§§1741–1781) of title XVII of div. A of Pub. L. 115–232, Aug. 13, 2018, 132 Stat. 2208, which is classified principally to chapter 58 (§4801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 50 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (a)(5)(D)(vii), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

[1] See References in Text note below.

[2] So in original. Probably should be "or".

§18744. 21st Century Energy Workforce Advisory Board

(a) Establishment

The Secretary shall establish a board, to be known as the "21st Century Energy Workforce Advisory Board", to develop a strategy for the Department that, with respect to the role of the Department in the support and development of a skilled energy workforce—

(1) meets the current and future industry and labor needs of the energy sector;

(2) provides opportunities for students to become qualified for placement in traditional energy sector and emerging energy sector jobs;

(3) identifies areas in which the Department can effectively utilize the technical expertise of the Department to support the workforce activities of other Federal agencies;

(4) strengthens and engages the workforce training programs of the Department and the National Laboratories in carrying out the Equity in Energy Initiative of the Department and other Department workforce priorities;

(5) develops plans to support and retrain displaced and unemployed energy sector workers; and

(6) prioritizes education and job training for underrepresented groups, including racial and ethnic minorities, Indian Tribes, women, veterans, and socioeconomically disadvantaged individuals.

(b) Membership

(1) In general

The Board shall be composed of not fewer than 10 and not more than 15 members, with the

initial members of the Board to be appointed by the Secretary not later than 1 year after November 15, 2021.

(2) Requirement

The Board shall include not fewer than 1 representative of a labor organization with significant energy experience who has been nominated by a national labor federation.

(3) Qualifications

Each individual appointed to the Board under paragraph (1) shall have expertise in—

(A) the field of economics or workforce development;

(B) relevant traditional energy industries or emerging energy industries, including energy efficiency;

(C) secondary or postsecondary education;

(D) energy workforce development or apprenticeship programs of States or units of local government;

(E) relevant organized labor organizations; or

(F) bringing underrepresented groups, including racial and ethnic minorities, women, veterans, and socioeconomically disadvantaged individuals, into the workforce.

(c) Advisory Board review and recommendations

(1) Determination by Board

In developing the strategy required under subsection (a), the Board shall—

(A) determine whether there are opportunities to more effectively and efficiently use the capabilities of the Department in the development of a skilled energy workforce;

(B) identify ways in which the Department could work with other relevant Federal agencies, States, units of local government, institutions of higher education, labor organizations, Indian Tribes and tribal organizations, and industry in the development of a skilled energy workforce, subject to applicable law;

(C) identify ways in which the Department and National Laboratories can—

(i) increase outreach to minority-serving institutions; and

(ii) make resources available to increase the number of skilled minorities and women trained to go into the energy and energy-related manufacturing sectors;

(iii) increase outreach to displaced and unemployed energy sector workers; and

(iv) make resources available to provide training to displaced and unemployed energy sector workers to reenter the energy workforce; and

(D)(i) identify the energy sectors in greatest need of workforce training; and

(ii) in consultation with the Secretary of Labor, develop recommendations for the skills necessary to develop a workforce trained to work in those energy sectors.

(2) Required analysis

In developing the strategy required under subsection (a), the Board shall analyze the effectiveness of—

(A) existing Department-directed support; and

(B) existing energy workforce training programs.

(3) Report

(A) In general

Not later than 1 year after the date on which the Board is established under this section, and biennially thereafter until the date on which the Board is terminated under subsection (f), the Board shall submit to the Secretary a report containing, with respect to the strategy required under subsection (a)—

(i) the findings of the Board; and

(ii) the proposed energy workforce strategy of the Board.

(B) Response of the Secretary

Not later than 90 days after the date on which a report is submitted to the Secretary under subparagraph (A), the Secretary shall—

(i) submit to the Board a response to the report that—

(I) describes whether the Secretary approves or disapproves of each recommendation of the Board under subparagraph (A); and

(II) if the Secretary approves of a recommendation, provides an implementation plan for the recommendation; and

(ii) submit to Congress—

(I) the report of the Board under subparagraph (A); and

(II) the response of the Secretary under clause (i).

(C) Public availability of report

(i) In general

The Board shall make each report under subparagraph (A) available to the public on the earlier of—

(I) the date on which the Board receives the response of the Secretary under subparagraph (B)(i); and

(II) the date that is 90 days after the date on which the Board submitted the report to the Secretary.

(ii) Requirement

If the Board has received a response to a report from the Secretary under subparagraph (B)(i), the Board shall make that response publicly available with the applicable report.

(d) Report by the Secretary

Not later than 180 days before the date of expiration of a term of the Board under subsection (f), the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Energy and Commerce and Appropriations of the House of Representatives a report that—

(1) describes the effectiveness and accomplishments of the Board during the applicable term;

(2) contains a determination of the Secretary as to whether the Board should be renewed; and

(3) if the Secretary determines that the Board should be renewed, any recommendations as to whether and how the scope and functions of the Board should be modified.

(e) Outreach to minority-serving institutions, veterans, and displaced and unemployed energy workers

In developing the strategy under subsection (a), the Board shall—

(1) give special consideration to increasing outreach to minority-serving institutions, veterans, and displaced and unemployed energy workers;

(2) make resources available to—

(A) minority-serving institutions, with the objective of increasing the number of skilled minorities and women trained to go into the energy and manufacturing sectors;

(B) institutions that serve veterans, with the objective of increasing the number veterans in the energy industry by ensuring that veterans have the credentials and training necessary to secure careers in the energy industry; and

(C) institutions that serve displaced and unemployed energy workers to increase the number of individuals trained for jobs in the energy industry;

(3) encourage the energy industry to improve the opportunities for students of minority-serving institutions, veterans, and displaced and unemployed energy workers to participate in internships, preapprenticeships, apprenticeships, and cooperative work-study programs in the energy industry; and

(4) work with the National Laboratories to increase the participation of underrepresented groups, veterans, and displaced and unemployed energy workers in internships, fellowships, training programs, and employment at the National Laboratories.

(f) Term

(1) In general

Subject to paragraph (2), the Board shall terminate on September 30, 2026.

(2) Extensions

The Secretary may renew the Board for 1 or more 5-year periods by submitting, not later than the date described in subsection (d), a report described in that subsection that contains a determination by the Secretary that the Board should be renewed.

(Pub. L. 117–58, div. D, title II, §40211, Nov. 15, 2021, 135 Stat. 983.)

SUBCHAPTER III—FUELS AND TECHNOLOGY INFRASTRUCTURE INVESTMENTS

PART A—NUCLEAR ENERGY INFRASTRUCTURE

§18751. Infrastructure planning for micro and small modular nuclear reactors

(a) Definitions

In this section:

(1) Advanced nuclear reactor

The term "advanced nuclear reactor" has the meaning given the term in section 16271(b) of this title.

(2) Isolated community

The term "isolated community" has the meaning given the term in section 17392(a) of this title.

(3) Micro-reactor

The term "micro-reactor" means an advanced nuclear reactor that has an electric power production capacity that is not greater than 50 megawatts.

(4) National Laboratory

The term "National Laboratory" has the meaning given the term in section 15801 of this title.

(5) Small modular reactor

The term "small modular reactor" means an advanced nuclear reactor—

(A) with a rated capacity of less than 300 electrical megawatts; and

(B) that can be constructed and operated in combination with similar reactors at a single site.

(b) Report

Not later than 180 days after November 15, 2021, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and Science, Space, and Technology of the House of Representatives a report that describes how the Department could enhance energy resilience and reduce carbon emissions with the use of micro-reactors and small modular reactors.

(c) Elements

The report required by subsection (b) shall address the following:

(1) An evaluation by the Department of current resilience and carbon reduction requirements for energy for facilities of the Department to determine whether changes are needed to address—

(A) the need to provide uninterrupted power to facilities of the Department for at least 3 days during power grid failures;

(B) the need for protection against cyber threats and electromagnetic pulses; and

(C) resilience to extreme natural events, including earthquakes, volcanic activity, tornados, hurricanes, floods, tsunamis, lahars, landslides, seiches, a large quantity of snowfall, and very low or high temperatures.

(2) A strategy of the Department for using nuclear energy to meet resilience and carbon reduction goals of facilities of the Department.

(3) A strategy to partner with private industry to develop and deploy micro-reactors and small modular reactors to remote communities in order to replace diesel generation and other fossil fuels.

(4) An assessment by the Department of the value associated with enhancing the resilience of a facility of the Department by transitioning to power from micro-reactors and small modular reactors and to co-located nuclear facilities with the capability to provide dedicated power to the facility of the Department during a grid outage or failure.

(5) The plans of the Department—

(A) for deploying a micro-reactor and a small modular reactor to produce energy for use by a facility of the Department in the United States by 2026;

(B) for deploying a small modular reactor to produce energy for use by a facility of the Department in the United States by 2029; and

(C) to include micro-reactors and small modular reactors in the planning for meeting future facility energy needs.

(d) Financial and technical assistance for siting micro-reactors, small modular reactors, and advanced nuclear reactors

(1) In general

The Secretary shall offer financial and technical assistance to entities to conduct feasibility studies for the purpose of identifying suitable locations for the deployment of micro-reactors, small modular reactors, and advanced nuclear reactors in isolated communities.

(2) Requirement

Prior to providing financial and technical assistance under paragraph (1), the Secretary shall conduct robust community engagement and outreach for the purpose of identifying levels of interest in isolated communities.

(3) Limitation

The Secretary shall not disburse more than 50 percent of the amounts available for financial assistance under this subsection to the National Laboratories.

(Pub. L. 117–58, div. D, title III, §40321, Nov. 15, 2021, 135 Stat. 1016.)

§18752. Property interests relating to certain projects and protection of information relating to certain agreements

(a) Property interests relating to federally funded advanced nuclear reactor projects

(1) Definitions

In this section:

(A) Advanced nuclear reactor

The term "advanced nuclear reactor" has the meaning given the term in section 16271(b) of

this title.

(B) Property interest

(i) In general

Except as provided in clause (ii), the term "property interest" means any interest in real property or personal property (as those terms are defined in section 200.1 of title 2, Code of Federal Regulations (as in effect on November 15, 2021)).

(ii) Exclusion

The term "property interest" does not include any interest in intellectual property developed using funding provided under a project described in paragraph (3).

(2) Assignment of property interests

The Secretary may assign to any entity, including the United States, fee title or any other property interest acquired by the Secretary under an agreement entered into with respect to a project described in paragraph (3).

(3) Project described

A project referred to in paragraph (2) is—

(A) a project for which funding is provided pursuant to the funding opportunity announcement of the Department numbered DE–FOA–0002271, including any project for which funding has been provided pursuant to that announcement as of November 15, 2021;

(B) any other project for which funding is provided using amounts made available for the Advanced Reactor Demonstration Program of the Department under the heading "Nuclear Energy" under the heading "ENERGY PROGRAMS" in title III of division C of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94; 133 Stat. 2670);

(C) any other project for which Federal funding is provided under the Advanced Reactor Demonstration Program of the Department; or

(D) a project—

(i) relating to advanced nuclear reactors; and

(ii) for which Federal funding is provided under a program focused on development and demonstration.

(4) Retroactive vesting

The vesting of fee title or any other property interest assigned under paragraph (2) shall be retroactive to the date on which the applicable project first received Federal funding as described in any of subparagraphs (A) through (D) of paragraph (3).

(Pub. L. 117–58, div. D, title III, §40322(a), Nov. 15, 2021, 135 Stat. 1017.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Further Consolidated Appropriations Act, 2020, referred to in subsec. (a)(3)(B), is Pub. L. 116–94, Dec. 20, 2019, 133 Stat. 1198. Title III of division C of the Act is title III of div. C of Pub. L. 116–94, Dec. 20, 2019, 133 Stat. 2669, which enacted section 825s–8 of Title 16, Conservation, and provisions set out as notes under section 6939f of this title and 838i of Title 16, and provisions set out in a table under sections 6241 and 7171 of this title. For complete classification of this Act to the Code, see Tables.

§18753. Civil nuclear credit program

(a) Definitions

In this section:

(1) Certified nuclear reactor

The term "certified nuclear reactor" means a nuclear reactor that—

(A) competes in a competitive electricity market; and

(B) is certified under subsection (c)(2)(A)(i) to submit a sealed bid in accordance with subsection (d).

(2) Credit

The term "credit" means a credit allocated to a certified nuclear reactor under subsection (e)(2).

(b) Establishment of program

The Secretary shall establish a civil nuclear credit program—

(1) to evaluate nuclear reactors that are projected to cease operations due to economic factors; and

(2) to allocate credits to certified nuclear reactors that are selected under paragraph (1)(B) of subsection (e) to receive credits under paragraph (2) of that subsection.

(c) Certification

(1) Application

(A) In general

In order to be certified under paragraph (2)(A)(i), the owner or operator of a nuclear reactor that is projected to cease operations due to economic factors shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate, including—

(i) information on the operating costs necessary to make the determination described in paragraph (2)(A)(ii)(I), including—

(I) the average projected annual operating loss in dollars per megawatt-hour, inclusive of the cost of operational and market risks, expected to be incurred by the nuclear reactor over the 4-year period for which credits would be allocated;

(II) any private or publicly available data with respect to current or projected bulk power market prices;

(III) out-of-market revenue streams;

(IV) operations and maintenance costs;

(V) capital costs, including fuel; and

(VI) operational and market risks;

(ii) an estimate of the potential incremental air pollutants that would result if the nuclear reactor were to cease operations;

(iii) known information on the source of produced uranium and the location where the uranium is converted, enriched, and fabricated into fuel assemblies for the nuclear reactor for the 4-year period for which credits would be allocated; and

(iv) a detailed plan to sustain operations at the conclusion of the applicable 4-year period for which credits would be allocated—

(I) without receiving additional credits; or

(II) with the receipt of additional credits of a lower amount than the credits allocated during that 4-year credit period.

(B) Timeline

The Secretary shall accept applications described in subparagraph (A)—

(i) until the date that is 120 days after November 15, 2021; and

(ii) not less frequently than every year thereafter.

(C) Payments from State programs

(i) In general

The owner or operator of a nuclear reactor that receives a payment from a State zero-emission credit, a State clean energy contract, or any other State program with respect to

that nuclear reactor shall be eligible to submit an application under subparagraph (A) with respect to that nuclear reactor during any application period beginning after the 120-day period beginning on November 15, 2021.

(ii) Requirement

An application submitted by an owner or operator described in clause (i) with respect to a nuclear reactor described in that clause shall include all projected payments from State programs in determining the average projected annual operating loss described in subparagraph (A)(i)(I), unless the credits allocated to the nuclear reactor pursuant to that application will be used to reduce those payments.

(2) Determination to certify

(A) Determination

(i) In general

Not later than 60 days after the applicable date under subparagraph (B) of paragraph (1), the Secretary shall determine whether to certify, in accordance with clauses (ii) and (iii), each nuclear reactor for which an application is submitted under subparagraph (A) of that paragraph.

(ii) Minimum requirements

To the maximum extent practicable, the Secretary shall only certify a nuclear reactor under clause (i) if—

(I) after considering the information submitted under paragraph (1)(A)(i), the Secretary determines that the nuclear reactor is projected to cease operations due to economic factors;

(II) after considering the estimate submitted under paragraph (1)(A)(ii), the Secretary determines that pollutants would increase if the nuclear reactor were to cease operations and be replaced with other types of power generation; and

(III) the Nuclear Regulatory Commission has reasonable assurance that the nuclear reactor—

(aa) will continue to be operated in accordance with the current licensing basis (as defined in section 54.3 of title 10, Code of Federal Regulations (or successor regulations) of the nuclear reactor; and

(bb) poses no significant safety hazards.

(iii) Priority

In determining whether to certify a nuclear reactor under clause (i), the Secretary shall give priority to a nuclear reactor that uses, to the maximum extent available, uranium that is produced, converted, enriched, and fabricated into fuel assemblies in the United States.

(B) Notice

For each application received under paragraph (1)(A), the Secretary shall provide to the applicable owner or operator, as applicable—

(i) a notice of the certification of the applicable nuclear reactor; or

(ii) a notice that describes the reasons why the certification of the applicable nuclear reactor was denied.

(d) Bidding process

(1) In general

Subject to paragraph (2), the Secretary shall establish a deadline by which each certified nuclear reactor shall submit to the Secretary a sealed bid that—

(A) describes the price per megawatt-hour of the credits desired by the certified nuclear reactor, which shall not exceed the average projected annual operating loss described in subsection (c)(1)(A)(i)(I); and

(B) includes a commitment, subject to the receipt of credits, to provide a specific number of megawatt-hours of generation during the 4-year period for which credits would be allocated.

(2) Requirement

The deadline established under paragraph (1) shall be not later than 30 days after the first date on which the Secretary has made the determination described in paragraph (2)(A)(i) of subsection (c) with respect to each application submitted under paragraph (1)(A) of that subsection.

(e) Allocation

(1) Auction

Notwithstanding section 2209 of this title, the Secretary shall—

(A) in consultation with the heads of applicable Federal agencies, establish a process for evaluating bids submitted under subsection (d)(1) through an auction process; and

(B) select certified nuclear reactors to be allocated credits.

(2) Credits

Subject to subsection (f)(2), on selection under paragraph (1), a certified nuclear reactor shall be allocated credits for a 4-year period beginning on the date of the selection.

(3) Requirement

To the maximum extent practicable, the Secretary shall use the amounts made available for credits under this section to allocate credits to as many certified nuclear reactors as possible.

(f) Renewal

(1) In general

The owner or operator of a certified nuclear reactor may seek to recertify the nuclear reactor in accordance with this section.

(2) Limitation

Notwithstanding any other provision of this section, the Secretary may not allocate any credits after September 30, 2031.

(g) Additional requirements

(1) Audit

During the 4-year period beginning on the date on which a certified nuclear reactor first receives a credit, the Secretary shall periodically audit the certified nuclear reactor.

(2) Recapture

The Secretary shall, by regulation, provide for the recapture of the allocation of any credit to a certified nuclear reactor that, during the period described in paragraph (1)—

(A) terminates operations; or

(B) does not operate at an annual loss in the absence of an allocation of credits to the certified nuclear reactor.

(3) Confidentiality

The Secretary shall establish procedures to ensure that any confidential, private, proprietary, or privileged information that is included in a sealed bid submitted under this section is not publicly disclosed or otherwise improperly used.

(h) Report

Not later than January 1, 2024, the Comptroller General of the United States shall submit to Congress a report with respect to the credits allocated to certified nuclear reactors, which shall include—

(1) an evaluation of the effectiveness of the credits in avoiding air pollutants while ensuring grid reliability;

(2) a quantification of the ratepayer savings achieved under this section; and

(3) any recommendations to renew or expand the credits.

(i) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $6,000,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title III, §40323, Nov. 15, 2021, 135 Stat. 1019.)

PART B—MISCELLANEOUS

§18761. Clean energy demonstration program on current and former mine land

(a) Definitions

In this section:

(1) Clean energy project

The term "clean energy project" means a project that demonstrates 1 or more of the following technologies:

(A) Solar.
(B) Micro-grids.
(C) Geothermal.
(D) Direct air capture.
(E) Fossil-fueled electricity generation with carbon capture, utilization, and sequestration.
(F) Energy storage, including pumped storage hydropower and compressed air storage.
(G) Advanced nuclear technologies.

(2) Economically distressed area

The term "economically distressed area" means an area described in section 3161(a) of this title.

(3) Mine land

The term "mine land" means—

(A) land subject to titles IV and V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.; 30 U.S.C. 1251 et seq.); and

(B) land that has been claimed or patented subject to sections 2319 through 2344 of the Revised Statutes (commonly known as the "Mining Law of 1872") (30 U.S.C. 22 et seq.).

(4) Program

The term "program" means the demonstration program established under subsection (b).

(b) Establishment

The Secretary shall establish a program to demonstrate the technical and economic viability of carrying out clean energy projects on current and former mine land.

(c) Selection of demonstration projects

(1) In general

In carrying out the program, the Secretary shall select not more than 5 clean energy projects, to be carried out in geographically diverse regions, at least 2 of which shall be solar projects.

(2) Eligibility

To be eligible to be selected for participation in the program under paragraph (1), a clean energy project shall demonstrate, as determined by the Secretary, a technology on a current or former mine land site with a reasonable expectation of commercial viability.

(3) Priority

In selecting clean energy projects for participation in the program under paragraph (1), the Secretary shall prioritize clean energy projects that will—

(A) be carried out in a location where the greatest number of jobs can be created from the successful demonstration of the clean energy project;

(B) provide the greatest net impact in avoiding or reducing greenhouse gas emissions;

(C) provide the greatest domestic job creation (both directly and indirectly) during the implementation of the clean energy project;

(D) provide the greatest job creation and economic development in the vicinity of the clean energy project, particularly—

(i) in economically distressed areas; and

(ii) with respect to dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining;

(E) have the greatest potential for technological innovation and commercial deployment;

(F) have the lowest levelized cost of generated or stored energy;

(G) have the lowest rate of greenhouse gas emissions per unit of electricity generated or stored; and

(H) have the shortest project time from permitting to completion.

(4) Project selection

The Secretary shall solicit proposals for clean energy projects and select clean energy project finalists in consultation with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Secretary of Labor.

(5) Compatibility with existing operations

Prior to selecting a clean energy project for participation in the program under paragraph (1), the Secretary shall consult with, as applicable, mining claimholders or operators or the relevant Office of Surface Mining Reclamation and Enforcement Abandoned Mine Land program office to confirm—

(A) that the proposed project is compatible with any current mining, exploration, or reclamation activities; and

(B) the valid existing rights of any mining claimholders or operators.

(d) Consultation

The Secretary shall consult with the Director of the Office of Surface Mining Reclamation and Enforcement and the Administrator of the Environmental Protection Agency, acting through the Office of Brownfields and Land Revitalization, to determine whether it is necessary to promulgate regulations or issue guidance in order to prioritize and expedite the siting of clean energy projects on current and former mine land sites.

(e) Technical assistance

The Secretary shall provide technical assistance to project applicants selected for participation in the program under subsection (c) to assess the needed interconnection, transmission, and other grid components and permitting and siting necessary to interconnect, on current and former mine land where the project will be sited, any generation or storage with the electric grid.

(f) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $500,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title III, §40342, Nov. 15, 2021, 135 Stat. 1031.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Surface Mining Control and Reclamation Act of 1977, referred to in subsec. (a)(3)(A), is Pub. L.

95–87, Aug. 3, 1977, 91 Stat. 445. Titles IV and V of the Act are classsified to subchapters IV (§1231 et seq.) and V (§1251 et seq.), respectively, of Chapter 25 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of Title 30 and Tables.

The Mining Law of 1872, referred to in subsec. (a)(3)(B), is act May 10, 1872, ch. 152, 17 Stat. 91, which was incorporated into the Revised Statutes of 1878 as R.S. §§2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of such Revised Statutes sections to the Code, see Tables.

SUBCHAPTER IV—ENERGY INFORMATION ADMINISTRATION

§18771. Definitions

In this subchapter:

(1) Administrator

The term "Administrator" means the Administrator of the Energy Information Administration.

(2) Annual Critical Minerals Outlook

The term "Annual Critical Minerals Outlook" means the Annual Critical Minerals Outlook prepared under section 1606(j)(1)(B) of title 30.

(3) Critical mineral

The term "critical mineral" has the meaning given the term in section 1606(a) of title 30.

(4) Household energy burden

The term "household energy burden" means the quotient obtained by dividing—

(A) the residential energy expenditures (as defined in section 440.3 of title 10, Code of Federal Regulations (as in effect on November 15, 2021)) of the applicable household; by

(B) the annual income of that household.

(5) Household with a high energy burden

The term "household with a high energy burden" has the meaning given the term in section 440.3 of title 10, Code of Federal Regulations (as in effect on November 15, 2021).

(6) Large manufacturing facility

The term "large manufacturing facility" means a manufacturing facility that—

(A) annually consumes more than 35,000 megawatt-hours of electricity; or

(B) has a peak power demand of more than 10 megawatts.

(7) Load-serving entity

The term "load-serving entity" has the meaning given the term in section 824q(a) of title 16.

(8) Miscellaneous electric load

The term "miscellaneous electric load" means electricity that—

(A) is used by an appliance or device—

(i) within a building; or

(ii) to serve a building; and

(B) is not used for heating, ventilation, air conditioning, lighting, water heating, or refrigeration.

(9) Regional Transmission Organization

The term "Regional Transmission Organization" has the meaning given the term in section 796 of title 16.

(10) Rural area

The term "rural area" has the meaning given the term in section 918c(a) of title 7.

(Pub. L. 117–58, div. D, title IV, §40411, Nov. 15, 2021, 135 Stat. 1038.)

§18772. Data collection in the electricity sector

(a) Dashboard

(1) Establishment

(A) In general

Not later than 90 days after November 15, 2021, the Administrator shall establish an online database to track the operation of the bulk power system in the contiguous 48 States (referred to in this section as the "Dashboard").

(B) Improvement of existing dashboard

The Dashboard may be established through the improvement, in accordance with this subsection, of an existing dashboard of the Energy Information Administration, such as—

(i) the U.S. Electric System Operating Data dashboard; or

(ii) the Hourly Electric Grid Monitor.

(2) Expansion

(A) In general

Not later than 1 year after November 15, 2021, the Administrator shall expand the Dashboard to include, to the maximum extent practicable, hourly operating data collected from the electricity balancing authorities that operate the bulk power system in all of the several States, each territory of the United States, and the District of Columbia.

(B) Types of data

The hourly operating data collected under subparagraph (A) may include data relating to—

(i) total electricity demand;

(ii) electricity demand by subregion;

(iii) short-term electricity demand forecasts;

(iv) total electricity generation;

(v) net electricity generation by fuel type, including renewables;

(vi) electricity stored and discharged;

(vii) total net electricity interchange;

(viii) electricity interchange with directly interconnected balancing authorities; and

(ix) where available, the estimated marginal greenhouse gas emissions per megawatt hour of electricity generated—

(I) within the metered boundaries of each balancing authority; and

(II) for each pricing node.

(b) Mix of energy sources

(1) In general

Not later than 1 year after November 15, 2021, the Administrator shall establish, in accordance with section 18777 of this title and this subsection and to the extent the Administrator determines to be appropriate, a system to harmonize the operating data on electricity generation collected under subsection (a) with—

(A) measurements of greenhouse gas and other pollutant emissions collected by the Environmental Protection Agency;

(B) other data collected by the Environmental Protection Agency or other relevant Federal agencies, as the Administrator determines to be appropriate; and

(C) data collected by State or regional energy credit registries.

(2) Outcomes

The system established under paragraph (1) shall result in an integrated dataset that includes, for any given time—

(A) the net generation of electricity by megawatt hour within the metered boundaries of each balancing authority; and

(B) where available, the average and marginal greenhouse gas emissions by megawatt hour of electricity generated within the metered boundaries of each balancing authority.

(3) Real-time data dissemination

To the maximum extent practicable, the system established under paragraph (1) shall disseminate data—

(A) on a real-time basis; and

(B) through an application programming interface that is publicly accessible.

(4) Complementary efforts

The system established under paragraph (1) shall complement any existing data dissemination efforts of the Administrator that make use of electricity generation data, such as electricity demand by subregion and electricity interchange with directly interconnected balancing authorities.

(c) Observed characteristics of bulk power system resource integration

(1) In general

Not later than 1 year after November 15, 2021, the Administrator shall establish a system to provide to the public timely data on the integration of energy resources into the bulk power system and the electric distribution grids in the United States, and the observed effects of that integration.

(2) Requirements

In carrying out paragraph (1), the Administrator shall seek to improve the temporal and spatial resolution of data relating to how grid operations are changing, such as through—

(A) thermal generator cycling to accommodate intermittent generation;

(B) generation unit self-scheduling practices;

(C) renewable source curtailment;

(D) utility-scale storage;

(E) load response;

(F) aggregations of distributed energy resources at the distribution system level;

(G) power interchange between directly connected balancing authorities;

(H) expanding Regional Transmission Organization balancing authorities;

(I) improvements in real-time—

(i) accuracy of locational marginal prices; and

(ii) signals to flexible demand; and

(J) disruptions to grid operations, including disruptions caused by cyber sources, physical sources, extreme weather events, or other sources.

(d) Distribution system operations

(1) In general

Not later than 1 year after November 15, 2021, the Administrator shall establish a system to provide to the public timely data on the operations of load-serving entities in the electricity grids of the United States.

(2) Requirements

(A) In general

In carrying out paragraph (1), the Administrator shall—

(i) not less frequently than annually, provide data on—

(I) the delivered generation resource mix for each load-serving entity; and

(II) the distributed energy resources operating within each service area of a load-serving entity;

(ii) harmonize the data on delivered generation resource mix described in clause (i)(I) with measurements of greenhouse gas emissions collected by the Environmental Protection Agency;

(iii) to the maximum extent practicable, disseminate the data described in clause (i)(I) and the harmonized data described in clause (ii) on a real-time basis; and

(iv) provide historical data, beginning with the earliest calendar year practicable, but not later than calendar year 2020, on the delivered generation resource mix described in clause (i)(I).

(B) Data on the delivered generation resource mix

In collecting the data described in subparagraph (A)(i)(I), the Administrator shall—

(i) use existing voluntary industry methodologies, including reporting protocols, databases, and emissions and energy use tracking software that provide consistent, timely, and accessible carbon emissions intensity rates for delivered electricity;

(ii) consider that generation and transmission entities may provide data on behalf of load-serving entities;

(iii) to the extent that the Administrator determines necessary, and in a manner designed to protect confidential information, require each load-serving entity to submit additional information as needed to determine the delivered generation resource mix of the load-serving entity, including financial or contractual agreements for power and generation resource type attributes with respect to power owned by or retired by the load-serving entity; and

(iv) for any portion of the generation resource mix of a load-serving entity that is otherwise unaccounted for, develop a methodology to assign to the load-serving entity a share of the otherwise unaccounted for resource mix of the relevant balancing authority.

(Pub. L. 117–58, div. D, title IV, §40412, Nov. 15, 2021, 135 Stat. 1039.)

§18773. Expansion of energy consumption surveys

(a) In general

Not later than 2 years after November 15, 2021, the Administrator shall implement measures to expand the Manufacturing Energy Consumption Survey, the Commercial Building Energy Consumption Survey, and the Residential Energy Consumption Survey to include data on energy end use in order to facilitate the identification of—

(1) opportunities to improve energy efficiency and energy productivity;

(2) changing patterns of energy use; and

(3) opportunities to better understand and manage miscellaneous electric loads.

(b) Requirements

(1) In general

In carrying out subsection (a), the Administrator shall—

(A) increase the scope and frequency of data collection on energy end uses and services;

(B) use new data collection methods and tools in order to obtain more comprehensive data and reduce the burden on survey respondents, including by—

(i) accessing other existing data sources; and

(ii) if feasible, developing online and real-time reporting systems;

(C) identify and report community-level economic and environmental impacts, including with respect to—

(i) the reliability and security of the energy supply; and

(ii) local areas with households with a high energy burden; and

(D) improve the presentation of data, including by—

(i) enabling the presentation of data in an interactive cartographic format on a national, regional, State, and local level with the functionality of viewing various economic, energy, and demographic measures on an individual basis or in combination; and

(ii) incorporating the results of the data collection, methods, and tools described in subparagraphs (A) and (B) into existing and new digital distribution methods.

(2) Manufacturing Energy Consumption Survey

With respect to the Manufacturing Energy Consumption Survey, the Administrator shall—

(A) implement measures to provide more detailed representations of data by region;

(B) for large manufacturing facilities, break out process heat use by required process temperatures in order to facilitate the identification of opportunities for cost reductions and energy efficiency or energy productivity improvements;

(C) collect information on—

(i) energy source-switching capabilities, especially with respect to thermal processes and the efficiency of thermal processes;

(ii) the use of electricity, biofuels, hydrogen, or other alternative fuels to produce process heat; and

(iii) the use of demand response; and

(D) identify current and potential future industrial clusters in which multiple firms and facilities in a defined geographic area share the costs and benefits of infrastructure for clean manufacturing, such as—

(i) hydrogen generation, production, transport, use, and storage infrastructure; and

(ii) carbon dioxide capture, transport, use, and storage infrastructure.

(3) Residential Energy Consumption Survey

With respect to the Residential Energy Consumption Survey, the Administrator shall—

(A) implement measures to provide more detailed representations of data by—

(i) geographic area, including by State (for each State);

(ii) building type, including multi-family buildings;

(iii) household income;

(iv) location in a rural area; and

(v) other demographic characteristics, as determined by the Administrator; and

(B) report measures of—

(i) household electrical service capacity;

(ii) access to utility demand-side management programs and bill credits;

(iii) characteristics of the energy mix used to generate electricity in different regions; and

(iv) the household energy burden for households—

(I) in different geographic areas;

(II) by electricity, heating, and other end-uses; and

(III) with different demographic characteristics that correlate with increased household energy burden, including—

(aa) having a low household income;

(bb) being a minority household;

(cc) residing in manufactured or multifamily housing;

(dd) being in a fixed or retirement income household;

(ee) residing in rental housing; and

(ff) other factors, as determined by the Administrator.

(Pub. L. 117–58, div. D, title IV, §40413, Nov. 15, 2021, 135 Stat. 1042.)

§18774. Data collection on electric vehicle integration with the electricity grids

(a) In general

Not later than 1 year after November 15, 2021, the Administrator shall develop and implement measures to expand data collection with respect to electric vehicle integration with the electricity grids.

(b) Sources of data

The sources of the data collected pursuant to subsection (a) may include—

(1) host-owned or charging-network-owned electric vehicle charging stations;
(2) aggregators of charging-network electricity demand;
(3) electric utilities offering managed-charging programs;
(4) individual, corporate, or public owners of electric vehicles; and
(5) balancing authority analyses of—
  (A) transformer loading congestion; and
  (B) distribution-system congestion.

(c) Consultation and coordination

In carrying out subsection (a), the Administrator may consult and enter into agreements with other institutions having relevant data and data collection capabilities, such as—

(1) the Secretary of Transportation;
(2) the Secretary;
(3) the Administrator of the Environmental Protection Agency;
(4) States or State agencies; and
(5) private entities.

(Pub. L. 117–58, div. D, title IV, §40414, Nov. 15, 2021, 135 Stat. 1043.)

§18775. Plan for the modeling and forecasting of demand for minerals used in the energy sector

(a) Plan

(1) In general

Not later than 180 days after November 15, 2021, the Administrator, in coordination with the Director of the United States Geological Survey, shall develop a plan for the modeling and forecasting of demand for energy technologies, including for energy production, transmission, or storage purposes, that use minerals that are or could be designated as critical minerals.

(2) Inclusions

The plan developed under paragraph (1) shall identify—

(A) the type and quantity of minerals consumed, delineated by energy technology;

(B) existing markets for manufactured energy-producing, energy-transmission, and energy-storing equipment; and

(C) emerging or potential markets for new energy-producing, energy-transmission, and energy-storing technologies entering commercialization.

(b) Metrics

The plan developed under subsection (a)(1) shall produce forecasts of energy technology demand—

(1) over the 1-year, 5-year, and 10-year periods beginning on the date on which development of the plan is completed;
(2) by economic sector; and
(3) according to any other parameters that the Administrator, in collaboration with the Secretary

of the Interior, acting through the Director of the United States Geological Survey, determines are needed for the Annual Critical Minerals Outlook.

(c) Collaboration

The Administrator shall develop the plan under subsection (a)(1) in consultation with—

(1) the Secretary with respect to the possible trajectories of emerging energy-producing and energy-storing technologies; and

(2) the Secretary of the Interior, acting through the Director of the United States Geological Survey—

(A) to ensure coordination;

(B) to avoid duplicative effort; and

(C) to align the analysis of demand with data and analysis of where the minerals are produced, refined, and subsequently processed into materials and parts that are used to build energy technologies.

(Pub. L. 117–58, div. D, title IV, §40415, Nov. 15, 2021, 135 Stat. 1044.)

§18776. Expansion of international energy data

(a) In general

Not later than 1 year after November 15, 2021, the Administrator shall implement measures to expand and improve the international energy data resources of the Energy Information Administration in order to understand—

(1) the production and use of energy in various countries;

(2) changing patterns of energy use internationally;

(3) the relative costs and environmental impacts of energy production and use internationally; and

(4) plans for or construction of major energy facilities or infrastructure.

(b) Requirements

In carrying out subsection (a), the Administrator shall—

(1) work with, and leverage the data resources of, the International Energy Agency;

(2) include detail on energy consumption by fuel, economic sector, and end use within countries for which data are available;

(3) collect relevant measures of energy use, including—

(A) cost; and

(B) emissions intensity; and

(4) provide tools that allow for straightforward country-to-country comparisons of energy production and consumption across economic sectors and end uses.

(Pub. L. 117–58, div. D, title IV, §40416, Nov. 15, 2021, 135 Stat. 1045.)

§18777. Harmonization of efforts and data

Not later than 1 year after November 15, 2021, the Administrator shall establish a system to harmonize, to the maximum extent practicable and consistent with data integrity—

(1) the data collection efforts of the Administrator, including any data collection required under this subchapter, with the data collection efforts of—

(A) the Environmental Protection Agency, as the Administrator determines to be appropriate;

(B) other relevant Federal agencies, as the Administrator determines to be appropriate; and

(C) State or regional energy credit registries, as the Administrator determines to be appropriate;

(2) the data collected under this subchapter, including the operating data on electricity generation collected under section 18772(a) of this title, with data collected by the entities described in subparagraphs (A) through (C) of paragraph (1), including any measurements of greenhouse gas and other pollutant emissions collected by the Environmental Protection Agency, as the Administrator determines to be appropriate; and

(3) the efforts of the Administrator to identify and report relevant impacts, opportunities, and patterns with respect to energy use, including the identification of community-level economic and environmental impacts required under section 18773(b)(1)(C) of this title, with the efforts of the Environmental Protection Agency and other relevant Federal agencies, as determined by the Administrator, to identify similar impacts, opportunities, and patterns.

(Pub. L. 117–58, div. D, title IV, §40419, Nov. 15, 2021, 135 Stat. 1047.)

SUBCHAPTER V—ENERGY EFFICIENCY AND BUILDING INFRASTRUCTURE

PART A—RESIDENTIAL AND COMMERCIAL ENERGY EFFICIENCY

§18791. Definitions

In this part:

(1) Priority State

The term "priority State" means a State that—

(A) is eligible for funding under the State Energy Program; and

(B)(i) is among the 15 States with the highest annual per-capita combined residential and commercial sector energy consumption, as most recently reported by the Energy Information Administration; or

(ii) is among the 15 States with the highest annual per-capita energy-related carbon dioxide emissions by State, as most recently reported by the Energy Information Administration.

(2) Program

The term "program" means the program established under section 18792(a) of this title.

(3) State

The term "State" means a State (as defined in section 6202 of this title), acting through a State energy office.

(4) State Energy Program

The term "State Energy Program" means the State Energy Program established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(Pub. L. 117–58, div. D, title V, §40501, Nov. 15, 2021, 135 Stat. 1050.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in par. (4), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871. Part D of title III of the Act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§18792. Energy efficiency revolving loan fund capitalization grant program

(a) In general

Not later than 1 year after November 15, 2021, under the State Energy Program, the Secretary shall establish a program under which the Secretary shall provide capitalization grants to States to establish a revolving loan fund under which the State shall provide loans and grants, as applicable, in accordance with this section.

(b) Distribution of funds

(1) All States

(A) In general

Of the amounts made available under subsection (j), the Secretary shall use 40 percent to provide capitalization grants to States that are eligible for funding under the State Energy Program, in accordance with the allocation formula established under section 420.11 of title 10, Code of Federal Regulations (or successor regulations).

(B) Remaining funding

After applying the allocation formula described in subparagraph (A), the Secretary shall redistribute any unclaimed funds to the remaining States seeking capitalization grants under that subparagraph.

(2) Priority States

(A) In general

Of the amounts made available under subsection (j), the Secretary shall use 60 percent to provide supplemental capitalization grants to priority States in accordance with an allocation formula determined by the Secretary.

(B) Remaining funding

After applying the allocation formula described in subparagraph (A), the Secretary shall redistribute any unclaimed funds to the remaining priority States seeking supplemental capitalization grants under that subparagraph.

(C) Grant amount

(i) Maximum amount

The amount of a supplemental capitalization grant provided to a State under this paragraph shall not exceed $15,000,000.

(ii) Supplement not supplant

A supplemental capitalization grant received by a State under this paragraph shall supplement, not supplant, a capitalization grant received by that State under paragraph (1).

(c) Applications for capitalization grants

A State seeking a capitalization grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a detailed explanation of how the grant will be used, including a plan to establish a new revolving loan fund or use an existing revolving loan fund;

(2) the need of eligible recipients for loans and grants in the State for assistance with conducting energy audits;

(3) a description of the expected benefits that building infrastructure and energy system upgrades and retrofits will have on communities in the State; and

(4) in the case of a priority State seeking a supplemental capitalization grant under subsection (b)(2), a justification for needing the supplemental funding.

(d) Timing

(1) In general

The Secretary shall establish a timeline with dates by, or periods by the end of, which a State shall—

(A) on receipt of a capitalization grant under the program, deposit the grant funds into a revolving loan fund; and

(B) begin using the capitalization grant as described in subsection (e)(1).

(2) Use of grant

Under the timeline established under paragraph (1), a State shall be required to begin using a capitalization grant not more than 180 days after the date on which the grant is received.

(e) Use of grant funds

(1) In general

A State that receives a capitalization grant under the program—

(A) shall provide loans in accordance with paragraph (2); and

(B) may provide grants in accordance with paragraph (3).

(2) Loans

(A) Commercial energy audit

(i) In general

A State that receives a capitalization grant under the program may provide a loan to an eligible recipient described in clause (iv) to conduct a commercial energy audit.

(ii) Audit requirements

A commercial energy audit conducted using a loan provided under clause (i) shall—

(I) determine the overall consumption of energy of the facility of the eligible recipient;

(II) identify and recommend lifecycle cost-effective opportunities to reduce the energy consumption of the facility of the eligible recipient, including through energy efficient—

(aa) lighting;

(bb) heating, ventilation, and air conditioning systems;

(cc) windows;

(dd) appliances; and

(ee) insulation and building envelopes;

(III) estimate the energy and cost savings potential of the opportunities identified in subclause (II) using software approved by the Secretary;

(IV) identify—

(aa) the period and level of peak energy demand for each building within the facility of the eligible recipient; and

(bb) the sources of energy consumption that are contributing the most to that period of peak energy demand;

(V) recommend controls and management systems to reduce or redistribute peak energy consumption; and

(VI) estimate the total energy and cost savings potential for the facility of the eligible recipient if all recommended upgrades and retrofits are implemented, using software approved by the Secretary.

(iii) Additional audit inclusions

A commercial energy audit conducted using a loan provided under clause (i) may recommend strategies to increase energy efficiency of the facility of the eligible recipient through use of electric systems or other high-efficiency systems utilizing fuels, including

natural gas and hydrogen.

(iv) Eligible recipients

An eligible recipient under clause (i) is a business that—

(I) conducts the majority of its business in the State that provides the loan under that clause; and

(II) owns or operates—

(aa) 1 or more commercial buildings; or

(bb) commercial space within a building that serves multiple functions, such as a building for commercial and residential operations.

(B) Residential energy audits

(i) In general

A State that receives a capitalization grant under the program may provide a loan to an eligible recipient described in clause (iv) to conduct a residential energy audit.

(ii) Residential energy audit requirements

A residential energy audit conducted using a loan under clause (i) shall—

(I) utilize the same evaluation criteria as the Home Performance Assessment used in the Energy Star program established under section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

(II) recommend lifecycle cost-effective opportunities to reduce energy consumption within the residential building of the eligible recipient, including through energy efficient—

(aa) lighting;

(bb) heating, ventilation, and air conditioning systems;

(cc) windows;

(dd) appliances; and

(ee) insulation and building envelopes;

(III) recommend controls and management systems to reduce or redistribute peak energy consumption;

(IV) compare the energy consumption of the residential building of the eligible recipient to comparable residential buildings in the same geographic area; and

(V) provide a Home Energy Score, or equivalent score (as determined by the Secretary), for the residential building of the eligible recipient by using the Home Energy Score Tool of the Department or an equivalent scoring tool.

(iii) Additional audit inclusions

A residential energy audit conducted using a loan provided under clause (i) may recommend strategies to increase energy efficiency of the facility of the eligible recipient through use of electric systems or other high-efficiency systems utilizing fuels, including natural gas and hydrogen.

(iv) Eligible recipients

An eligible recipient under clause (i) is—

(I) an individual who owns—

(aa) a single family home;

(bb) a condominium or duplex; or

(cc) a manufactured housing unit; or

(II) a business that owns or operates a multifamily housing facility.

(C) Commercial and residential energy upgrades and retrofits

(i) In general

A State that receives a capitalization grant under the program may provide a loan to an eligible recipient described in clause (ii) to carry out upgrades or retrofits of building infrastructure and systems that—

(I) are recommended in the commercial energy audit or residential energy audit, as applicable, completed for the building or facility of the eligible recipient;

(II) satisfy at least 1 of the criteria in the Home Performance Assessment used in the Energy Star program established under section 6294a of this title;

(III) improve, with respect to the building or facility of the eligible recipient—

(aa) the physical comfort of the building or facility occupants;

(bb) the energy efficiency of the building or facility; or

(cc) the quality of the air in the building or facility; and

(IV)(aa) are lifecycle cost-effective; and

(bb)(AA) reduce the energy intensity of the building or facility of the eligible recipient; or

(BB) improve the control and management of energy usage of the building or facility to reduce demand during peak times.

(ii) Eligible recipients

An eligible recipient under clause (i) is an eligible recipient described in subparagraph (A)(iv) or (B)(iv) that—

(I) has completed a commercial energy audit described in subparagraph (A) or a residential energy audit described in subparagraph (B) using a loan provided under the applicable subparagraph; or

(II) has completed a commercial energy audit or residential energy audit that—

(aa) was not funded by a loan under this paragraph; and

(bb)(AA) meets the requirements for the applicable audit under subparagraph (A) or (B), as applicable; or

(BB) the Secretary determines is otherwise satisfactory.

(iii) Loan term

(I) In general

A loan provided under this subparagraph shall be required to be fully amortized by the earlier of—

(aa) subject to subclause (II), the year in which the upgrades or retrofits carried out using the loan exceed their expected useful life; and

(bb) 15 years after those upgrades or retrofits are installed.

(II) Calculation

For purposes of subclause (I)(aa), in the case of a loan being used to fund multiple upgrades or retrofits, the longest-lived upgrade or retrofit shall be used to calculate the year in which the upgrades or retrofits carried out using the loan exceed their expected useful life.

(D) Referral to qualified contractors

Following the completion of an audit under subparagraph (A) or (B) by an eligible recipient of a loan under the applicable subparagraph, the State may refer the eligible recipient to a qualified contractor, as determined by the State, to estimate—

(i) the upfront capital cost of each recommended upgrade; and

(ii) the total upfront capital cost of implementing all recommended upgrades.

(E) Loan recipients

Each State providing loans under this paragraph shall, to the maximum extent practicable, provide loans to eligible recipients that do not have access to private capital.

(3) Grants and technical assistance

(A) In general

A State that receives a capitalization grant under the program may use not more than 25 percent of the grant funds to provide grants or technical assistance to eligible entities described in subparagraph (B) to carry out the activities described in subparagraphs (A), (B), and (C) of paragraph (2).

(B) Eligible entity

An entity eligible for a grant or technical assistance under subparagraph (A) is—

(i) a business that—

(I) is an eligible recipient described in paragraph (2)(A)(iv); and

(II) has fewer than 500 employees; or

(ii) a low-income individual (as defined in section 3102 of this title) that owns a residential building.

(4) Final assessment

A State that provides a capitalization grant under paragraph (2)(C) to an eligible recipient described in clause (ii) of that paragraph may, not later than 1 year after the date on which the upgrades or retrofits funded by the grant under that paragraph are completed, provide to the eligible recipient a loan or, in accordance with paragraph (3), a grant to conduct a final energy audit that assesses the total energy savings from the upgrades or retrofits.

(5) Administrative expenses

A State that receives a capitalization grant under the program may use not more than 10 percent of the grant funds for administrative expenses.

(f) Coordination with existing programs

A State receiving a capitalization grant under the program is encouraged to utilize and build on existing programs and infrastructure within the State that may aid the State in carrying out a revolving loan fund program.

(g) Leveraging private capital

A State receiving a capitalization grant under the program shall, to the maximum extent practicable, use the grant to leverage private capital.

(h) Outreach

The Secretary shall engage in outreach to inform States of the availability of capitalization grants under the program.

(i) Report

Each State that receives a capitalization grant under the program shall, not later than 2 years after a grant is received, submit to the Secretary a report that describes—

(1) the number of recipients to which the State has distributed—

(A) loans for—

(i) commercial energy audits under subsection (e)(2)(A);

(ii) residential energy audits under subsection (e)(2)(B);

(iii) energy upgrades and retrofits under subsection (e)(2)(C); and

(B) grants under subsection (e)(3); and

(2) the average capital cost of upgrades and retrofits across all commercial energy audits and residential energy audits that were conducted in the State using loans provided by the State under subsection (e).

(j) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $250,000,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 117–58, div. D, title V, §40502, Nov. 15, 2021, 135 Stat. 1051.)

§18793. Energy auditor training grant program

(a) Definitions

In this section:

(1) Covered certification

The term "covered certification" means any of the following certifications:

(A) The American Society of Heating, Refrigerating and Air-Conditioning Engineers Building Energy Assessment Professional certification.

(B) The Association of Energy Engineers Certified Energy Auditor certification.

(C) The Building Performance Institute Home Energy Professional Energy Auditor certification.

(D) The Residential Energy Services Network Home Energy Rater certification.

(E) Any other third-party certification recognized by the Department.

(F) Any third-party certification that the Secretary determines is equivalent to the certifications described in subparagraphs (A) through (E).

(2) Eligible State

The term "eligible State" means a State that—

(A) has a demonstrated need for assistance for training energy auditors; and

(B) meets any additional criteria determined necessary by the Secretary.

(b) Establishment

Under the State Energy Program, the Secretary shall establish a competitive grant program under which the Secretary shall award grants to eligible States to train individuals to conduct energy audits or surveys of commercial and residential buildings.

(c) Applications

(1) In general

A State seeking a grant under subsection (b) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including the energy auditor training program plan described in paragraph (2).

(2) Energy auditor training program plan

An energy auditor training program plan submitted with an application under paragraph (1) shall include—

(A)(i) a proposed training curriculum for energy audit trainees; and

(ii) an identification of the covered certification that those trainees will receive on completion of that training curriculum;

(B) the expected per-individual cost of training;

(C) a plan for connecting trainees with employment opportunities; and

(D) any additional information required by the Secretary.

(d) Amount of grant

The amount of a grant awarded to an eligible State under subsection (b)—

(1) shall be determined by the Secretary, taking into account the population of the eligible State; and

(2) shall not exceed $2,000,000 for any eligible State.

(e) Use of funds

(1) In general

An eligible State that receives a grant under subsection (b) shall use the grant funds—

(A) to cover any cost associated with individuals being trained or certified to conduct energy audits by—

(i) the State; or

(ii) a State-certified third party training program; and

(B) subject to paragraph (2), to pay the wages of a trainee during the period in which the trainee receives training and certification.

(2) Limitation

Not more than 10 percent of grant funds provided under subsection (b) to an eligible State may be used for the purpose described in paragraph (1)(B).

(f) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Labor.

(g) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $40,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title V, §40503, Nov. 15, 2021, 135 Stat. 1056.)

PART B—BUILDINGS

§18801. Building, training, and assessment centers

(a) In general

The Secretary shall provide grants to institutions of higher education (as defined in section 1001 of title 20) and Tribal Colleges or Universities (as defined in section 1059c(b) of title 20) to establish building training and assessment centers—

(1) to identify opportunities for optimizing energy efficiency and environmental performance in buildings;

(2) to promote the application of emerging concepts and technologies in commercial and institutional buildings;

(3) to train engineers, architects, building scientists, building energy permitting and enforcement officials, and building technicians in energy-efficient design and operation;

(4) to assist institutions of higher education and Tribal Colleges or Universities in training building technicians;

(5) to promote research and development for the use of alternative energy sources and distributed generation to supply heat and power for buildings, particularly energy-intensive buildings; and

(6) to coordinate with and assist State-accredited technical training centers, community colleges, Tribal Colleges or Universities, and local offices of the National Institute of Food and Agriculture and ensure appropriate services are provided under this section to each region of the United States.

(b) Coordination and nonduplication

(1) In general

The Secretary shall coordinate the program with the industrial research and assessment centers program under section 17116 of this title and with other Federal programs to avoid duplication of effort.

(2) Collocation

To the maximum extent practicable, building, training, and assessment centers established under this section shall be collocated with industrial research and assessment centers (as defined in section 18811 of this title).

(c) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 117–58, div. D, title V, §40512, Nov. 15, 2021, 135 Stat. 1059.)

§18802. Career skills training

(a) Definition of eligible entity

In this section, the term "eligible entity" means a nonprofit partnership that—

(1) includes the equal participation of industry, including public or private employers, and labor organizations, including joint labor-management training programs;

(2) may include workforce investment boards, community-based organizations, qualified service and conservation corps, educational institutions, small businesses, cooperatives, State and local veterans agencies, and veterans service organizations; and

(3) demonstrates—

(A) experience in implementing and operating worker skills training and education programs;

(B) the ability to identify and involve in training programs carried out under this section, target populations of individuals who would benefit from training and be actively involved in activities relating to energy efficiency and renewable energy industries; and

(C) the ability to help individuals achieve economic self-sufficiency.

(b) Establishment

The Secretary shall award grants to eligible entities to pay the Federal share of associated career skills training programs under which students concurrently receive classroom instruction and on-the-job training for the purpose of obtaining an industry-related certification to install energy efficient buildings technologies.

(c) Federal share

The Federal share of the cost of carrying out a career skills training program described in subsection (b) shall be 50 percent.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 117–58, div. D, title V, §40513, Nov. 15, 2021, 135 Stat. 1060.)

§18803. Commercial building energy consumption information sharing

(a) Definitions

In this section:

(1) Administrator

The term "Administrator" means the Administrator of the Energy Information Administration.

(2) Agreement

The term "Agreement" means the agreement entered into under subsection (b).

(3) Survey

The term "Survey" means the Commercial Building Energy Consumption Survey.

(b) Authorization of agreement

Not later than 120 days after November 15, 2021, the Administrator and the Administrator of the Environmental Protection Agency shall sign, and submit to Congress, an information sharing agreement relating to commercial building energy consumption data.

(c) Content of agreement

The Agreement shall—

(1) provide, to the extent permitted by law, that—

(A) the Administrator shall have access to building-specific data in the Portfolio Manager database of the Environmental Protection Agency; and

(B) the Administrator of the Environmental Protection Agency shall have access to building-specific data collected by the Survey;

(2) describe the manner in which the Administrator shall use the data described in paragraph (1) and subsection (d);

(3) describe and compare—

(A) the methodologies that the Energy Information Administration, the Environmental Protection Agency, and State and local government managers use to maximize the quality, reliability, and integrity of data collected through the Survey, the Portfolio Manager database of the Environmental Protection Agency, and State and local building energy disclosure laws (including regulations), respectively, and the manner in which those methodologies can be improved; and

(B) consistencies and variations in data for the same buildings captured in—

(i)(I) the 2018 Survey cycle; and

(II) each subsequent Survey cycle; and

(ii) the Portfolio Manager database of the Environmental Protection Agency; and

(4) consider whether, and the methods by which, the Administrator may collect and publish new iterations of Survey data every 3 years—

(A) using the Survey processes of the Administrator; or

(B) as supplemented by information in the Portfolio Manager database of the Environmental Protection Agency.

(d) Data

The data referred in subsection (c)(2) includes data that—

(1) is collected through the Portfolio Manager database of the Environmental Protection Agency;

(2) is required to be publicly available on the internet under State and local government building energy disclosure laws (including regulations); and

(3) includes information on private sector buildings that are not less than 250,000 square feet.

(e) Protection of information

In carrying out the agreement, the Administrator and the Administrator of the Environmental Protection Agency shall protect information in accordance with—

(1) section 552(b)(4) of title 5 (commonly known as the "Freedom of Information Act" [1]);

(2) subchapter III of chapter 35 of title 44; and

(3) any other applicable law (including regulations).

(Pub. L. 117–58, div. D, title V, §40514, Nov. 15, 2021, 135 Stat. 1061.)

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

PART C—SMART MANUFACTURING

§18811. Definitions

In this part:

(1) Energy management system

The term "energy management system" means a business management process based on standards of the American National Standards Institute that enables an organization to follow a systematic approach in achieving continual improvement of energy performance, including energy efficiency, security, use, and consumption.

(2) Industrial research and assessment center

The term "industrial research and assessment center" means a center located at an institution of higher education, a trade school, a community college, or a union training program that—

(A) receives funding from the Department;

(B) provides an in-depth assessment of small- and medium-size manufacturer plant sites to evaluate the facilities, services, and manufacturing operations of the plant site; and

(C) identifies opportunities for potential savings for small- and medium-size manufacturer plant sites from energy efficiency improvements, waste minimization, pollution prevention, and productivity improvement.

(3) Information and communication technology

The term "information and communication technology" means any electronic system or equipment (including the content contained in the system or equipment) used to create, convert, communicate, or duplicate data or information, including computer hardware, firmware, software, communication protocols, networks, and data interfaces.

(4) Institution of higher education

The term "institution of higher education" has the meaning given the term in section 1001(a) of title 20.

(5) North american industry classification system

The term "North American Industry Classification System" means the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data relating to the business economy of the United States.

(6) Small and medium manufacturers

The term "small and medium manufacturers" means manufacturing firms—

(A) classified in the North American Industry Classification System as any of sectors 31 through 33;

(B) with gross annual sales of less than $100,000,000;

(C) with fewer than 500 employees at the plant site; and

(D) with annual energy bills totaling more than $100,000 and less than $3,500,000.

(7) Smart manufacturing

The term "smart manufacturing" means advanced technologies in information, automation, monitoring, computation, sensing, modeling, artificial intelligence, analytics, and networking that—

(A) digitally—

(i) simulate manufacturing production lines;

(ii) operate computer-controlled manufacturing equipment;

(iii) monitor and communicate production line status; and

(iv) manage and optimize energy productivity and cost throughout production;

(B) model, simulate, and optimize the energy efficiency of a factory building;

(C) monitor and optimize building energy performance;

(D) model, simulate, and optimize the design of energy efficient and sustainable products, including the use of digital prototyping and additive manufacturing to enhance product design;

(E) connect manufactured products in networks to monitor and optimize the performance of the networks, including automated network operations; and

(F) digitally connect the supply chain network.

(Pub. L. 117–58, div. D, title V, §40531, Nov. 15, 2021, 135 Stat. 1068.)

§18812. Leveraging Existing Agency Programs To Assist Small and Medium Manufacturers

The Secretary shall expand the scope of technologies covered by the industrial research and assessment centers of the Department—

(1) to include smart manufacturing technologies and practices; and

(2) to equip the directors of the industrial research and assessment centers with the training and tools necessary to provide technical assistance in smart manufacturing technologies and practices, including energy management systems, to manufacturers.

(Pub. L. 117–58, div. D, title V, §40532, Nov. 15, 2021, 135 Stat. 1069.)

§18813. Leveraging Smart Manufacturing Infrastructure at National Laboratories

(a) Study

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall conduct a study on how the Department can increase access to existing high-performance computing resources in the National Laboratories, particularly for small and medium manufacturers.

(2) Inclusions

In identifying ways to increase access to National Laboratories under paragraph (1), the Secretary shall—

(A) focus on increasing access to the computing facilities of the National Laboratories; and

(B) ensure that—

(i) the information from the manufacturer is protected; and

(ii) the security of the National Laboratory facility is maintained.

(3) Report

Not later than 1 year after November 15, 2021, the Secretary shall submit to Congress a report describing the results of the study.

(b) Actions for Increased Access

The Secretary shall facilitate access to the National Laboratories studied under subsection (a) for small and medium manufacturers so that small and medium manufacturers can fully use the high-performance computing resources of the National Laboratories to enhance the manufacturing competitiveness of the United States.

(Pub. L. 117–58, div. D, title V, §40533, Nov. 15, 2021, 135 Stat. 1069.)

§18814. State manufacturing leadership

(a) Financial assistance authorized

The Secretary may provide financial assistance on a competitive basis to States for the establishment of programs to be used as models for supporting the implementation of smart manufacturing technologies.

(b) Applications

(1) In general

To be eligible to receive financial assistance under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) Criteria

The Secretary shall evaluate an application for financial assistance under this section on the basis of merit using criteria identified by the Secretary, including—

(A) technical merit, innovation, and impact;
(B) research approach, workplan, and deliverables;
(C) academic and private sector partners; and
(D) alternate sources of funding.

(c) Requirements

(1) Term

The term of an award of financial assistance under this section shall not exceed 3 years.

(2) Maximum amount

The amount of an award of financial assistance under this section shall be not more than $2,000,000.

(3) Matching requirement

Each State that receives financial assistance under this section shall contribute matching funds in an amount equal to not less than 30 percent of the amount of the financial assistance.

(d) Use of funds

A State may use financial assistance provided under this section—

(1) to facilitate access to high-performance computing resources for small and medium manufacturers; and

(2) to provide assistance to small and medium manufacturers to implement smart manufacturing technologies and practices.

(e) Evaluation

The Secretary shall conduct semiannual evaluations of each award of financial assistance under this section—

(1) to determine the impact and effectiveness of programs funded with the financial assistance; and

(2) to provide guidance to States on ways to better execute the program of the State.

(f) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title V, §40534, Nov. 15, 2021, 135 Stat. 1070.)

§18815. Report

The Secretary annually shall submit to Congress and make publicly available a report on the progress made in advancing smart manufacturing in the United States.

(Pub. L. 117–58, div. D, title V, §40535, Nov. 15, 2021, 135 Stat. 1071.)

§18831. Grants for energy efficiency improvements and renewable energy improvements at public school facilities

(a) Definitions

In this section:

(1) Alternative fueled vehicle

The term "alternative fueled vehicle" has the meaning given the term in section 13211 of this title.

(2) Alternative fueled vehicle infrastructure

The term "alternative fueled vehicle infrastructure" means infrastructure used to charge or fuel an alternative fueled vehicle.

(3) Eligible entity

The term "eligible entity" means a consortium of—

(A) 1 local educational agency; and

(B) 1 or more—

(i) schools;

(ii) nonprofit organizations that have the knowledge and capacity to partner and assist with energy improvements;

(iii) for-profit organizations that have the knowledge and capacity to partner and assist with energy improvements; or

(iv) community partners that have the knowledge and capacity to partner and assist with energy improvements.

(4) Energy improvement

The term "energy improvement" means—

(A) any improvement, repair, or renovation to a school that results in a direct reduction in school energy costs, including improvements to the envelope, air conditioning system, ventilation system, heating system, domestic hot water heating system, compressed air system, distribution system, lighting system, power system, and controls of a building;

(B) any improvement, repair, or renovation to, or installation in, a school that—

(i) leads to an improvement in teacher and student health, including indoor air quality; and

(ii) achieves energy savings;

(C) any improvement, repair, or renovation to a school involving the installation of renewable energy technologies;

(D) the installation of alternative fueled vehicle infrastructure on school grounds for—

(i) exclusive use of school buses, school fleets, or students; or

(ii) the general public; and

(E) the purchase or lease of alternative fueled vehicles to be used by a school, including school buses, fleet vehicles, and other operational vehicles.

(5) High school

The term "high school" has the meaning given the term in section 7801 of title 20.

(6) Local educational agency

The term "local educational agency" has the meaning given the term in section 7801 of title 20.

(7) Nonprofit organization

The term "nonprofit organization" means—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) a mutual or cooperative electric company described in section 501(c)(12) of such Code.

(8) Partnering local educational agency

The term "partnering local educational agency", with respect to an eligible entity, means the local educational agency participating in the consortium of the eligible entity.

(b) Grants

The Secretary shall award competitive grants to eligible entities to make energy improvements in accordance with this section.

(c) Applications

(1) In general

An eligible entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) Contents

The application submitted under paragraph (1) shall include each of the following:

(A) A needs assessment of the current condition of the school and school facilities that would receive the energy improvements if the application were approved.

(B) A draft work plan of the intended achievements of the eligible entity at the school.

(C) A description of the energy improvements that the eligible entity would carry out at the school if the application were approved.

(D) A description of the capacity of the eligible entity to provide services and comprehensive support to make the energy improvements referred to in subparagraph (C).

(E) An assessment of the expected needs of the eligible entity for operation and maintenance training funds, and a plan for use of those funds, if applicable.

(F) An assessment of the expected energy efficiency, energy savings, and safety benefits of the energy improvements.

(G) A cost estimate of the proposed energy improvements.

(H) An identification of other resources that are available to carry out the activities for which grant funds are requested under this section, including the availability of utility programs and public benefit funds.

(d) Priority

(1) In general

In awarding grants under this section, the Secretary shall give priority to an eligible entity—

(A) that has renovation, repair, and improvement funding needs;

(B)(i) that, as determined by the Secretary, serves a high percentage of students, including students in a high school in accordance with paragraph (2), who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

(ii) the partnering local educational agency of which is designated with a school district locale code of 41, 42, or 43, as determined by the National Center for Education Statistics in consultation with the Bureau of the Census; and

(C) that leverages private sector investment through energy-related performance contracting.

(2) High school students

In the case of students in a high school, the percentage of students eligible for a free or reduced price lunch described in paragraph (1)(B)(i) shall be calculated using data from the schools that feed into the high school.

(e) Competitive criteria

The competitive criteria used by the Secretary to award grants under this section shall include the following:

(1) The extent of the disparity between the fiscal capacity of the eligible entity to carry out

energy improvements at school facilities and the needs of the partnering local educational agency for those energy improvements, including consideration of—

(A) the current and historic ability of the partnering local educational agency to raise funds for construction, renovation, modernization, and major repair projects for schools;

(B) the ability of the partnering local educational agency to issue bonds or receive other funds to support the current infrastructure needs of the partnering local educational agency for schools; and

(C) the bond rating of the partnering local educational agency.

(2) The likelihood that the partnering local educational agency or eligible entity will maintain, in good condition, any school and school facility that is the subject of improvements.

(3) The potential energy efficiency and safety benefits from the proposed energy improvements.

(f) Use of grant amounts

(1) In general

Except as provided in this subsection, an eligible entity receiving a grant under this section shall use the grant amounts only to make the energy improvements described in the application submitted by the eligible entity under subsection (c).

(2) Operation and maintenance training

An eligible entity receiving a grant under this section may use not more than 5 percent of the grant amounts for operation and maintenance training for energy efficiency and renewable energy improvements, such as maintenance staff and teacher training, education, and preventative maintenance training.

(3) Third-party investigation and analysis

An eligible entity receiving a grant under this section may use a portion of the grant amounts for a third-party investigation and analysis of the energy improvements carried out by the eligible entity, such as energy audits and existing building commissioning.

(4) Continuing education

An eligible entity receiving a grant under this section may use not more than 3 percent of the grant amounts to develop a continuing education curriculum relating to energy improvements.

(g) Competition in contracting

If an eligible entity receiving a grant under this section uses grant funds to carry out repair or renovation through a contract, the eligible entity shall be required to ensure that the contract process—

(1) through full and open competition, ensures the maximum practicable number of qualified bidders, including small, minority, and women-owned businesses; and

(2) gives priority to businesses located in, or resources common to, the State or geographical area in which the repair or renovation under the contract will be carried out.

(h) Best practices

The Secretary shall develop and publish guidelines and best practices for activities carried out under this section.

(i) Report by eligible entity

An eligible entity receiving a grant under this section shall submit to the Secretary, at such time as the Secretary may require, a report describing—

(1) the use of the grant funds for energy improvements;

(2) the estimated cost savings realized by those energy improvements;

(3) the results of any third-party investigation and analysis conducted relating to those energy improvements;

(4) the use of any utility programs and public benefit funds; and

(5) the use of performance tracking for energy improvements, such as—

(A) the Energy Star program established under section 6294a of this title; or

(B) the United States Green Building Council Leadership in Energy and Environmental Design (LEED) green building rating system for existing buildings.

(j) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $500,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title V, §40541, Nov. 15, 2021, 135 Stat. 1071.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (a)(7), is classified generally to Title 26, Internal Revenue Code.

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(1)(B)(i), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

PART D—SCHOOLS AND NONPROFITS

§18832. Energy efficiency materials pilot program

(a) Definitions

In this section:

(1) Applicant

The term "applicant" means a nonprofit organization that applies for a grant under this section.

(2) Energy-efficiency material

(A) In general

The term "energy-efficiency material" means a material (including a product, equipment, or system) the installation of which results in a reduction in use by a nonprofit organization of energy or fuel.

(B) Inclusions

The term "energy-efficiency material" includes—

(i) a roof or lighting system or component of the system;

(ii) a window;

(iii) a door, including a security door; and

(iv) a heating, ventilation, or air conditioning system or component of the system (including insulation and wiring and plumbing improvements needed to serve a more efficient system).

(3) Nonprofit building

The term "nonprofit building" means a building operated and owned by an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(b) Establishment

Not later than 1 year after November 15, 2021, the Secretary shall establish a pilot program to award grants for the purpose of providing nonprofit buildings with energy-efficiency materials.

(c) Grants

(1) In general

The Secretary may award grants under the program established under subsection (b).

(2) Application

The Secretary may award a grant under paragraph (1) if an applicant submits to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

(3) Criteria for grant

In determining whether to award a grant under paragraph (1), the Secretary shall apply performance-based criteria, which shall give priority to applicants based on—

(A) the energy savings achieved;

(B) the cost effectiveness of the use of energy-efficiency materials;

(C) an effective plan for evaluation, measurement, and verification of energy savings; and

(D) the financial need of the applicant.

(4) Limitation on individual grant amount

Each grant awarded under this section shall not exceed $200,000.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(Pub. L. 117–58, div. D, title V, §40542, Nov. 15, 2021, 135 Stat. 1074.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (a)(3), is classified generally to Title 26, Internal Revenue Code.

PART E—MISCELLANEOUS

§18841. Survey, analysis, and report on employment and demographics in the energy, energy efficiency, and motor vehicle sectors of the United States

(a) Energy Jobs Council

(1) Establishment

The Secretary shall establish a council, to be known as the "Energy Jobs Council" (referred to in this section as the "Council").

(2) Membership

The Council shall be comprised of—

(A) to be appointed by the Secretary—

(i) 1 or more representatives of the Energy Information Administration; and

(ii) 1 or more representatives of a State energy office that are serving as members of the State Energy Advisory Board established by section 6325(g) of this title;

(B) to be appointed by the Secretary of Commerce—

(i) 1 or more representatives of the Department of Commerce; and

(ii) 1 or more representatives of the Bureau of the Census;

(C) 1 or more representatives of the Bureau of Labor Statistics, to be appointed by the Secretary of Labor; and

(D) 1 or more representatives of any other Federal agency the assistance of which is required to carry out this section, as determined by the Secretary, to be appointed by the head of the applicable agency.

(b) Survey and analysis

(1) In general

The Council shall—

(A) conduct a survey of employers in the energy, energy efficiency, and motor vehicle sectors of the economy of the United States; and

(B) perform an analysis of the employment figures and demographics in those sectors, including the number of personnel in each sector who devote a substantial portion of working hours, as determined by the Secretary, to regulatory compliance matters.

(2) Methodology

In conducting the survey and analysis under paragraph (1), the Council shall employ a methodology that—

(A) was approved in 2016 by the Office of Management and Budget for use in the document entitled "OMB Control Number 1910–5179";

(B) uses a representative, stratified sampling of businesses in the United States; and

(C) is designed to elicit a comparable number of responses from businesses in each State and with the same North American Industry Classification System codes as were received for the 2016 and 2017 reports entitled "U.S. Energy and Employment Report".

(3) Consultation

In conducting the survey and analysis under paragraph (1), the Council shall consult with key stakeholders, including—

(A) as the Council determines to be appropriate, the heads of relevant Federal agencies and offices, including—

(i) the Secretary of Commerce;

(ii) the Secretary of Transportation;

(iii) the Director of the Bureau of the Census;

(iv) the Commissioner of the Bureau of Labor Statistics; and

(v) the Administrator of the Environmental Protection Agency;

(B) States;

(C) the State Energy Advisory Board established by section 6325(g) of this title; and

(D) energy industry trade associations.

(c) Report

(1) In general

Not later than 1 year after November 15, 2021, and annually thereafter, the Secretary shall—

(A) make publicly available on the website of the Department a report, to be entitled the "U.S. Energy and Employment Report", describing the employment figures and demographics in the energy, energy efficiency, and motor vehicle sectors of the United States, and the average number of hours devoted to regulatory compliance, based on the survey and analysis conducted under subsection (b); and

(B) subject to the requirements of subchapter III of chapter 35 of title 44, make the data collected by the Council publicly available on the website of the Department.

(2) Contents

(A) In general

The report under paragraph (1) shall include employment figures and demographic data for—

(i) the energy sector of the economy of the United States, including—
(I) the electric power generation and fuels sector; and
(II) the transmission, storage, and distribution sector;

(ii) the energy efficiency sector of the economy of the United States; and
(iii) the motor vehicle sector of the economy of the United States.

(B) Inclusion

With respect to each sector described in subparagraph (A), the report under paragraph (1) shall include employment figures and demographic data sorted by—
(i) each technology, subtechnology, and fuel type of those sectors; and
(ii) subject to the requirements of the Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note; Public Law 107–347)—
(I) each State;
(II) each territory of the United States;
(III) the District of Columbia; and
(IV) each county (or equivalent jurisdiction) in the United States.

(Pub. L. 117–58, div. D, title V, §40553, Nov. 15, 2021, 135 Stat. 1076.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Confidential Information Protection and Statistical Efficiency Act of 2002, referred to in subsec. (c)(2)(B)(ii), is title V of Pub. L. 107–347, Dec. 17, 2002, 116 Stat. 2962, which is set out as a note under section 3501 of Title 44, Public Printing and Documents.

§18842. Model guidance for combined heat and power systems and waste heat to power systems

(a) Definitions

In this section:

(1) Additional services

The term "additional services" means the provision of supplementary power, backup or standby power, maintenance power, or interruptible power to an electric consumer by an electric utility.

(2) Waste heat to power system

The term "waste heat to power system" means a system that generates electricity through the recovery of waste energy.

(3) Other terms

(A) Purpa

The terms "electric consumer", "electric utility", "interconnection service", "nonregulated electric utility", and "State regulatory authority" have the meanings given those terms in the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), within the meaning of title I of that Act (16 U.S.C. 2611 et seq.).

(B) EPCA

The terms "combined heat and power system" and "waste energy" have the meanings given those terms in section 6341 of this title.

(b) Review

(1) In general

Not later than 180 days after November 15, 2021, the Secretary, in consultation with the Federal

Energy Regulatory Commission and other appropriate entities, shall review existing rules and procedures relating to interconnection service and additional services throughout the United States for electric generation with nameplate capacity up to 150 megawatts connecting at either distribution or transmission voltage levels to identify barriers to the deployment of combined heat and power systems and waste heat to power systems.

(2) Inclusion

The review under this subsection shall include a review of existing rules and procedures relating to—

(A) determining and assigning costs of interconnection service and additional services; and

(B) ensuring adequate cost recovery by an electric utility for interconnection service and additional services.

(c) Model guidance

(1) In general

Not later than 18 months after November 15, 2021, the Secretary, in consultation with the Federal Energy Regulatory Commission and other appropriate entities, shall issue model guidance for interconnection service and additional services for consideration by State regulatory authorities and nonregulated electric utilities to reduce the barriers identified under subsection (b)(1).

(2) Current best practices

The model guidance issued under this subsection shall reflect, to the maximum extent practicable, current best practices to encourage the deployment of combined heat and power systems and waste heat to power systems while ensuring the safety and reliability of the interconnected units and the distribution and transmission networks to which the units connect, including—

(A) relevant current standards developed by the Institute of Electrical and Electronic Engineers; and

(B) model codes and rules adopted by—

(i) States; or

(ii) associations of State regulatory agencies.

(3) Factors for consideration

In establishing the model guidance under this subsection, the Secretary shall take into consideration—

(A) the appropriateness of using standards or procedures for interconnection service that vary based on unit size, fuel type, or other relevant characteristics;

(B) the appropriateness of establishing fast-track procedures for interconnection service;

(C) the value of consistency with Federal interconnection rules established by the Federal Energy Regulatory Commission as of November 15, 2021;

(D) the best practices used to model outage assumptions and contingencies to determine fees or rates for additional services;

(E) the appropriate duration, magnitude, or usage of demand charge ratchets;

(F) potential alternative arrangements with respect to the procurement of additional services, including—

(i) contracts tailored to individual electric consumers for additional services;

(ii) procurement of additional services by an electric utility from a competitive market; and

(iii) waivers of fees or rates for additional services for small electric consumers; and

(G) outcomes such as increased electric reliability, fuel diversification, enhanced power quality, and reduced electric losses that may result from increased use of combined heat and power systems and waste heat to power systems.

(Pub. L. 117–58, div. D, title V, §40556, Nov. 15, 2021, 135 Stat. 1078.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a)(3)(A), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117. Title I (§101 et seq.) of the Act enacted subchapters I to IV of chapter 46 (§2611 et seq.) of Title 16, Conservation, and section 6808 of this title, and amended sections 6802 to 6807 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16 and Tables.

SUBCHAPTER VI—WAGE RATE REQUIREMENTS

§18851. Wage rate requirements

(a) Davis-Bacon

All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under this chapter or an amendment made by this chapter shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40 (commonly referred to as the "Davis-Bacon Act").

(b) Authority

With respect to the labor standards specified in subsection (a), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40.

(Pub. L. 117–58, div. D, title XI, §41101, Nov. 15, 2021, 135 Stat. 1130.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this division", meaning div. D of Pub. L. 117–58, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of div. D of Pub. L. 117–58 to the Code, see Tables.

The Davis-Bacon Act, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, which was classified generally to sections 276a to 276a–5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141–3144, 3146, and 3147 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. For complete classification of this Act to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER VII—MISCELLANEOUS

§18861. Office of Clean Energy Demonstrations

(a) Definitions

In this section:

(1) Covered project

The term "covered project" means a demonstration project of the Department that—

(A) receives or is eligible to receive funding from the Secretary; and

(B) is authorized under—

(i) this chapter; or

(ii) the Energy Act of 2020 (Public Law 116–260; 134 Stat. 1182).[1]

(2) Program

The term "program" means the program established under subsection (b).

(b) Establishment

The Secretary, in coordination with the heads of relevant program offices of the Department, shall establish a program to conduct project management and oversight of covered projects, including by—

(1) conducting evaluations of proposals for covered projects before the selection of a covered project for funding;

(2) conducting independent oversight of the execution of a covered project after funding has been awarded for that covered project; and

(3) ensuring a balanced portfolio of investments in covered projects.

(c) Duties

The Secretary shall appoint a head of the program who shall, in coordination with the heads of relevant program offices of the Department—

(1) evaluate proposals for covered projects, including scope, technical specifications, maturity of design, funding profile, estimated costs, proposed schedule, proposed technical and financial milestones, and potential for commercial success based on economic and policy projections;

(2) develop independent cost estimates for a proposal for a covered project, if appropriate;

(3) recommend to the head of a program office of the Department, as appropriate, whether to fund a proposal for a covered project;

(4) oversee the execution of covered projects that receive funding from the Secretary, including reconciling estimated costs as compared to actual costs;

(5) conduct reviews of ongoing covered projects, including—

(A) evaluating the progress of a covered project based on the proposed schedule and technical and financial milestones; and

(B) providing the evaluations under subparagraph (A) to the Secretary; and

(6) assess the lessons learned in overseeing covered projects and implement improvements in the process of evaluating and overseeing covered projects.

(d) Employees

To carry out the program, the Secretary may hire appropriate personnel to perform the duties of the program.

(e) Coordination

In carrying out the program, the head of the program shall coordinate with—

(1) project management and acquisition management entities with the Department, including the Office of Project Management; and

(2) professional organizations in project management, construction, cost estimation, and other relevant fields.

(f) Reports

(1) Report by Secretary

The Secretary shall include in each updated technology transfer execution plan submitted under subsection (h)(2) of section 16391 of this title information on the implementation of and progress made under the program, including, for the year covered by the report—

(A) the covered projects under the purview of the program; and

(B) the review of each covered project carried out under subsection (c)(5).

(2) Report by Comptroller General

Not later than 3 years after November 15, 2021, the Comptroller General of the United States shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report evaluating the operation of the program, including—

(A) a description of the processes and procedures used by the program to evaluate proposals of covered projects and the oversight of covered projects; and

(B) any recommended changes in the program, including changes to—

(i) the processes and procedures described in subparagraph (A); and

(ii) the structure of the program, for the purpose of better carrying out the program.

(g) Omitted

(Pub. L. 117–58, div. D, title XII, §41201, Nov. 15, 2021, 135 Stat. 1130.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(B)(i), was in the original "this division", meaning div. D of Pub. L. 117–58, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of div. D of Pub. L. 117–58 to the Code, see Tables.

The Energy Act of 2020, referred to in subsec. (a)(1)(B)(ii), is div. Z of Pub. L. 116–260, Dec. 27, 2020, 134 Stat. 2418. For complete classification of div. Z to the Code, see Short Title of 2020 Amendment note under section 17001 of this title and Tables.

CODIFICATION

Section is comprised of section 41201 of div. D of Pub. L. 117–58. Subsec. (g) of section 41201 of div. D of Pub. L. 117–58 amended section 16391 of this title.

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