

**(c) Determinations respecting amount of appropriations remaining available**

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

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

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

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

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

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

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

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

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

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

(Pub. L. 96-294, title II, §204, June 30, 1980, 94 Stat. 685; Pub. L. 97-35, title X, §§1061-1063, Aug. 13, 1981, 95 Stat. 622.)

REFERENCES IN TEXT

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

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as a note under section 6240 of this title.

**§ 8804. Coordination with other authorities and programs**

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

(Pub. L. 96-294, title II, §205, June 30, 1980, 94 Stat. 686.)

REFERENCES IN TEXT

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

SUBCHAPTER I—GENERAL BIOMASS ENERGY DEVELOPMENT

**§ 8811. Biomass energy development plans**

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

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

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

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

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

**(c) Required guidelines**

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

(Pub. L. 96-294, title II, §211, June 30, 1980, 94 Stat. 686.)

**§ 8812. Program responsibility and administration and effect on other programs**

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

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

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

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

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

(i) which will use wood or wood wastes or residue, or

(ii) which is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

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

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

(ii) The project applicant may reapply for financial assistance for such project, after mak-

ing such modifications to the project as may be necessary to address issues raised by the reviewing Secretary in the original notice of objection. The subsequent review of such project by the reviewing Secretary shall be limited to the issues originally raised by the reviewing Secretary and any issues raised by changed circumstances.

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

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

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

**(b) Procedural requirements applicable**

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

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

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

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

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

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

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

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

(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.

(2) The procedural requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

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

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