

III, §318], Oct. 18, 1986, 100 Stat. 1783-242, 1783-286, and Pub. L. 99-591, §101(h) [title III, §318], Oct. 30, 1986, 100 Stat. 3341-242, 3341-287; Pub. L. 100-202, §106, Dec. 22, 1987, 101 Stat. 1329-433.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96-294, June 30, 1980, 94 Stat. 611, as amended, known as the Energy Security Act. For complete classification of this Act to the Code, see Short Title note set out under section 8801 of this title and Tables.

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Amendment of section by Pub. L. 99-190 is based on section 630 of title VI of H.R. 3037 [Agriculture, Rural Development, and Related Agencies Appropriations Act, 1986], as incorporated by reference by section 101(a) of Pub. L. 99-190, and enacted into law by section 106 of Pub. L. 100-202.

#### AMENDMENTS

1987—For amendment by Pub. L. 100-202, see 1985 Amendment note below.

1986—Pub. L. 99-500 and Pub. L. 99-591 substituted “through June 30, 1987” for “through June 30, 1986”.

Pub. L. 99-272 made amendment substantially identical to that by Pub. L. 99-190, substituting “through June 30, 1986” for “through September 30, 1985” and inserting provisions authorizing the Secretary of Energy to modify the terms and conditions of any conditional commitment for a loan guarantee under this subchapter made before Oct. 1, 1984, including the amount of the guarantee, and further providing that nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments.

1985—Pub. L. 99-190, §101(a), as enacted by Pub. L. 100-202, substituted “through June 30, 1986” for “through September 30, 1985” and inserted provisions authorizing the Secretary of Energy to modify the terms and conditions of any conditional commitment for a loan guarantee under this subchapter made before Oct. 1, 1984, including the amount of the guarantee, and further providing that nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments. See Codification note above.

Pub. L. 99-24 inserted “, except that all conditional commitments for loan guarantees under this subchapter which were in existence on September 30, 1984, are hereby extended through September 30, 1985”.

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 100-202, §106, Dec. 22, 1987, 101 Stat. 1329-434, provided that the amendment made by that section is effective on date of enactment [Dec. 19, 1985] of the “pertinent joint resolution” making continuing appropriations for fiscal year 1986 [Pub. L. 99-190].

#### PENDING CONDITIONAL COMMITMENTS

Pub. L. 99-24, §1(b), Apr. 16, 1985, 99 Stat. 50, provided that: “Enactment of this Act [amending this section] shall not be interpreted as indicating congressional approval with respect to any pending conditional commitments under this Act.”

### SUBCHAPTER II—MUNICIPAL WASTE BIOMASS ENERGY

#### § 8831. Municipal waste energy development plan

##### (a) Preparation by Secretary of Energy; consultative requirements

The Secretary of Energy shall prepare a comprehensive plan for carrying out this subchapter. In the preparation of such plan, the

Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the head of such other Federal agencies as the Secretary deems appropriate.

##### (b) Transmittal to President and Congress

Not later than 90 days after June 30, 1980, the Secretary shall transmit the comprehensive plan to the President and the Congress.

##### (c) Required statements

The comprehensive plan under this section shall include a statement setting forth—

(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;

(2) the management structure and approach to be adopted to carry out such plan;

(3) the program strategies, including detailed milestone goals to be achieved;

(4) the specific funding requirements for individual program elements and activities, including the total estimated construction costs of proposed projects; and

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

##### (d) Report to President and Congress; contents

Not later than January 1, 1982, the Secretary shall prepare and submit to the President and the Congress a report containing a complete description of any financial, institutional, environmental, and social barriers to the development and application of technologies for the recovery of energy from municipal wastes.

(Pub. L. 96-294, title II, §231, June 30, 1980, 94 Stat. 696.)

#### § 8832. Construction loans

##### (a) Authority of Secretary of Energy

Subject to sections 8835 and 8836 of this title, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects.

##### (b) Estimated project construction costs as determinative of initial and revised amount of loan; interest rate

(1) Any loan under this section—

(A) may not exceed 80 per centum of the total estimated cost of the construction of the municipal waste energy project involved, and

(B) shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, make a loan for so much of the additional estimated costs as does not exceed 10 per centum of the initial total estimated costs of construction.

**(c) Preconditions**

A loan may not be made under this section unless the person applying for such loan has established to the satisfaction of the Secretary of Energy that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

(Pub. L. 96-294, title II, §232, June 30, 1980, 94 Stat. 697.)

**§ 8833. Guaranteed construction loans****(a) Authority of Secretary of Energy**

Subject to sections 8835 and 8836 of this title, the Secretary of Energy may commit to guarantee, and guarantee, against loss on up to 90 per centum of the principal and interest, any loan which is made solely to provide funds for the construction of a municipal waste energy project and which does not exceed 90 per centum of the cost of the construction of the project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

**(b) Estimated project construction costs as determinative of revised amount of guarantee**

In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, guarantee, against loss on up to 90 per centum of the principal and interest, a loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total estimated costs.

**(c) Terms and conditions**

The terms and conditions of loan guarantees under this section shall provide that, if the Secretary of Energy makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

**(d) Termination, cancellation, or revocation, and conclusive nature of guarantee**

Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this chapter and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

**(e) Payment to lender**

If the Secretary of Energy determines that—

- (1) the borrower is unable to meet payments and is not in default,
- (2) it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and
- (3) the probable net benefit to the United States in paying the principal and interest due

under a loan guarantee agreement will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

**(f) Preconditions**

A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary of Energy that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

**(g) Payment of interest; tax consequences**

(1) With respect to any loan or debt obligation which is—

- (A) issued after June 30, 1980, by, or on behalf of, any State or any political subdivision or governmental entity thereof,
- (B) guaranteed by the Secretary of Energy under this section, and
- (C) not supported by the full faith and credit of the issuer as a general obligation of the issuer,

the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of title 26.

(2) With respect to the amount of obligations described in paragraph (1) that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary of Energy is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary of Energy and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary of Energy, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

**(h) Fees**

(1) A fee or fees may be charged and collected by the Secretary of Energy for any loan guarantee under this section.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the maximum of the guarantee.

(Pub. L. 96-294, title II, §233, June 30, 1980, 94 Stat. 698; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)