

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 \$750,000 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 29(d)(2)(B)<sup>1</sup> 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 20 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 are authorized to be appropriated to the Secretary to carry out the purposes of this section \$10,000,000 for each of the fiscal years 2006 through 2015.

(Pub. L. 109-58, title II, §242, Aug. 8, 2005, 119 Stat. 677.)

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.

**§ 15882. Hydroelectric efficiency improvement**

**(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 10 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 \$750,000 may be made with respect to improvements at a single facility.

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

**(c) Authorization of appropriations**

There are authorized to be appropriated to carry out this section not more than \$10,000,000 for each of the fiscal years 2006 through 2015.

(Pub. L. 109-58, title II, §243, Aug. 8, 2005, 119 Stat. 678.)

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.)

## 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<sup>1</sup> 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

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