

entered against a management official, then at such time as the judgment is not subject to further judicial review (and for purposes of this subparagraph shall not include any petition for a writ of habeas corpus), the Administrator may issue and serve upon the management official an order removing the management official, effective upon service of a copy of the order upon the small business lending company or non-Federally regulated lender.

**(D) Authority upon dismissal or other disposition**

A finding of not guilty or other disposition of charges described in subparagraph (A) shall not preclude the Administrator from instituting proceedings under subsection (e) or (f).

**(5) Notification to small business lending company or a non-Federally regulated lender**

Copies of each notice required to be served on a management official under this section shall also be served upon the small business lending company or non-Federally regulated lender involved.

**(6) Final agency action and judicial review**

**(A) Issuance of orders**

After a hearing under this subsection, and not later than 30 days after the Administrator notifies the parties that the case has been submitted for final decision, the Administrator shall render a decision in the matter (which shall include findings of fact upon which its decision is predicated), and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with this section. The decision of the Administrator shall constitute final agency action for purposes of chapter 7 of title 5.

**(B) Judicial review**

An adversely aggrieved party shall have 20 days from the date of issuance of the order to seek judicial review in an appropriate district court.

**(h) Appointment of receiver**

(1) In any proceeding under subsection (f)(4) or subsection (g)(6)(C),<sup>1</sup> the court may take exclusive jurisdiction of a small business lending company or a non-Federally regulated lender and appoint a receiver to hold and administer the assets of the company or lender.

(2) Upon request of the Administrator, the court may appoint the Administrator as a receiver under paragraph (1).

**(i) Possession of assets**

(1) If a small business lending company or a non-Federally regulated lender is not in compliance with capital requirements or is insolvent, the Administrator may take possession of the portfolio of loans guaranteed by the Administrator and sell such loans to a third party by means of a receiver appointed under subsection (h).

(2) If a small business lending company or a non-Federally regulated lender is not in compliance with capital requirements or is insolvent or otherwise operating in an unsafe and unsound condition, the Administrator may take possession of servicing activities of loans that are guaranteed by the Administrator and sell such servicing rights to a third party by means of a receiver appointed under subsection (h).

**(j) Penalties and forfeitures**

(1) Except as provided in paragraph (2), a small business lending company or a non-Federally regulated lender which violates any regulation or written directive issued by the Administrator regarding the filing of any regular or special report shall pay to the United States a civil penalty of not more than \$5,000 for each day of the continuance of the failure to file such report, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The civil penalties under this subsection may be enforced in a civil action brought by the Administrator. The penalties under this subsection shall not apply to any affiliate of a small business lending company that procures at least 10 percent of its annual purchasing requirements from small manufacturers.

(2) The Administrator may by rules and regulations that shall be codified in the Code of Federal Regulations, after an opportunity for notice and comment, or upon application of an interested party, at any time previous to such failure, by order, after notice and opportunity for hearing which shall be conducted pursuant to sections 554, 556, and 557 of title 5, exempt in whole or in part, any small business lending company or non-Federally regulated lender from paragraph (1), upon such terms and conditions and for such period of time as it deems necessary and appropriate, if the Administrator finds that such action is not inconsistent with the public interest or the protection of the Administration. The Administrator may for the purposes of this section make any alternative requirements appropriate to the situation.

(Pub. L. 85-536, §2[23], as added Pub. L. 98-473, title I, §111A(a), Oct. 12, 1984, 98 Stat. 1965; Pub. L. 108-447, div. K, title I, §161, Dec. 8, 2004, 118 Stat. 3458.)

PRIOR PROVISIONS

A prior section 650, acts July 30, 1953, ch. 282, title II, §221, 67 Stat. 240; June 30, 1955, ch. 251, §4, 69 Stat. 225; Aug. 9, 1955, ch. 628, §13, 69 Stat. 551; Pub. L. 85-120, §2, Aug. 3, 1957, 71 Stat. 341, provided for a termination date of the Small Business Act of 1953, and was omitted from the general revision by Pub. L. 85-536. See Codification note set out under section 631 of this title.

AMENDMENTS

2004—Pub. L. 108-447 amended section catchline and text generally. Prior to amendment, text related to disaster loan assistance to small business concerns in the fishing industry due to El Nino-related ocean conditions.

**§ 651. National small business tree planting program**

**(a) Authorization of grants and contracts with States**

The Administrator is authorized to make grants to or to enter into contracts with any

<sup>1</sup> So in original. There is no subsec. (f)(4) or (g)(6)(C) in this section.

State for the purpose of contracting with small businesses to plant trees on land owned or controlled by such State or local government. The Administrator shall require as a condition of any grant (or amendment or modification thereof) under this section that the applicant also contribute to the project a sum equal to at least 25 per centum of a particular project cost from sources other than the Federal Government. Such non-Federal money may include in-kind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting of the trees, but shall not include any value attributable to the land on which the trees are to be planted, nor may any part of any grant be used to pay for land or land charges: *Provided*, That not less than one-half of the amounts appropriated under this section shall be allocated to each State, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of the population in each area as compared to the total population in all areas as provided by the Census Bureau of the Department of Commerce in the annual population estimate or the decennial census, whichever is most current. The Administrator may give a priority in awarding the remaining one-half of appropriated amounts to applicants who agree to contribute more than the requisite 25 per centum, and shall give priority to a proposal to restore an area determined to be a major disaster by the President on a date not more than three years prior to the fiscal year for which the application is made.

**(b) Establishment by Administrator**

In order to accomplish the objectives of this section, the Administrator, in consultation with appropriate Federal agencies, shall be responsible for formulating a national small business tree planting program. Based on this program, a State may submit a detailed proposal for tree planting by contract.

**(c) Utilization of small business concerns in implementing program**

To encourage and develop the capacity of small business concerns, to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, grantees are directed to utilize small business contractors or concerns in connection with the program established by this section, and shall, to the extent practicable, divide the project to allow more than one small business concern to perform the work under the project.

**(d) Cooperation of Federal agencies; technical services**

For purposes of this section, agencies of the Federal Government are hereby authorized to cooperate with all grantees and with State foresters or other appropriate officials by providing without charge, in furtherance of this program, technical services with respect to the planting and growing of such trees.

**(e) Authorization of appropriations**

There are authorized to be appropriated to carry out the objectives of this section, \$15,000,000 for fiscal year 1991 and \$30,000,000 for

each of the fiscal years 1995 through 1997, and all of such sums may remain available until expended.

**(f) Rules and regulations**

Notwithstanding any other law, rule, or regulation, the administration shall publish in the Federal Register proposed rules and regulations implementing this section within sixty days after November 5, 1990, and shall publish final rules and regulations within one hundred and twenty days of November 5, 1990.

**(g) Definitions**

As used in this section:

(1) the term "local government" includes political subdivisions of a State such as counties, parishes, cities, towns and municipalities;

(2) the term "planting" includes watering, application of fertilizer and herbicides, pruning and shaping, and other subsequent care and maintenance for a period of three years after the trees are planted; and

(3) the term "State" includes any agency thereof.

**(h) Annual report to President and Congress**

The Administrator shall submit annually to the President and the Congress a report on activities within the scope of this section.

(Pub. L. 85-536, §2[24], as added Pub. L. 101-515, title V, §4, Nov. 5, 1990, 104 Stat. 2140; amended Pub. L. 103-211, title I, §201, Feb. 12, 1994, 108 Stat. 5; Pub. L. 103-317, title IV, Aug. 26, 1994, 108 Stat. 1755.)

PRIOR PROVISIONS

A prior section 651, act July 30, 1953, ch. 282, §225, as added Aug. 9, 1955, ch. 628, §14, 69 Stat. 551, prohibited duplication of activities, and was omitted as superseded by section 647 of this title. See Codification note set out under section 631 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-211 inserted at end ", and shall give priority to a proposal to restore an area determined to be a major disaster by the President on a date not more than three years prior to the fiscal year for which the application is made".

Subsec. (e). Pub. L. 103-317 substituted "fiscal years 1995 through 1997" for "fiscal years 1992 through 1994".

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (h) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 191 of House Document No. 103-7.

**§ 652. Central European Enterprise Development Commission**

**(a) Establishment**

There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the "Commission"). The Commission shall be comprised of a representative of each of the following: the Small Business Administration, the Association of American Universities, and the Association of Small Business Development Centers.