

In implementing this section, these agencies should consult with the Federal Energy Regulatory Commission, as appropriate.

SEC. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§ 6342. Survey and Registry

(a) Recoverable waste energy inventory program

(1) In general

The Administrator, in cooperation with the Secretary and State energy offices, shall establish a recoverable waste energy inventory program.

(2) Survey

The program shall include—

(A) an ongoing survey of all major industrial and large commercial combustion sources in the United States (as defined by the Administrator) and the sites at which the sources are located; and

(B) a review of each source for the quantity and quality of waste energy produced at the source.

(b) Criteria

(1) In general

Not later than 270 days after December 19, 2007, the Administrator shall publish a rule for establishing criteria for including sites in the Registry.

(2) Inclusions

The criteria shall include—

(A) a requirement that, to be included in the Registry, a project at the site shall be determined to be economically feasible by virtue of offering a payback of invested costs not later than 5 years after the date of first full project operation (including incentives offered under this part);

(B) standards to ensure that projects proposed for inclusion in the Registry are not developed or used for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; and

(C) procedures for contesting the listing of any source or site on the Registry by any State, utility, or other interested person.

(c) Technical support

On the request of the owner or operator of a source or site included in the Registry, the Secretary shall—

(1) provide to owners or operators of combustion sources technical support; and

(2) offer partial funding (in an amount equal to not more than one-half of total costs) for feasibility studies to confirm whether or not

investment in recovery of waste energy or combined heat and power at a source would offer a payback period of 5 years or less.

(d) Registry

(1) Establishment

(A) In general

Not later than 1 year after December 19, 2007, the Administrator shall establish a Registry of Recoverable Waste Energy Sources, and sites on which the sources are located, that meet the criteria established under subsection (b).

(B) Updates; availability

The Administrator shall—

(i) update the Registry on a regular basis; and

(ii) make the Registry available to the public on the website of the Environmental Protection Agency.

(C) Contesting listing

Any State, electric utility, or other interested person may contest the listing of any source or site by submitting a petition to the Administrator.

(2) Contents

(A) In general

The Administrator shall register and include on the Registry all sites meeting the criteria established under subsection (b).

(B) Quantity of recoverable waste energy

The Administrator shall—

(i) calculate the total quantities of potentially recoverable waste energy from sources at the sites, nationally and by State; and

(ii) make public—

(I) the total quantities described in clause (i); and

(II) information on the criteria pollutant and greenhouse gas emissions savings that might be achieved with recovery of the waste energy from all sources and sites listed on the Registry.

(3) Availability of information

(A) In general

The Administrator shall notify owners or operators of recoverable waste energy sources and sites listed on the Registry prior to publishing the listing.

(B) Detailed quantitative information

(i) In general

Except as provided in clause (ii), the owner or operator of a source at a site may elect to have detailed quantitative information concerning the site not made public by notifying the Administrator of the election.

(ii) Limited availability

The information shall be made available to—

(I) the applicable State energy office; and

(II) any utility requested to support recovery of waste energy from the source

pursuant to the incentives provided under section 6344 of this title.

(iii) State totals

Information concerning the site shall be included in the total quantity of recoverable waste energy for a State unless there are fewer than 3 sites in the State.

(4) Removal of projects from registry

(A) In general

Subject to subparagraph (B), as a project achieves successful recovery of waste energy, the Administrator shall—

- (i) remove the related sites or sources from the Registry; and
- (ii) designate the removed projects as eligible for incentives under section 6344 of this title.

(B) Limitation

No project shall be removed from the Registry without the consent of the owner or operator of the project if—

- (i) the owner or operator has submitted a petition under section 6344 of this title; and
- (ii) the petition has not been acted on or denied.

(5) Ineligibility of certain sources

The Administrator shall not list any source constructed after December 19, 2007, on the Registry if the Administrator determines that the source—

- (A) was developed for the primary purpose of making sales of excess electric power under the regulatory provisions of this part; or
- (B) does not capture at least 60 percent of the total energy value of the fuels used (on a higher-heating-value basis) in the form of useful thermal energy, electricity, mechanical energy, chemical output, or any combination thereof.

(e) Self-certification

(1) In general

Subject to any procedures that are established by the Administrator, an owner, operator, or third-party developer of a recoverable waste energy project that qualifies under standards established by the Administrator may self-certify the sites or sources of the owner, operator, or developer to the Administrator for inclusion in the Registry.

(2) Review and approval

To prevent a fraudulent listing, a site or source shall be included on the Registry only if the Administrator reviews and approves the self-certification.

(f) New facilities

As a new energy-consuming industrial facility is developed after December 19, 2007, to the extent the facility may constitute a site with recoverable waste energy that may qualify for inclusion on the Registry, the Administrator may elect to include the facility on the Registry, at the request of the owner, operator, or developer of the facility, on a conditional basis with the site to be removed from the Registry if the de-

velopment ceases or the site fails to qualify for listing under this part.

(g) Optimum means of recovery

For each site listed in the Registry, at the request of the owner or operator of the site, the Administrator shall offer, in cooperation with Clean Energy Application Centers operated by the Secretary of Energy, suggestions for optimum means of recovery of value from waste energy stream in the form of electricity, useful thermal energy, or other energy-related products.

(h) Revision

Each annual report of a State under section 8258(a) of title 42 shall include the results of the survey for the State under this section.

(i) Authorization of appropriations

There are authorized to be appropriated to—

- (1) the Administrator to create and maintain the Registry and services authorized by this section, \$1,000,000 for each of fiscal years 2008 through 2012; and
- (2) the Secretary—
 - (A) to assist site or source owners and operators in determining the feasibility of projects authorized by this section, \$2,000,000 for each of fiscal years 2008 through 2012; and
 - (B) to provide funding for State energy office functions under this section, \$5,000,000.

(Pub. L. 94-163, title III, §372, as added Pub. L. 110-140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1624.)

PRIOR PROVISIONS

A prior section 6342, Pub. L. 94-163, title III, §372, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95-91, title III, §301(a), title VII, §§703, 707, Aug. 4, 1977, 91 Stat. 577, 606, 607; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to establishment and maintenance of an energy efficiency program, prior to repeal by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

§ 6343. Waste energy recovery incentive grant program

(a) Establishment

The Secretary shall establish in the Department of Energy a waste energy recovery incentive grant program to provide incentive grants to—

- (1) owners and operators of projects that successfully produce electricity or incremental useful thermal energy from waste energy recovery;
- (2) utilities purchasing or distributing the electricity; and
- (3) States that have achieved 80 percent or more of recoverable waste heat recovery opportunities.

(b) Grants to projects and utilities

(1) In general

The Secretary shall make grants under this section—

- (A) to the owners or operators of waste energy recovery projects; and