

Subsecs. (c) to (e). Pub. L. 94-360 added subsecs. (c) to (e).

§ 1826. Notice of violations to Attorney General

Whenever the Secretary believes that a willful violation of this chapter has occurred and that prosecution is needed to obtain compliance with this chapter, he shall inform the Attorney General and the Attorney General shall take such action with respect to such matter as he deems appropriate.

(Pub. L. 91-540, § 7, Dec. 9, 1970, 84 Stat. 1406.)

§ 1827. Utilization of personnel of Department of Agriculture and officers and employees of consenting States; technical and other non-financial assistance to State

(a) Assistance from Department of Agriculture and States

The Secretary, in carrying out the provisions of this chapter, shall utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this chapter.

(b) Assistance to States

The Secretary may, upon request, provide technical and other nonfinancial assistance (including the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct described in section 1824 of this title.

(Pub. L. 91-540, § 8, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, § 8, July 13, 1976, 90 Stat. 920.)

AMENDMENTS

1976—Pub. L. 94-360 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1828. Rules and regulations

The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 91-540, § 9, Dec. 9, 1970, 84 Stat. 1406.)

§ 1829. Preemption of State laws; concurrent jurisdiction; prohibition on certain State action

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this chapter be construed to exclude the Federal Government from enforcing the provision of this chapter within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such sub-

ject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this chapter against any person.

(Pub. L. 91-540, § 10, Dec. 9, 1970, 84 Stat. 1406.)

§ 1830. Omitted

CODIFICATION

Section, Pub. L. 91-540, § 11, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, § 9, July 13, 1976, 90 Stat. 920; Pub. L. 104-66, title I, § 1012(b), Dec. 21, 1995, 109 Stat. 711, which required the Secretary of Agriculture to include information on matters covered by this chapter, together with recommendations for legislative and other action, as part of the annual report submitted to Congress under section 2155 of title 7, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 44 of House Document No. 103-7.

§ 1831. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out this chapter.

(Pub. L. 91-540, § 12, Dec. 9, 1970, 84 Stat. 1407; Pub. L. 94-360, § 10, July 13, 1976, 90 Stat. 921.)

AMENDMENTS

1976—Pub. L. 94-360 substituted provisions authorizing \$125,000 to be appropriated for the period beginning July 1, 1976 and ending September 30, 1976, and \$500,000 to be appropriated for the fiscal year beginning October 1, 1976, and each fiscal year thereafter, to carry out the purposes of this chapter, for provisions authorizing not more than \$100,000 to be appropriated annually to carry out the provisions of this chapter.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 10 of Pub. L. 94-360 provided that the amendment made by that section is effective July 1, 1976.

CHAPTER 45—EMERGENCY LOAN GUARANTEES TO BUSINESS ENTERPRISES

Sec.

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§ 1841. Emergency Loan Guarantee Board; establishment; membership; voting

There is created an Emergency Loan Guarantee Board (referred to in this chapter as the

“Board”) composed of the Secretary of the Treasury, as Chairman, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission. Decisions of the Board shall be made by majority vote.

(Pub. L. 92-70, § 2, Aug. 9, 1971, 85 Stat. 178.)

SHORT TITLE

Pub. L. 92-70, § 1, Aug. 9, 1971, 85 Stat. 178, provided that: “This Act [enacting this chapter] may be cited as the ‘Emergency Loan Guarantee Act.’”

EMERGENCY STEEL LOAN GUARANTEES AND EMERGENCY OIL AND GAS GUARANTEED LOANS

Pub. L. 106-51, Aug. 17, 1999, 113 Stat. 252, as amended by Pub. L. 106-102, title VII, § 734, Nov. 12, 1999, 113 Stat. 1478; Pub. L. 107-63, title III, § 336(a), Nov. 5, 2001, 115 Stat. 472; Pub. L. 108-199, div. B, title II, § 211(a), Jan. 23, 2004, 118 Stat. 75; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-108, title II, § 205, Nov. 22, 2005, 119 Stat. 2315; Pub. L. 110-161, div. B, title I, § 105, Dec. 26, 2007, 121 Stat. 1892; Pub. L. 111-117, div. B, title I, § 108, Dec. 16, 2009, 123 Stat. 3122, provided that:

“CHAPTER 1

“SEC. 101. EMERGENCY STEEL LOAN GUARANTEE PROGRAM. (a) SHORT TITLE.—This chapter may be cited as the ‘Emergency Steel Loan Guarantee Act of 1999’.

“(b) CONGRESSIONAL FINDINGS.—Congress finds that—

“(1) the United States steel industry has been severely harmed by a record surge of more than 40,000,000 tons of steel imports into the United States since 1998, caused by the world financial crisis;

“(2) this surge in imports resulted in the loss of more than 10,000 steel worker jobs since 1998, and was the imminent cause of three bankruptcies by medium-sized steel companies, Acme Steel, Laclede Steel, and Geneva Steel;

“(3) the crisis also forced almost all United States steel companies into—

“(A) reduced volume, lower prices, and financial losses; and

“(B) an inability to obtain credit for continued operations and reinvestment in facilities;

“(4) the crisis also has affected the willingness of private banks and investment institutions to make loans to the United States steel industry for continued operation and reinvestment in facilities;

“(5) these steel bankruptcies, job losses, and financial losses are also having serious negative effects on the tax base of cities, counties, and States, and on the essential health, education, and municipal services that these government entities provide to their citizens; and

“(6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

“(c) DEFINITIONS.—For purposes of this section:

“(1) BOARD.—The term ‘Board’ means the Loan Guarantee Board established under subsection (e).

“(2) PROGRAM.—The term ‘Program’ means the Emergency Steel Guarantee Loan Program established under subsection (d).

“(3) QUALIFIED STEEL COMPANY.—The term ‘qualified steel company’ means any company that—

“(A) is incorporated under the laws of any State;

“(B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and

“(C) has experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis in 1998, and thereafter, or that operates

substantial assets of a company that meets these qualifications.

“(d) ESTABLISHMENT OF EMERGENCY STEEL GUARANTEE LOAN PROGRAM.—There is established the Emergency Steel Guarantee Loan Program, to be administered by the Board, the purpose of which is to provide loan guarantees to qualified steel companies in accordance with this section.

“(e) LOAN GUARANTEE BOARD MEMBERSHIP.—There is established a Loan Guarantee Board, which shall be composed of—

“(1) the Secretary of Commerce;

“(2) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System designated by the Chairman, who shall serve as Chairman of the Board; and

“(3) the Chairman of the Securities and Exchange Commission, or a commissioner of the Securities and Exchange Commission designated by the Chairman.

“(f) LOAN GUARANTEE PROGRAM.—

“(1) AUTHORITY.—The Program may guarantee loans provided to qualified steel companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board.

“(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any one time under this section may not exceed \$1,000,000,000.

“(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified steel company may not exceed \$250,000,000.

“(4) TIMELINES.—The Board shall approve or deny each application for a guarantee under this section as soon as possible after receipt of such application.

“(5) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated \$140,000,000 to remain available until expended.

“(g) REQUIREMENTS FOR LOAN GUARANTEES.—A loan guarantee may be issued under this section upon application to the Board by a qualified steel company pursuant to an agreement to provide a loan to that qualified steel company by a private bank or investment company, if the Board determines that—

“(1) credit is not otherwise available to that company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of that company;

“(2) the prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

“(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan;

“(4) the company has agreed to an audit by the Government Accountability Office prior to the issuance of the loan guarantee and annually thereafter while any such guaranteed loan is outstanding; and

“(5) in the case of a purchaser of substantial assets of a qualified steel company, the qualified steel company establishes that it is unable to reorganize itself.

“(h) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

“(1) LOAN DURATION.—All loans guaranteed under this section shall be payable in full not later than December 31, 2015, and the terms and conditions of each such loan shall provide that the loan may not be amended, or any provision thereof waived, without the consent of the Board.

“(2) LOAN SECURITY.—Any commitment to issue a loan guarantee under this section shall contain such

affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

“(3) FEES.—A qualified steel company receiving a guarantee under this section shall pay a fee to the Department of the Treasury to cover costs of the program, but in no event shall such fee exceed an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan.

“(4) GUARANTEE LEVEL.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), any loan guarantee provided under this section shall not exceed 85 percent of the amount of principal of the loan.

“(B) INCREASED LEVEL ONE.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 90 percent, of the amount of principal of the loan, if—

“(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed \$100,000,000; and

“(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed \$50,000,000.

“(C) INCREASED LEVEL TWO.—A loan guarantee may be provided under this section in excess of 85 percent, but not more than 95 percent, of the amount of principal of the loan, if—

“(i) the aggregate amount of loans guaranteed at such percentage and outstanding under this section at any one time does not exceed \$100,000,000; and

“(ii) the aggregate amount of loans guaranteed at such percentage under this section with respect to a single qualified steel company does not exceed \$50,000,000.

“(i) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress a full report of the activities of the Board under this section during each of fiscal years 1999 and 2000, and annually thereafter, during such period as any loan guaranteed under this section is outstanding.

“(j) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, \$5,000,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

“(k) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2011.

“(l) REGULATORY ACTION.—The Board shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of the enactment of this Act [Aug. 17, 1999].

“(m) IRON ORE COMPANIES.—

“(1) IN GENERAL.—Subject to the requirements of this subsection, an iron ore company incorporated under the laws of any State shall be treated as a qualified steel company for purposes of the Program.

“(2) TOTAL GUARANTEE LIMIT FOR IRON ORE COMPANY.—Of the aggregate amount of loans authorized to be guaranteed and outstanding at any one time under subsection (f)(2), an amount not to exceed \$30,000,000 shall be loans with respect to iron ore companies.

“FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

“(RESCISSIONS)

“SEC. 102. (a) Of the funds available in the nondefense category to the agencies of the Federal Government, \$145,000,000 are hereby rescinded: *Provided*, That rescis-

sions pursuant to this subsection shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

“(b) Within 30 days after the date of the enactment of this Act [Aug. 17, 1999], the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section.

“SEC. 103. SALARIES AND ADMINISTRATIVE EXPENSES.

“(a) In addition to funds made available under section 101(j) of the Emergency Steel Loan Guarantee Act of 1999 (15 U.S.C. 1841 note), up to \$1,000,000 in funds made available under section 101(f) of such Act may be used for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program.

“(b) Funds made available for salaries and administrative expenses to administer the Emergency Steel Loan Guarantee Program shall remain available until expended.

“CHAPTER 2

“SEC. 201. PETROLEUM DEVELOPMENT MANAGEMENT. (a) SHORT TITLE.—This chapter may be cited as the ‘Emergency Oil and Gas Guaranteed Loan Program Act’.

“(b) FINDINGS.—Congress finds that—

“(1) consumption of foreign oil in the United States is estimated to equal 56 percent of all oil consumed, and that percentage could reach 68 percent by 2010 if current prices prevail;

“(2) the number of oil and gas rigs operating in the United States is at its lowest since 1944, when records of this tally began;

“(3) if prices do not increase soon, the United States could lose at least half its marginal wells, which in aggregate produce as much oil as the United States imports from Saudi Arabia;

“(4) oil and gas prices are unlikely to increase for at least several years;

“(5) declining production, well abandonment, and greatly reduced exploration and development are shrinking the domestic oil and gas industry;

“(6) the world’s richest oil producing regions in the Middle East are experiencing increasingly greater political instability;

“(7) United Nations policy may make Iraq the swing oil producing nation, thereby granting Saddam Hussein tremendous power;

“(8) reliance on foreign oil for more than 60 percent of our daily oil and gas consumption is a national security threat;

“(9) the level of United States oil security is directly related to the level of domestic production of oil, natural gas liquids, and natural gas; and

“(10) a national security policy should be developed that ensures that adequate supplies of oil are available at all times free of the threat of embargo or other foreign hostile acts.

“(c) DEFINITIONS.—In this section:

“(1) BOARD.—The term ‘Board’ means the Loan Guarantee Board established by subsection (e).

“(2) PROGRAM.—The term ‘Program’ means the Emergency Oil and Gas Guaranteed Loan Program established by subsection (d).

“(3) QUALIFIED OIL AND GAS COMPANY.—The term ‘qualified oil and gas company’ means a company that—

“(A) is—

“(i) an independent oil and gas company (within the meaning of section 57(a)(2)(B)(i) of the Internal Revenue Code of 1986 [26 U.S.C. 57(a)(2)(B)(i)]); or

“(ii) a small business concern under section 3 of the Small Business Act (15 U.S.C. 632) (or a company based in Alaska, including an Alaska Native

Corporation created pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is an oil field service company whose main business is providing tools, products, personnel, and technical solutions on a contractual basis to exploration and production operators that drill, complete wells, and produce, transport, refine, and sell hydrocarbons and their byproducts as the main commercial business of the concern or company; and

“(B) has experienced layoffs, production losses, or financial losses since the beginning of the oil import crisis, after January 1, 1997.

“(d) EMERGENCY OIL AND GAS GUARANTEED LOAN PROGRAM.—

“(1) IN GENERAL.—There is established the Emergency Oil and Gas Guaranteed Loan Program, the purpose of which shall be to provide loan guarantees to qualified oil and gas companies in accordance with this section.

“(2) LOAN GUARANTEE BOARD.—There is established to administer the Program a Loan Guarantee Board, to be composed of—

“(A) the Secretary of Commerce;

“(B) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System designated by the Chairman, who shall serve as Chairman of the Board; and

“(C) the Chairman of the Securities and Exchange Commission, or a commissioner of the Securities and Exchange Commission designated by the Chairman.

“(e) AUTHORITY.—

“(1) IN GENERAL.—The Program may guarantee loans provided to qualified oil and gas companies by private banking and investment institutions in accordance with procedures, rules, and regulations established by the Board.

“(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any one time under this section shall not exceed \$500,000,000.

“(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified oil and gas company shall not exceed \$10,000,000.

“(4) EXPEDITIOUS ACTION ON APPLICATIONS.—The Board shall approve or deny an application for a guarantee under this section as soon as practicable after receipt of an application.

“(5) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated \$122,500,000 to remain available until expended.

“(f) REQUIREMENTS FOR LOAN GUARANTEES.—The Board may issue a loan guarantee on application by a qualified oil and gas company under an agreement by a private bank or investment company to provide a loan to the qualified oil and gas company, if the Board determines that—

“(1) credit is not otherwise available to the company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of the company;

“(2) the prospective earning power of the company, together with the character and value of the security pledged, provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

“(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan; and

“(4) the company has agreed to an audit by the Government Accountability Office before issuance of

the loan guarantee and annually while the guaranteed loan is outstanding.

“(g) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

“(1) LOAN DURATION.—All loans guaranteed under this section shall be repayable in full not later than December 31, 2010, and the terms and conditions of each such loan shall provide that the loan agreement may not be amended, or any provision of the loan agreement waived, without the consent of the Board.

“(2) LOAN SECURITY.—A commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions as the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

“(3) FEES.—A qualified oil and gas company receiving a loan guarantee under this section shall pay a fee to the Department of the Treasury to cover costs of the program, but in no event shall such fee exceed an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan.

“(4) GUARANTEE LEVEL.—No loan guarantee may be provided under this section if the guarantee exceeds 85 percent of the amount of principal of the loan.

“(h) REPORTS.—During fiscal year 1999 and each fiscal year thereafter until each guaranteed loan has been repaid in full, the Secretary of Commerce shall submit to Congress a report on the activities of the Board.

“(i) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, \$2,500,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

“(j) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

“(k) REGULATORY ACTION.—Not later than 60 days after the date of the enactment of this Act [Aug. 17, 1999], the Board shall issue such final procedures, rules, and regulations as are necessary to carry out this section.

“FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

“(RESCISSIONS)

“SEC. 202. (a) Of the funds available in the nondefense category to the agencies of the Federal Government, \$125,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

“(b) Within 30 days after the date of the enactment of this Act [Aug. 17, 1999], the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section.

“CHAPTER 3

“GENERAL PROVISIONS

“SEC. 301. No part of any appropriation contained in the Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

“This Act may be cited as the ‘Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999’.”

[Pub. L. 110-161, div. B, title I, §105(c), Dec. 26, 2007, 121 Stat. 1893, which directed amendment of section 101(c)(3)(C) of Pub. L. 106-51, set out above, by substituting “in 1998, and thereafter,” for “, in 1998”, was

executed by making the substitution for “, in January 1998” to reflect the probable intent of Congress.]

[Pub. L. 107-63, title III, § 336(b), Nov. 5, 2001, 115 Stat. 472, provided that: “The amendments made by this section [amending section 101 of Pub. L. 106-51, set out above] shall apply only with respect to any guarantee issued on or after the date of the enactment of this Act [Nov. 5, 2001].”]

§ 1842. Authority for loan guarantees; terms and conditions

The Board, on such terms and conditions as it deems appropriate, may guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this chapter.

(Pub. L. 92-70, § 3, Aug. 9, 1971, 85 Stat. 178.)

§ 1843. Limitations and conditions of loan guarantees

(a) Necessary findings

A guarantee of a loan may be made under this chapter only if—

(1) the Board finds that (A) the loan is needed to enable the borrower to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof, (B) credit is not otherwise available to the borrower under reasonable terms or conditions, and (C) the prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the time fixed, and afford reasonable protection to the United States; and

(2) the lender certifies that it would not make the loan without such guarantee.

(b) Term of loans; renewal

Loans guaranteed under this chapter shall be payable in not more than five years, but may be renewable for not more than an additional three years.

(c) Interest rates, determination; guarantee fee

(1) Loans guaranteed under this chapter shall bear interest payable to the lending institutions at rates determined by the Board taking into account the reduction in risk afforded by the loan guarantee and rates charged by lending institutions on otherwise comparable loans.

(2) The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this chapter. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

(Pub. L. 92-70, § 4, Aug. 9, 1971, 85 Stat. 178.)

§ 1844. Security for loan guarantees

In negotiating a loan guarantee under this chapter, the Board shall make every effort to arrange that the payment of the principal of and

interest on any plan guaranteed shall be secured by sufficient property of the enterprise to collateralize fully the amount of the loan guarantee.

(Pub. L. 92-70, § 5, Aug. 9, 1971, 85 Stat. 179.)

§ 1845. Requirements applicable to loan guarantees

(a) Stock dividends or other payments, prohibition; waiver

A guarantee agreement made under this chapter with respect to an enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to that enterprise the enterprise may not—

(1) declare a dividend on its common stock; or

(2) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this chapter.

The Board may waive either or both of the requirements set forth in this subsection, as specified in the guarantee agreement covering a loan to any particular enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

(b) Managerial changes

If the Board determines that the inability of an enterprise to obtain credit without a guarantee under this chapter is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the enterprise, the Board shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Board deems necessary to give the enterprise a sound managerial base.

(c) Financial statement; access to documents

A guarantee of a loan to any enterprise shall not be made under this chapter unless—

(1) the Board has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Board to have the same access to its books and other documents as the Board would have under section 1846 of this title in the event the loan is guaranteed.

(d) Exhaustion of remedies

No payment shall be made or become due under a guarantee entered into under this chapter unless the lender has exhausted any remedies which it may have under the guarantee agreement.

(e) Protective provisions; advances

(1) Prior to making any guarantee under this chapter, the Board shall satisfy itself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Board's prior consent.

(2) On each occasion when the borrower seeks an advance under the loan agreement, the guar-