

L. 116-260, div. Z, title III, §3006(a)(1), Dec. 27, 2020, 134 Stat. 2511.)

### Editorial Notes

#### AMENDMENTS

2020—Pub. L. 116-260, §3006(a)(1)(A), substituted “alcohol from biomass and other technology” for “wind, photovoltaics, and solar thermal” in section catchline.

Subsec. (a). Pub. L. 116-260, §3006(a)(1)(B)(ii)-(iv), redesignated pars. (4) and (5) as (1) and (2), respectively, in par. (2), as redesignated, substituted “Marine” for “Ocean”, and struck out former pars. (1) to (3) which related to national goals for wind energy, photovoltaic energy, and solar thermal energy programs, respectively.

Pub. L. 116-260, §3006(a)(1)(B)(i), substituted “alcohol from biomass and other energy technology” for “wind, photovoltaics, and solar thermal energy” in introductory provisions.

Subsec. (c). Pub. L. 116-260, §3006(a)(1)(C)(i), in introductory provisions, struck out “the Wind Energy Research Program, the Photovoltaic Energy Systems Program, the Solar Thermal Energy Systems Program,” after “demonstration programs:” and substituted “Marine” for “Ocean”.

Subsec. (c)(1). Pub. L. 116-260, §3006(a)(1)(C)(ii), redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: “not to exceed \$39,000,000 shall be available for the Photovoltaic Energy Systems Program;”.

Subsec. (c)(2). Pub. L. 116-260, §3006(a)(1)(C)(iii), redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out form subpar. (A) which read as follows: “not to exceed \$40,000,000 shall be available for the Photovoltaic Energy Systems Program;”.

1992—Subsec. (a)(4), (5). Pub. L. 102-486, §1202(b)(1), added par. (4), redesignated former par. (4) as (5), and inserted “Biodiesel Energy Systems,” after “Biofuels Energy Systems,”.

Subsec. (c)(3). Pub. L. 102-486, §2125(1)-(3), struck out par. (3) which read as follows: “not to exceed \$124,000,000 for fiscal year 1993, of which—

“(A) not to exceed \$40,000,000 shall be available for the Photovoltaic Energy Systems Program;

“(B) not to exceed \$23,000,000 shall be available for the Geothermal Energy Systems Program; and

“(C) not to exceed \$6,000,000 shall be available for the Hydrogen Energy Systems Program.”

### § 12004. Energy efficiency authorizations

There are authorized to be appropriated to the Secretary for the following energy efficiency research, development, and demonstration programs: transportation, industrial, buildings and community systems, multi-sector, and policy and management—

(1) not to exceed \$201,100,000 for fiscal year 1991, of which—

(A) not to exceed \$68,300,000 shall be available for the transportation program; and

(B) not to exceed \$53,500,000 shall be available for the industrial program; and

(2) not to exceed \$210,600,000 for fiscal year 1992, of which—

(A) not to exceed \$71,000,000 shall be available for the transportation program; and

(B) not to exceed \$54,700,000 shall be available for the industrial program.

(Pub. L. 101-218, §5, Dec. 11, 1989, 103 Stat. 1862; Pub. L. 102-486, title XXI, §2125(4)-(6), Oct. 24, 1992, 106 Stat. 3085.)

### Editorial Notes

#### AMENDMENTS

1992—Par. (3). Pub. L. 102-486 struck out par. (3) which read as follows: “not to exceed \$225,000,000 for fiscal year 1993, of which—

“(A) not to exceed \$73,900,000 shall be available for the transportation program; and

“(B) not to exceed \$56,900,000 shall be available for the industrial program.”

### § 12005. Demonstration and commercial application projects

#### (a) Purpose

The purpose of this section is to direct the Secretary to further the commercialization of renewable energy and energy efficiency technologies through a five-year program.

#### (b) Demonstration and commercial application projects

##### (1) Establishment

(A) The Secretary shall solicit proposals for demonstration and commercial application projects for renewable energy and energy efficiency technologies pursuant to subsection (c). Such projects may include projects for—

(i) the production and sale of electricity, thermal energy, or other forms of energy using a renewable energy technology;

(ii) increasing the efficiency of energy use; and

(iii) improvements in, or expansion of, facilities for the manufacture of renewable energy or energy efficiency technologies.

(B) REQUIREMENTS.—Each project selected under this section shall include at least one for-profit business. Activities supported under this section shall be performed in the United States. Each project under this section shall require the manufacture and reproduction substantially within the United States for commercial sale of any invention or product that may result from the project.

##### (2) Forms of financial assistance

(A) In supporting projects selected under subsection (c), the Secretary may choose from among the forms of agreements described in section 13541 of this title.

(B) In supporting projects selected under subsection (c), the Secretary may also enter into agreements with private lenders to pay a portion of the interest on loans made for such projects.

##### (3) Cost sharing

Cost sharing for projects under this section shall be conducted according to the procedures described in section 13542(b) and (c) of this title.

##### (4) Advisory Committee

(A) The Secretary shall establish an Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this chapter referred to as the “Advisory Committee”) to advise the Secretary on the development of the solicitation and evaluation criteria for projects under this section, and on otherwise carrying out his responsibilities under this

section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

- (i) the Secretary of Commerce;
- (ii) the National Laboratories of the Department of Energy;
- (iii) the Solar Energy Research Institute;
- (iv) the Electric Power Research Institute;
- (v) the Gas Research Institute;
- (vi) the National Institute of Building Sciences;
- (vii) the National Institute of Standards and Technology;
- (viii) associations of firms in the major renewable energy manufacturing industries; and
- (ix) associations of firms in the major energy efficiency manufacturing industries.

Nothing in this subparagraph shall be construed to require the Secretary to reestablish the Advisory Committee in place under this subsection as of October 24, 1992, or to perform again any duties performed by such advisory committee before October 24, 1992.

(B) Not later than 18 months after October 24, 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the program under this section, including specific recommendations for improvements or changes to the program and solicitation process. The Secretary shall transmit such report and, if any, the Secretary's recommendations to the Congress.

### (c) Selection of projects

#### (1) Solicitation

(A) Not later than 9 months after October 24, 1992, the Secretary shall solicit proposals for projects under this section. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(B) A solicitation for proposals under this paragraph shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

(C) Each solicitation under this paragraph shall include a description of the criteria, developed by the Secretary, according to which proposals will be evaluated. In developing such criteria, the Secretary shall consider—

- (i) the need for Federal involvement to commercialize the technology or speed commercialization of the technology;
- (ii) the potential for the technology to have significant market penetration;
- (iii) the potential energy efficiency gains or energy supply contributions of the technology;
- (iv) potential environmental improvements associated with the technology;
- (v) the export potential of the technology;
- (vi) the likelihood that the proposal is technically sufficient to achieve the objective of the solicitation;
- (vii) the degree to which non-Federal financial participation is involved in the proposal;
- (viii) the business and financial history of the proposer or proposers; and

(ix) any other factor the Secretary considers appropriate.

#### (2) Project technologies

Projects under this section may include the following technologies:

- (A) Conversion of cellulosic biomass to liquid fuels.
- (B) Ethanol and ethanol byproduct processes.
- (C) Direct combustion or gasification of biomass.
- (D) Biofuels energy systems.
- (E) Photovoltaics, including utility scale and remote applications.
- (F) Solar thermal, including solar water heating.
- (G) Wind energy.
- (H) High temperature and low temperature geothermal energy.
- (I) Fuel cells, including transportation and stationary applications.
- (J) Nondefense high-temperature superconducting electricity technology.
- (K) Source reduction technology.
- (L) Factory-made housing.
- (M) Advanced district cooling.

#### (3) Project selection

The Secretary shall, within 120 days after the closing date established under paragraph (1)(B), select proposals to receive financial assistance under this section. In selecting proposals under this paragraph, the Secretary shall—

- (A) consider each proposal's ability to meet the criteria developed pursuant to paragraph (1)(C); and
- (B) attempt to achieve technological and geographic diversity.

#### (d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section \$50,000,000 for fiscal year 1994.

(Pub. L. 101-218, §6, Dec. 11, 1989, 103 Stat. 1863; Pub. L. 102-486, title XII, §1202(a), Oct. 24, 1992, 106 Stat. 2956.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4)(A), was in the original "this Act", meaning Pub. L. 101-218, Dec. 11, 1989, 103 Stat. 1859, known as the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

#### AMENDMENTS

1992—Pub. L. 102-486 amended section generally, substituting provisions relating to demonstration and commercial application projects for renewable energy and energy efficiency technologies for provisions relating to use of joint ventures to further commercialization of renewable energy and energy efficiency technologies.

### Statutory Notes and Related Subsidiaries

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year

period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

## § 12006. Reports

### (a) Report by Secretary

One year after December 11, 1989, and annually thereafter, the Secretary shall report to Congress on the programs and projects supported under this chapter and the progress being made toward accomplishing the goals and purposes set forth in this chapter.

### (b) National renewable energy and energy efficiency management plan

(1) The Secretary, in consultation with the Advisory Committee, shall prepare a three-year management plan to be administered and carried out by the Secretary in the conduct of activities under this chapter.

(2) After opportunity for public comment and consideration, as appropriate, of such comment, the Secretary shall publish the plan.

(3) In addition to describing the Secretary's intentions for administering this chapter, the plan shall include a comprehensive strategy for assisting the private sector—

(A) in commercializing the renewable energy and energy efficiency technologies developed under this chapter; and

(B) in meeting competition from foreign suppliers of products derived from renewable energy and energy efficiency technologies.

(4) The plan shall address the role of federally-assisted research, development, and demonstration in the achievement of applicable national policy goals of the National Energy Policy Plan required under section 7321 of this title and the plan developed under section 5905 of this title.

(5) In addition, the Plan<sup>1</sup> shall—

(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under section 12005 of this title;

(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

(C) establish milestones for setting forth specific technology transfer activities under each program area;

(D) include annual and five-year cost estimates for individual programs under this chapter; and

(E) identify program areas for which funding levels have been changed from the previous year's Plan.<sup>1</sup>

(6) Within one year after October 24, 1992, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.

### (c) Report on options

As part of the first report submitted under subsection (a), the Secretary shall submit to Congress a report analyzing options available to the Secretary under existing law to assist the private sector with the timely commercialization of wind, photovoltaic, solar thermal, biofuels, hydrogen, solar buildings, marine, geothermal, low-head hydro, and energy storage renewable energy technologies and energy efficiency technologies through emphasis on development and demonstration assistance to specific technologies in the research, development, and demonstration programs of the Department of Energy that are near commercial application.

(Pub. L. 101-218, §9, Dec. 11, 1989, 103 Stat. 1868; Pub. L. 102-486, title XII, §1202(c), (d)(5), title XXIII, §2303(b), Oct. 24, 1992, 106 Stat. 2959, 2960, 3093; Pub. L. 116-260, div. Z, title III, §3006(a)(2), Dec. 27, 2020, 134 Stat. 2512.)

## Editorial Notes

### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), (3), (5)(D), was in the original "this Act", meaning Pub. L. 101-218, Dec. 11, 1989, 103 Stat. 1859, known as the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 12001 of this title and Tables.

### AMENDMENTS

2020—Subsec. (c). Pub. L. 116-260 substituted "marine," for "ocean,".

1992—Subsec. (a). Pub. L. 102-486, §1202(d)(5), substituted "and projects" for " , projects, and joint ventures" .

Subsec. (b)(1). Pub. L. 102-486, §1202(c)(1), inserted "three-year" before "management plan" .

Subsec. (b)(4). Pub. L. 102-486, §2303(b), inserted before period at end "and the plan developed under section 5905 of this title" .

Subsec. (b)(5), (6). Pub. L. 102-486, §1202(c)(2), added pars. (5) and (6) and struck out former par. (5) which read as follows: "The plan shall accompany the President's annual budget submission to the Congress."

## Statutory Notes and Related Subsidiaries

### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which reports required under subsecs. (a) and (b) of this section are listed as the 20th item on page 84 and the 19th item on page 86), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

### § 12007. No antitrust immunity or defenses

Nothing in this chapter shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 12 of title 15.

(Pub. L. 101-218, §10, Dec. 11, 1989, 103 Stat. 1869.)

<sup>1</sup> So in original. Probably should not be capitalized.