

(3) develop new transportation fuels from forest biomass; and

(4) improve the growth and yield of trees intended for renewable energy production.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2009 through 2012.

(Pub. L. 107-171, title IX, §9012, as added Pub. L. 110-234, title IX, §9001(a), May 22, 2008, 122 Stat. 1331, and Pub. L. 110-246, §4(a), title IX, §9001(a), June 18, 2008, 122 Stat. 1664, 2093.)

**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

**§ 8113. Community wood energy program**

**(a) Definitions**

In this section:

**(1) Community wood energy plan**

The term “community wood energy plan” means an assessment of—

(A) available feedstocks necessary to supply a community wood energy system; and

(B) the long-term feasibility of supplying and operating a community wood energy system.

**(2) Community wood energy system**

**(A) In general**

The term “community wood energy system” means an energy system that—

(i) primarily services public facilities owned or operated by State or local governments, including schools, town halls, libraries, and other public buildings; and

(ii) uses woody biomass as the primary fuel.

**(B) Inclusions**

The term “community wood energy system” includes single facility central heating, district heating, combined heat and energy systems, and other related biomass energy systems.

**(b) Grant program**

**(1) In general**

The Secretary, acting through the Chief of the Forest Service, shall establish a program to be known as the “Community Wood Energy Program” to provide—

(A) grants of up to \$50,000 to State and local governments (or designees) to develop community wood energy plans; and

(B) competitive grants to State and local governments to acquire or upgrade community wood energy systems.

**(2) Considerations**

In selecting applicants for grants under paragraph (1)(B), the Secretary shall consider—

(A) the energy efficiency of the proposed system;

(B) the cost effectiveness of the proposed system; and

(C) other conservation and environmental criteria that the Secretary considers appropriate.

**(3) Use of plan**

A State or local government applying to receive a competitive grant described in paragraph (1)(B) shall submit to the Secretary as part of the grant application the applicable community wood energy plan.

**(c) Limitation**

A community wood energy system acquired with grant funds provided under subsection (b)(1)(B) shall not exceed an output of—

(1) 50,000,000 Btu per hour for heating; and

(2) 2 megawatts for electric power production.

**(d) Matching funds**

A State or local government that receives a grant under subsection (b) shall contribute an amount of non-Federal funds towards the development of the community wood energy plan, or acquisition of the community wood energy systems that is at least equal to the amount of grant funds received by the State or local government under that subsection.

**(e) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2009 through 2012.

(Pub. L. 107-171, title IX, §9013, as added Pub. L. 110-234, title IX, §9001(a), May 22, 2008, 122 Stat. 1332, and Pub. L. 110-246, §4(a), title IX, §9001(a), June 18, 2008, 122 Stat. 1664, 2094.)

**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

**§ 8114. Sun grant program**

**(a) Establishment**

The Secretary shall establish and carry out a program to provide grants to the sun grant centers and subcenter specified in subsection (b)—

(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among—

(A) the Department of Agriculture;

(B) the Department of Energy; and

(C) land-grant colleges and universities.

**(b) Grants**

**(1) In general**

The Secretary shall use amounts made available under subsection (g) to provide grants to each of the following:

**(A) North-central center**

A north-central sun grant center at South Dakota State University for the region com-

posed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

**(B) Southeastern center**

A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

- (i) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;
- (ii) the Commonwealth of Puerto Rico; and
- (iii) the United States Virgin Islands.

**(C) South-central center**

A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

**(D) Western center**

A western sun grant center at Oregon State University for the region composed of—

- (i) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and
- (ii) insular areas (as defined in section 3103 of this title (other than the insular areas referred to in clauses (ii) and (iii) of subparagraph (B))).

**(E) Northeastern center**

A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

**(F) Western insular Pacific subcenter**

A western insular Pacific sun grant subcenter at the University of Hawaii for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

**(2) Manner of distribution**

**(A) Centers**

In providing any funds made available under subsection (g), the Secretary shall distribute the grants in equal amounts to the sun grant centers described in subparagraphs (A) through (E) of paragraph (1).

**(B) Subcenter**

The sun grant center described in paragraph (1)(D) shall allocate a portion of the funds received under paragraph (1) to the subcenter described in paragraph (1)(F) pursuant to guidance issued by the Secretary.

**(3) Failure to comply with requirements**

If the Secretary finds on the basis of a review of the annual report required under subsection (f) or on the basis of an audit of a sun

grant center or subcenter conducted by the Secretary that the center or subcenter has not complied with the requirements of this section, the sun grant center or subcenter shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

**(c) Use of funds**

**(1) Competitive grants**

**(A) In general**

A sun grant center or subcenter shall use 75 percent of the funds described in subsection (b) to provide competitive grants to entities that are—

- (i) eligible to receive grants under subsection (b)(7) of section 450i of this title; and
- (ii) located in the region covered by the sun grant center or subcenter.

**(B) Activities**

Grants described in subparagraph (A) shall be used by the grant recipient to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

- (i) research, extension, and education programs on technology development; and
- (ii) integrated research, extension, and education programs on technology implementation.

**(C) Funding allocation**

Of the amount of funds that is used to provide grants under subparagraph (A), the sun grant center or subcenter shall use—

- (i) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(i); and
- (ii) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(ii).

**(D) Administration**

**(i) Peer and merit review**

In making grants under this paragraph, a sun grant center or subcenter shall—

- (I) seek and accept proposals for grants;
- (II) determine the relevance and merit of proposals through a system of peer review similar to that established by the Secretary pursuant to section 7613 of this title; and
- (III) award grants on the basis of merit, quality, and relevance to advancing the purposes of this section.

**(ii) Priority**

A sun grant center or subcenter shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (d).

**(iii) Term**

A grant awarded by a sun grant center or subcenter shall have a term that does not exceed 5 years.

**(iv) Matching funds required**

**(I) In general**

Except as provided in subclauses (II) and (III), as a condition of receiving a

grant under this paragraph, the sun grant center or subcenter shall require that not less than 20 percent of the cost of an activity described in subparagraph (B) be matched with funds, including in-kind contributions, from a non-Federal source.

## **(II) Exclusion**

Subclause (I) shall not apply to fundamental research (as defined in subsection (f)(1) of section 6971 of this title (as added by section 7511(a)(4))<sup>1</sup>.

## **(III) Reduction**

The sun grant center or subcenter may reduce or eliminate the requirement for non-Federal funds under subclause (I) for applied research (as defined in subsection (f)(1) of section 6971 of this title (as added by section 7511(a)(4))<sup>1</sup> if the sun grant center or subcenter determines that the reduction is necessary and appropriate pursuant to guidance issued by the Secretary.

## **(v) Buildings and facilities**

Funds made available for grants shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

## **(vi) Limitation on indirect costs**

A sun grant center or subcenter may not recover the indirect costs of making grants under subparagraph (A).

## **(2) Administrative expenses**

A sun grant center or subcenter may use up to 4 percent of the funds described in subsection (b) to pay administrative expenses incurred in carrying out paragraph (1).

## **(3) Research, extension and educational activities**

The sun grant centers and subcenter shall use the remainder of the funds described in subsection (b) to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(A) research, extension, and educational programs on technology development; and

(B) integrated research, extension, and educational programs on technology implementation.

## **(d) Plan for research activities to be funded**

### **(1) In general**

Subject to the availability of funds under subsection (g), and in cooperation with land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers and subcenter shall jointly develop and submit to the Secretary for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the De-

partment of Energy at the State and regional levels.

## **(2) Gasification coordination**

With respect to gasification research activity, the sun grant centers and subcenter shall coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area.

## **(3) Funding**

Funds described in subsection (c)(2) shall be available to carry out planning coordination under paragraph (1).

## **(4) Use of plan**

The sun grant centers and subcenter shall use the plan described in paragraph (1) in making grants under subsection (c)(1).

## **(e) Grant Information Analysis Center**

The sun grant centers and subcenter shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (b)(1)(A) to provide the sun grant centers and subcenter with analysis and data management support.

## **(f) Annual reports**

Not later than 90 days after the end of each fiscal year, a sun grant center or subcenter receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center or subcenter during the fiscal year, including—

(1) the results of all peer and merit review procedures conducted pursuant to subsection (c)(1)(D)(i); and

(2) a description of progress made in facilitating the priorities described in subsection (d)(1).

## **(g) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$75,000,000 for each of fiscal years 2008 through 2012, of which not more than \$4,000,000 for each fiscal year shall be made available to carry out subsection (e).

(Pub. L. 110-234, title VII, § 7526, May 22, 2008, 122 Stat. 1274; Pub. L. 110-246, § 4(a), title VII, § 7526, June 18, 2008, 122 Stat. 1664, 2035.)

### REFERENCES IN TEXT

Section 7511(a)(4), referred to in subsec. (c)(1)(D)(iv)(II) and (III), means section 7511(a)(4) of Pub. L. 110-246.

### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of title IX of the Farm Security and Rural Investment Act of 2002 which comprises this chapter.

### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 8109 of this title prior to the general amendment of this chapter by Pub. L. 110-246.

### EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

<sup>1</sup> So in original. Probably should be followed by a third closing parenthesis.

date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

#### DEFINITION OF “SECRETARY”

“Secretary” as meaning the Secretary of Agriculture, see section 8701 of this title.

### CHAPTER 108—TREE ASSISTANCE PROGRAM

|       |                                  |
|-------|----------------------------------|
| Sec.  |                                  |
| 8201. | Definitions.                     |
| 8202. | Eligibility.                     |
| 8203. | Assistance.                      |
| 8204. | Limitations on assistance.       |
| 8205. | Authorization of appropriations. |

#### § 8201. Definitions

In this chapter:

##### (1) Eligible orchardist

The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

##### (2) Natural disaster

The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, and other occurrence, as determined by the Secretary.

##### (3) Secretary

The term “Secretary” means the Secretary of Agriculture.

##### (4) Tree

The term “tree” includes a tree, bush, and vine.

(Pub. L. 107-171, title X, § 10201, May 13, 2002, 116 Stat. 490.)

#### § 8202. Eligibility

##### (a) Loss

Subject to subsection (b) of this section, the Secretary shall provide assistance under section 8203 of this title to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary.

##### (b) Limitation

An eligible orchardist shall qualify for assistance under subsection (a) of this section only if the tree mortality of the eligible orchardist, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

(Pub. L. 107-171, title X, § 10202, May 13, 2002, 116 Stat. 490.)

#### § 8203. Assistance

Subject to section 8204 of this title, the assistance provided by the Secretary to eligible orchardists for losses described in section 8202 of this title shall consist of—

(1) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(2) at the option of the Secretary, sufficient seedlings to reestablish a stand.

(Pub. L. 107-171, title X, § 10203, May 13, 2002, 116 Stat. 491.)

#### § 8204. Limitations on assistance

##### (a) Amount

The total amount of payments that a person shall be entitled to receive under this chapter may not exceed \$75,000, or an equivalent value in tree seedlings.

##### (b) Acres

The total quantity of acres planted to trees or tree seedlings for which a person shall be entitled to receive payments under this chapter may not exceed 500 acres.

##### (c) Regulations

The Secretary shall promulgate regulations—

(1) defining the term “person” for the purposes of this chapter, which shall conform, to the maximum extent practicable, to the regulations defining the term “person” promulgated under section 1308 of this title (before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)<sup>1</sup>; and

(2) promulgating such regulations as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

(Pub. L. 107-171, title X, § 10204, May 13, 2002, 116 Stat. 491; Pub. L. 110-234, title I, § 1603(g)(4), May 22, 2008, 122 Stat. 1011; Pub. L. 110-246, § 4(a), title I, § 1603(g)(4), June 18, 2008, 122 Stat. 1664, 1740.)

#### REFERENCES IN TEXT

Section 1308 of this title (before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008), referred to in subsec. (c)(1), probably means section 1308 of this title before the amendment made by section 1603(b)(3)(A) of Pub. L. 110-246, which struck out provisions in section 1308 of this title relating to issuance of regulations defining the term “person”. The Food, Conservation, and Energy Act of 2008 does not contain a section 1703.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Subsec. (c)(1). Pub. L. 110-246, § 1603(g)(4), inserted “(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)” after “section 1308 of this title”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### § 8205. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 107-171, title X, § 10205, May 13, 2002, 116 Stat. 491.)

<sup>1</sup> See References in Text note below.