

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 L. 110-234 was repealed by section 4(a) of Pub.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.

PRIOR PROVISIONS

A prior section 8103, Pub. L. 107-171, title IX, §9003, May 13, 2002, 116 Stat. 478, related to biorefinery development grants, prior to the general amendment of this chapter by Pub. L. 110-246.

AMENDMENTS

2013—Subsec. (h)(2). Pub. L. 112-240 substituted “2013” for “2012”.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 effective Sept. 30, 2012, see section 701(j) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

§ 8104. Repowering assistance**(a) In general**

The Secretary shall carry out a program to encourage biorefineries in existence on the date of enactment of the Food, Conservation, and Energy Act of 2008 to replace fossil fuels used to produce heat or power to operate the biorefineries by making payments for—

- (1) the installation of new systems that use renewable biomass; or
- (2) the new production of energy from renewable biomass.

(b) Payments**(1) In general**

The Secretary may make payments under this section to any biorefinery that meets the requirements of this section for a period determined by the Secretary.

(2) Amount

The Secretary shall determine the amount of payments to be made under this section to a biorefinery after considering—

- (A) the quantity of fossil fuels a renewable biomass system is replacing;
- (B) the percentage reduction in fossil fuel used by the biorefinery that will result from the installation of the renewable biomass system; and
- (C) the cost and cost effectiveness of the renewable biomass system.

(c) Eligibility

To be eligible to receive a payment under this section, a biorefinery shall demonstrate to the Secretary that the renewable biomass system of the biorefinery is feasible based on an independent feasibility study that takes into account the economic, technical and environmental aspects of the system.

(d) Funding**(1) Mandatory funding**

Of the funds of the Commodity Credit Corporation, the Secretary shall use to make payments under this section \$35,000,000 for fiscal year 2009, to remain available until expended.

(2) Discretionary funding

In addition to any other funds made available to carry out this section, there is author-

ized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 107-171, title IX, §9004, as added Pub. L. 110-234, title IX, §9001(a), May 22, 2008, 122 Stat. 1313, and Pub. L. 110-246, §4(a), title IX, §9001(a), June 18, 2008, 122 Stat. 1664, 2075; amended Pub. L. 112-240, title VII, §701(f)(3), Jan. 2, 2013, 126 Stat. 2365.)

REFERENCES IN TEXT

The date of enactment of the Food, Conservation, and Energy Act of 2008, referred to in subsec. (a), is the date of enactment of Pub. L. 110-246, which was approved June 18, 2008.

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.

PRIOR PROVISIONS

A prior section 8104, Pub. L. 107-171, title IX, §9004, May 13, 2002, 116 Stat. 480, related to a biodiesel fuel education program, prior to the general amendment of this chapter by Pub. L. 110-246. See section 8106 of this title.

AMENDMENTS

2013—Subsec. (d)(2). Pub. L. 112-240 substituted “2013” for “2012”.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 effective Sept. 30, 2012, see section 701(j) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

§ 8105. Bioenergy program for advanced biofuels**(a) Definition of eligible producer**

In this section, the term “eligible producer” means a producer of advanced biofuels.

(b) Payments

The Secretary shall make payments to eligible producers to support and ensure an expanding production of advanced biofuels.

(c) Contracts

To receive a payment, an eligible producer shall—

- (1) enter into a contract with the Secretary for production of advanced biofuels; and
- (2) submit to the Secretary such records as the Secretary may require as evidence of the production of advanced biofuels.

(d) Basis for payments

The Secretary shall make payments under this section to eligible producers based on—

- (1) the quantity and duration of production by the eligible producer of an advanced biofuel;
- (2) the net nonrenewable energy content of the advanced biofuel, if sufficient data is available, as determined by the Secretary; and
- (3) other appropriate factors, as determined by the Secretary.

(e) Equitable distribution

The Secretary may limit the amount of payments that may be received by a single eligible producer under this section in order to distrib-