

## EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title VIII, §841(b), Dec. 5, 1991, 105 Stat. 1448, provided that: "Section 2398(b) [now 2922c(a)] of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded pursuant to solicitations issued after the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 5, 1991]."

**§ 2922d. Procurement of fuel derived from coal, oil shale, and tar sands**

(a) USE OF FUEL TO MEET DEPARTMENT OF DEFENSE NEEDS.—The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a "covered fuel") that are extracted by either mining or in-situ methods and refined or otherwise processed in the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

(b) AUTHORITY TO PROCURE.—The Secretary of Defense may enter into one or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet one or more fuel requirements of the Department of Defense.

(c) CLEAN FUEL REQUIREMENTS.—A covered fuel may be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

(d) MULTIYEAR CONTRACT AUTHORITY.—Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for one or more years at the election of the Secretary of Defense.

(e) FUEL SOURCE ANALYSIS.—In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.

(Added Pub. L. 109-58, title III, §369(q)(1), Aug. 8, 2005, 119 Stat. 733, §2398a; renumbered §2922d, Pub. L. 109-364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 111-383, div. A, title X, §1075(b)(48), Jan. 7, 2011, 124 Stat. 4371.)

## AMENDMENTS

2011—Subsecs. (b), (d). Pub. L. 111-383 substituted "one or more" for "1 or more" wherever appearing.

2006—Pub. L. 109-364 renumbered section 2398a of this title as this section.

**§ 2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority**

(a) WAIVER AUTHORITY.—The Secretary of Defense may, for any purchase of a defined fuel source, waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included in contracts, or regulating the performance of contracts if the Secretary determines—

(1) that market conditions for the defined fuel source have adversely affected (or will in the near future adversely affect) the acquisition of that defined fuel source by the Department of Defense; and

(2) the waiver will expedite or facilitate the acquisition of that defined fuel source for Government needs.

(b) SCOPE OF WAIVER.—A waiver under subsection (a) may be made with respect to a particular contract or with respect to classes of contracts. Such a waiver that is applicable to a contract for the purchase of a defined fuel source may also be made applicable to a sub-contract under that contract.

(c) EXCHANGE AUTHORITY.—The Secretary of Defense may acquire a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source.

(d) AUTHORITY TO SELL.—The Secretary of Defense may sell a defined fuel source of the Department of Defense if the Secretary determines that the sale would be in the public interest. The proceeds of such a sale shall be credited to appropriations of the Department of Defense for the acquisition of a defined fuel source or services related to a defined fuel source. Amounts so credited shall be available for obligation for the same period as the appropriations to which the amounts are credited.

(Added Pub. L. 98-525, title XII, §1234(a), Oct. 19, 1984, 98 Stat. 2604, §2404; amended Pub. L. 100-26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-510, div. A, title XIII, §1322(a)(8), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103-160, div. A, title VIII, §826, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 106-65, div. A, title VIII, §803(a), (b)(1), Oct. 5, 1999, 113 Stat. 703; renumbered §2922e, Pub. L. 109-364, div. B, title XXVIII, §2851(b)(2), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 112-81, div. B, title XXVIII, §2821(b)(2), Dec. 31, 2011, 125 Stat. 1691.)

## AMENDMENTS

2011—Subsecs. (e), (f). Pub. L. 112-81 struck out subsecs. (e) and (f), which, respectively, defined "petroleum" and "defined fuel source".

2006—Pub. L. 109-364 renumbered section 2404 of this title as this section.

1999—Pub. L. 106-65, §803(b)(1), substituted "Acquisition of certain fuel sources" for "Acquisition of petroleum and natural gas" in section catchline.

Subsec. (a). Pub. L. 106-65, §803(a)(1), substituted "a defined fuel source" for "petroleum or natural gas" in introductory provisions, "market conditions for the defined fuel source" for "petroleum market conditions or natural gas market conditions, as the case may be," and "acquisition of that defined fuel source" for "acquisition of petroleum or acquisition of natural gas, respectively," in par. (1), and "that defined fuel source" for "petroleum or natural gas, as the case may be," in par. (2).

Subsec. (b). Pub. L. 106-65, §803(a)(2), substituted "a defined fuel source" for "petroleum or natural gas" in second sentence.

Subsec. (c). Pub. L. 106-65, §803(a)(3), which directed the substitution of "a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source." for "petroleum" and all that follows through the period", was executed by substituting the material for "petroleum, petroleum-related services, natural gas, or natural gas-related services by exchange of petroleum,

petroleum-related services, natural gas, or natural gas-related services.” to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 106-65, § 803(a)(4), substituted “a defined fuel source” for “petroleum or natural gas” in first sentence and “a defined fuel source or services related to a defined fuel source.” for “petroleum, petroleum-related services, natural gas, or natural gas-related services.” in second sentence.

Subsec. (f). Pub. L. 106-65, § 803(a)(5), added subsec. (f). 1993—Pub. L. 103-160, § 826(d)(2), substituted “petroleum and natural gas; authority to waive contract procedures; acquisition by exchange; sales authority” for “petroleum; authority to waive contract procedures” as section catchline.

Subsec. (a). Pub. L. 103-160, § 826(a)(1), (d)(1)(A), inserted heading, inserted “or natural gas” after “petroleum” in introductory provisions, inserted “or natural gas market conditions, as the case may be,” after “petroleum market conditions” and “or acquisition of natural gas, respectively,” after “acquisition of petroleum” in par. (1), and inserted “or natural gas, as the case may be,” after “petroleum” in par. (2).

Subsec. (b). Pub. L. 103-160, § 826(a)(2), (d)(1)(B), inserted heading and inserted “or natural gas” after “petroleum” in second sentence.

Subsec. (c). Pub. L. 103-160, § 826(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary of Defense may acquire petroleum by exchange of petroleum or petroleum derivatives.”

Subsec. (d). Pub. L. 103-160, § 826(c)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 103-160, § 826(c)(1), (d)(1)(C), redesignated subsec. (d) as (e) and inserted heading.

1990—Subsecs. (d), (e). Pub. L. 101-510 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: “The Secretary of Defense shall notify the Congress within 10 days of the date on which any waiver is made under this section and of the reasons for the necessity of exercising such waiver.”

1987—Subsec. (e). Pub. L. 100-26 inserted “the term” after “In this section.”.

#### § 2922f. Preference for energy efficient electric equipment

(a) In establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(b) Subsection (a) applies to the following electric equipment:

- (1) Electric lamps.
- (2) Electric ballasts.
- (3) Electric motors.
- (4) Electric refrigeration equipment.

(Added Pub. L. 102-484, div. A, title III, § 384(a)(1)(A), Oct. 23, 1992, 106 Stat. 2392, § 2410c; renumbered § 2922f and amended Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), (3)(E), Oct. 17, 2006, 120 Stat. 2494, 2495; Pub. L. 115-91, div. B, title XXVIII, § 2831(c)(5), Dec. 12, 2017, 131 Stat. 1858.)

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 substituted “subsection (e)” for “subsection (c)”.

2006—Pub. L. 109-364, § 2851(b)(2), renumbered section 2410c of this title as this section.

Subsec. (a). Pub. L. 109-364, § 2851(b)(3)(E), substituted “In” for “When cost effective, in” and “if providing such a preference is consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section” for “as the case may be”.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title III, § 384(a)(2), Oct. 23, 1992, 106 Stat. 2393, provided that: “The amendments made by paragraph (1) [enacting this section] shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act [Oct. 23, 1992].”

#### ELECTRIC LIGHTING AND REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAMS

Pub. L. 102-484, div. A, title III, § 384(b)-(d), Oct. 23, 1992, 106 Stat. 2393, provided that:

“(b) ELECTRIC LIGHTING DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient electric lighting equipment.

“(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

“(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

“(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

“(B) to determine the costs of, and the savings that would result from, such improvements.

“(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

“(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

“(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment.

“(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

“(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

“(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

“(B) to determine the costs of, and the savings that would result from, such improvements.

“(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

“(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the