

Subsec. (c). Pub. L. 103-160, §825(a)(2), inserted heading.

1990—Subsec. (d). Pub. L. 101-510 struck out subsec. (d) which read as follows: “The Secretary concerned shall report to the Committees on Armed Services of the Senate and the House of Representatives the terms of the contracts made under this section and the names of the contractors. The reports shall be made at such times and in such form as may be agreed upon by the Secretary and those Committees.”

1984—Subsec. (c). Pub. L. 98-525 substituted “subsections (a) and (b) of section 3324” for “section 3324(a) and (b)”.

1982—Subsec. (c). Pub. L. 97-295, §1(27), substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)”, clarifying the ambiguity created by previous amendments by Pub. L. 97-214 and Pub. L. 97-258.

Pub. L. 97-258, §3(b)(6), directed the substitution of “section 3324(a) and (b) of title 31” for “section 529 of title 31”, which could not be executed in view of prior substitution of language by Pub. L. 97-214.

Pub. L. 97-214, §10(a)(3), substituted “section 3648 of the Revised Statutes (31 U.S.C. 529)” for “section 4774(d) or 9774(d) of this title, section 529 of title 31, or section 259 or 267 of title 40.”

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title VIII, §881(b), Dec. 12, 2017, 131 Stat. 1504, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to contracts entered into on or after the date of the enactment of this Act [Dec. 12, 2017], and may be applied to a contract entered into before that date if the total contract period under the contract (including options) has not expired as of the date of any extension of such contract period by reason of such amendment.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

NOTICE OF PURCHASE OF DROP-IN FUEL

Pub. L. 113-291, div. A, title III, §316(c), (d), Dec. 19, 2014, 128 Stat. 3339, 3340, provided that:

“(c) NOTICE OF PURCHASE REQUIRED.—If the Secretary of Defense intends to purchase a drop-in fuel intended for operational use with a fully burdened cost in excess of 10 percent more than the fully burdened cost of a traditional fuel available for the same purpose, the Secretary shall provide notice of such intended purchase to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than 30 days before the date on which such purchase is intended to be made.

“(d) DEFINITIONS.—In this section [this note]:

“(1) The term ‘drop-in fuel’ means a neat or blended liquid hydrocarbon fuel designed as a direct replacement for a traditional fuel with comparable performance characteristics and compatible with existing infrastructure and equipment.

“(2) The term ‘traditional fuel’ means a liquid hydrocarbon fuel derived or refined from petroleum.

“(3) The term ‘operational purposes’ means for the purposes of conducting military operations, including training, exercises, large scale demonstrations, and moving and sustaining military forces and military platforms. The term does not include research, development, testing, evaluation, fuel certification, or other demonstrations.

“(4) The term ‘fully burdened cost’ means the commodity price of the fuel plus the total cost of all personnel and assets required to move and, when necessary, protect the fuel from the point at which the

fuel is received from the commercial supplier to the point of use.”

PURCHASES OF GASOHOL AS FUEL FOR MOTOR VEHICLES

Pub. L. 96-107, title VIII, §815, Nov. 9, 1979, 93 Stat. 817, which had authorized the Secretary of Defense to buy domestically produced alcohol and gasohol for use as fuel in Department of Defense motor vehicles, was repealed and reenacted as section 2398 (now 2922c) of this title by Pub. L. 97-295, §§1(29)(A), 6(b), Oct. 12, 1982, 96 Stat. 1293, 1315.

§ 2922a. Contracts for energy or fuel for military installations

(a) Subject to subsection (b), the Secretary of a military department may enter into contracts for periods of up to 30 years—

(1) under section 2917 of this title; and

(2) for the provision and operation of energy production facilities on real property under the Secretary’s jurisdiction or on private property and the purchase of energy produced from such facilities.

(b) A contract may be made under subsection (a) only after the approval of the proposed contract by the Secretary of Defense.

(c) The costs of contracts under this section for any year may be paid from annual appropriations for that year.

(d) The Secretary concerned shall ensure energy security and energy resilience are included as critical factors in the provision and operation of energy production facilities under this section.

(Added Pub. L. 97-214, §6(a)(1), July 12, 1982, 96 Stat. 171, §2394; amended Pub. L. 97-321, title VIII, §805(b)(3), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-510, div. A, title XIII, §1301(12), Nov. 5, 1990, 104 Stat. 1668; renumbered §2922a and amended Pub. L. 109-364, div. B, title XXVIII, §2851(b)(2), (3)(C), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 115-91, div. B, title XXVIII, §2833, Dec. 12, 2017, 131 Stat. 1858; Pub. L. 115-232, div. A, title III, §312(d), Aug. 13, 2018, 132 Stat. 1710; Pub. L. 116-92, div. A, title III, §320(a)(2)(A), Dec. 20, 2019, 133 Stat. 1306.)

AMENDMENTS

2019—Subsec. (d). Pub. L. 116-92 substituted “energy resilience are included as critical factors” for “resilience are prioritized and included”.

2018—Subsec. (d). Pub. L. 115-232 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The Secretary concerned shall prioritize energy security and resilience.”

2017—Subsec. (d). Pub. L. 115-91 added subsec. (d).

2006—Pub. L. 109-364, §2851(b)(2), renumbered section 2394 of this title as this section.

Subsec. (a)(1). Pub. L. 109-364, §2851(b)(3)(C), substituted “section 2917” for “section 2689”.

1990—Subsec. (b). Pub. L. 101-510 substituted “only after the approval of the proposed contract by the Secretary of Defense” for “only—

“(1) after the approval of the proposed contract by the Secretary of Defense; and

“(2) after the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the dollar amount of the contract and the amount of energy or fuel to be delivered to the Government under the contract”.

1987—Subsec. (c). Pub. L. 100-26, which directed that “The term” be inserted in each paragraph after the

paragraph designation and the first word after the first quotation marks in each paragraph be revised so that the initial letter of such word is lowercase, could not be executed because subsec. (c) contained no paragraphs and no quoted words. The probable intent of Congress was to amend section 2393(c) of this title.

1982—Subsec. (a). Pub. L. 97-321, § 805(b)(3)(A), substituted “subsection (b)” for “subsection (c)”.

Subsecs. (c), (d). Pub. L. 97-321, § 805(b)(3)(B), redesignated subsec. (d) as (c).

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2922b. Procurement of energy systems using renewable forms of energy

(a) In procuring energy systems the Secretary of a military department shall procure systems that use solar energy or other renewable forms of energy whenever the Secretary determines that such procurement is possible, suited to supplying the energy needs of the military department under the jurisdiction of the Secretary, 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) The Secretary of Defense shall from time to time study uses for solar energy and other renewable forms of energy to determine what uses of such forms of energy may be reliable in supplying the energy needs of the Department of Defense. The Secretary of Defense, based upon the results of such studies, shall from time to time issue policy guidelines to be followed by the Secretaries of the military departments in carrying out subsection (a) and section 2915 of this title.

(Added Pub. L. 97-321, title VIII, § 801(a)(1), Oct. 15, 1982, 96 Stat. 1569, § 2394a; amended Pub. L. 98-525, title XIV, § 1405(36), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 101-510, div. A, title XIII, § 1322(a)(7), div. B, title XXVIII, § 2852(a), Nov. 5, 1990, 104 Stat. 1671, 1804; Pub. L. 102-25, title VII, § 701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered § 2922b and amended Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), (3)(D), Oct. 17, 2006, 120 Stat. 2494, 2495; Pub. L. 115-91, div. B, title XXVIII, § 2831(c)(4), 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 2394a of this title as this section.

Subsec. (a). Pub. L. 109-364, § 2851(b)(3)(D)(i), substituted “possible, suited” for “possible and will be cost effective, reliable, and otherwise suited” and “the jurisdiction of the Secretary, 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 “his jurisdiction”.

Subsec. (b). Pub. L. 109-364, § 2851(b)(3)(D)(ii), struck out “cost effective and” before “reliable” and substituted “2915” for “2857”.

Subsec. (c). Pub. L. 109-364, § 2851(b)(3)(D)(iii), struck out subsec. (c) which read as follows:

“(c)(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system using such a form of energy, and (B) the original investment cost of the energy system not using such a form of energy can be recovered over the expected life of the system.

“(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a system shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).”

1991—Subsec. (c)(2). Pub. L. 102-25 inserted “(42 U.S.C. 8254(a))” after “Policy Act”.

1990—Subsec. (b). Pub. L. 101-510, § 1322(a)(7), struck out “(1)” after “(b)” and struck out par. (2) which read as follows: “The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives not less often than every two years a report on the studies conducted pursuant to paragraph (1). Each such report shall include any findings of the Secretary with respect to the use of solar energy and other renewable forms of energy in supplying the energy needs of the Department of Defense and any recommendations of the Secretary for changes in law that may be appropriate in light of such studies.”

Subsec. (c)(2), (3). Pub. L. 101-510, § 2852(a), added par. (2) and struck out former pars. (2) and (3) which read as follows:

“(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a system shall be made using accepted life-cycle costing procedures and shall include—

“(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system using solar energy or other renewable forms of energy, and not using such a form of energy, over the expected life of the system or during a period of 25 years, whichever is shorter;

“(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

“(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

“(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit.”

1984—Pub. L. 98-525 substituted “using” for “powered by” in section catchline.

SUBMISSION DATE FOR FIRST REPORT

Pub. L. 97-321, title VIII, § 801(a)(3), Oct. 15, 1982, 96 Stat. 1571, required the first report under subsec. (b)(2) of this section to be submitted not later than two years after Oct. 15, 1982.

§ 2922c. Procurement of gasohol as motor vehicle fuel

(a) OTHER FEDERAL FUEL PROCUREMENTS.—Consistent with the vehicle management practices prescribed by the heads of affected departments and agencies of the Federal Government and consistent with Executive Order Number 12261, whenever the Secretary of Defense enters into a contract for the procurement of unleaded gasoline that is subject to tax under section 4081 of the Internal Revenue Code of 1986 for motor vehicles of a department or agency of the Federal Government other than the Department of Defense, the Secretary shall buy alcohol-gasoline blends containing at least 10 percent domestically produced alcohol in any case in which the price of such fuel is the same as, or lower than, the price of unleaded gasoline.