

with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

(b) Consultation

In addition to the requirements of sections 2503 and 2504 of this title, the Secretary of Energy, in the exercise of his duties and responsibilities under this section, shall consult with the Department of Transportation, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Department of Agriculture, and representatives of other appropriate Federal agencies, and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in electric and hybrid vehicle research, development, and demonstration.

(c) Rules of Secretary of Energy; funding applications; required advertising

Each contract under this section shall be entered into in accordance with such rules as the Secretary of Energy may prescribe in accordance with the provisions of this section. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary of Energy shall require. The Secretary of Energy may enter into contracts under this section without regard to section 6101 of title 41.

(d) Purchase or lease of demonstration vehicles pursuant to agreements and utilization of Federal forms of assistance and participation authorized under other statutory provisions

In addition to contracting for the purchase or lease of vehicles when conducting the demonstrations established under section 2506 of this title, the Secretary of Energy may acquire or secure use of such vehicles, or have such vehicles acquired or used by others, by making agreements and utilizing various forms of Federal assistance and participation which is authorized under the Energy Reorganization Act of 1974 (Public Law 93-438) [42 U.S.C. 5801 et seq.] and the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577) [42 U.S.C. 5901 et seq.].

(e) Cost-sharing and use of American materials for demonstrations

When contracting and otherwise using Federal funds to conduct demonstrations under this chapter, the Secretary of Energy shall seek cost-sharing with others to the maximum extent practical. During the first 2 years of demonstration activities the Secretary of Energy may enter into procurement or lease contracts for purposes of carrying out demonstrations under this chapter without regard to the provisions of chapter 83 of title 41.

(Pub. L. 94-413, §8, Sept. 17, 1976, 90 Stat. 1266; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577; Pub. L. 95-238, title VI, §602, Feb. 25, 1978, 92 Stat. 92.)

REFERENCES IN TEXT

The Energy Reorganization Act of 1974 (Public Law 93-438), referred to in subsec. (d), is Pub. L. 93-438, Oct.

11, 1974, 88 Stat. 1233, as amended, which is classified principally to chapter 73 (§5801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 42 and Tables.

The Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), referred to in subsec. (d), is Pub. L. 93-577, Dec. 31, 1974, 88 Stat. 1878, as amended, which is classified generally to chapter 74 (§5901 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5901 of Title 42 and Tables.

CODIFICATION

In subsec. (b), the words “the Federal Energy Administration,” which followed “Environmental Protection Agency,” have been omitted from the Code in view of the termination of the Federal Energy Administration and the transfer of the functions of the Administration to the Secretary of Energy pursuant to sections 301(a) and 703 of Pub. L. 95-91 which are classified to sections 7151(a) and 7293 of Title 42, The Public Health and Welfare. This transfer would result in this phrase being redundant in that it would provide for the Secretary of Energy to consult with the Secretary of Energy.

In subsec. (c), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes (41 U.S.C. 5)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (e), “chapter 83 of title 41” substituted for “title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1978—Subsecs. (d), (e). Pub. L. 95-238 added subsecs. (d) and (e).

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted for “Administrator” in subsecs. (a) to (c) and the first time it appears in subsec. (e) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§ 2508. Encouragement and protection of small business

(a) Opportunity to participate

The Secretary of Energy shall take such steps as are feasible to assure that small business concerns have a realistic and adequate opportunity to participate in the project.

(b) Reservation of funds

To assist in accomplishing the objectives of subsection (a) of this section, the Secretary of Energy shall reserve, for contracts with small business concerns, a reasonable portion of the funds made available pursuant to this chapter for research, development, or demonstration of electric or hybrid vehicles.

(c) Contract terms and conditions; planning grants

The Secretary of Energy shall, in addition to the requirements set forth in subsections (a) and (b) of this section—

(1) include in all contracts for research, development, or demonstration of electric or hybrid vehicles such terms, conditions, and payment schedules as may assist in meeting the needs of small business concerns, and shall take steps to avoid the inclusion in such contracts of any terms, conditions, or penalties

which would tend to prevent such concerns from participating in the program under this chapter; and

(2) make planning grants available to qualified small business concerns which require assistance in developing, submitting, and entering into such contracts.

(Pub. L. 94-413, §9, Sept. 17, 1976, 90 Stat. 1266; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Administrator” pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

§ 2509. Loan guarantees

(a) Congressional policy

It is the policy of the Congress to assist in the introduction into the Nation's transportation fleet of electric and hybrid vehicles and to assure that qualified small business concerns and other qualified borrowers are not excluded from participation in such development due to lack of adequate capital. Accordingly, it is the policy of the Congress to provide guarantees of loans made for such purposes.

(b) Encouragement of commercial production; purpose of loans

In order to encourage the commercial production of electric and hybrid vehicles, the Secretary of Energy is authorized to guarantee, and to enter into commitments to guarantee, principal and interest on loans made by lenders to qualified borrowers, primarily small business concerns, for the purposes of—

- (1) research and development related to electric and hybrid vehicle technology;
- (2) prototype development for such vehicles and parts thereof;
- (3) construction of capital equipment related to research on, and development and production of, electric and hybrid vehicles and components; or
- (4) initial operating expenses associated with the development and production of electric and hybrid vehicles and components.

(c) Maximum amount of loan guarantee

Any guarantee under this section shall apply only to so much of the principal amount of the loan involved as does not exceed 90 percentum of the aggregate cost of the activity with respect to which the loan is made.

(d) Terms and conditions of guarantee

Loan guarantees under this section shall be on such terms and conditions as the Secretary of Energy determines, except that a guarantee shall be made under this section only if—

- (1) the loan bears interest at a rate not to exceed such annual percent on the principal obligation outstanding as the Secretary of Energy determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;
- (2) the terms of such loan require full repayment over a period not to exceed 15 years;

(3) in the judgment of the Secretary of Energy, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the activity with respect to which the loan is made;

(4) in the judgment of the Secretary of Energy, there is reasonable assurance of repayment of the loan by the qualified borrower; and

(5) no loan shall be guaranteed by the Secretary of Energy under subsection (b) of this section unless the Secretary of Energy finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

(e) Maximum guarantee per loan; maximum of aggregate guarantees; Electric and Hybrid Vehicle Development Fund; establishment, funding, etc.

(1) The amount of the guarantee of any loan shall not exceed \$3,000,000, unless the Secretary of Energy finds that a higher guarantee level for specific loan guarantees is necessary in order to carry out the purposes of this chapter. If the Secretary of Energy makes such finding, he shall immediately report that finding to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) The aggregate amount of guarantees outstanding under this section at any one time shall not exceed \$60,000,000.

(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the “fund”), which shall be available to the Secretary of Energy for carrying out the loan guarantee and principal and interest assistance program authorized by this chapter, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 2514 of this title as the Secretary of Energy deems necessary to carry out the purposes of this chapter and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

(C) If at any time the moneys available in the fund are insufficient to enable the Secretary of Energy to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions