

(c) the Secretary of Agriculture to work actively with the Committee for Purchase From People Who Are Blind or Severely Disabled to promote education and outreach to program, technical, and contracting personnel, and to purchase card holders on BioPreferred AbilityOne products.

SEC. 8. General Provisions. (a) This memorandum shall apply to an agency with respect to the activities, personnel, resources, and facilities of the agency that are located within the United States. The head of an agency may provide that this memorandum shall apply in whole or in part with respect to the activities, personnel, resources, and facilities of the agency that are not located within the United States, if the head of the agency determines that such application is in the interest of the United States.

(b) The head of an agency shall manage activities, personnel, resources, and facilities of the agency that are not located within the United States, and with respect to which the head of the agency has not made a determination under subsection (a) of this section, in a manner consistent with the policies set forth in this memorandum, to the extent the head of the agency determines practicable.

(c) For purposes of this memorandum, “biobased product” shall have the meaning set forth in section 8101(4) of title 7, United States Code.

(d) This memorandum 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.

(e) The Secretary of Agriculture is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 8103. Biorefinery, renewable chemical, and biobased product manufacturing assistance

(a) Purpose

The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, renewable chemicals, and biobased product manufacturing so as to—

- (1) increase the energy independence of the United States;
- (2) promote resource conservation, public health, and the environment;
- (3) diversify markets for agricultural and forestry products and agriculture waste material; and
- (4) create jobs and enhance the economic development of the rural economy.

(b) Definitions

In this section:

(1) Biobased product manufacturing

The term “biobased product manufacturing” means development, construction, and retrofitting of technologically new commercial-scale processing and manufacturing equipment and required facilities that will be used to convert renewable chemicals and other biobased outputs of biorefineries into end-user products on a commercial scale.

(2) Eligible entity

The term “eligible entity” means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers,

National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.

(3) Eligible technology

The term “eligible technology” means, as determined by the Secretary—

(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces any 1 or more, or a combination, of—

- (i) an advanced biofuel;
- (ii) a renewable chemical; or
- (iii) a biobased product; and

(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces any 1 or more, or a combination, of—

- (i) an advanced biofuel;
- (ii) a renewable chemical; or
- (iii) a biobased product.

(c) Assistance

The Secretary shall make available to eligible entities guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.

(d) Loan guarantees

(1) Selection criteria

(A) In general

In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

(B) Feasibility

In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

(C) Scoring system

In determining the priority scoring system for loan guarantees under subsection (c), the Secretary shall consider—

- (i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;
- (ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;
- (iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;
- (iv) whether the applicant is proposing to work with producer associations or cooperatives;
- (v) the level of financial participation by the applicant, including support from non-Federal and private sources;
- (vi) whether the applicant has established that the adoption of the process proposed in the application will have a posi-

tive impact on resource conservation, public health, and the environment;

(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

(viii) the potential for rural economic development;

(ix) the level of local ownership proposed in the application; and

(x) whether the project can be replicated.

(D) Project diversity

In approving loan guarantee applications, the Secretary shall ensure that, to the extent practicable, there is diversity in the types of projects approved for loan guarantees to ensure that as wide a range as possible of technologies, products, and approaches are assisted.

(2) Limitations

(A) Maximum amount of loan guaranteed

The principal amount of a loan guaranteed under subsection (c) may not exceed \$250,000,000.

(B) Maximum percentage of loan guaranteed

(i) In general

Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c) shall be in an amount not to exceed 80 percent of the project costs, as determined by the Secretary.

(ii) Other direct Federal funding

The amount of a loan guaranteed for a project under subsection (c) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

(iii) Authority to guarantee the loan

The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c).

(C) Loan guarantee fund distribution

Of the funds made available for loan guarantees for a fiscal year under subsection (g), 50 percent of the funds shall be reserved for obligation during the second half of the fiscal year.

(e) Consultation

In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(f) Condition on provision of assistance

(1) In general

As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in ac-

cordance with sections 3141 through 3144, 3146, and 3147 of title 40.

(2) Authority and functions

The Secretary of Labor shall have, with respect to the labor standards described in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40.

(g) Funding

(1) Mandatory funding

(A) In general

Subject to subparagraph (B), of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

(i) \$100,000,000 for fiscal year 2014;

(ii) \$50,000,000 for each of fiscal years 2015 and 2016;

(iii) \$50,000,000 for fiscal year 2019; and

(iv) \$25,000,000 for fiscal year 2020.

(B) Biobased product manufacturing

Of the total amount of funds made available for fiscal years 2014 and 2015 under subparagraph (A), the Secretary may use for the cost of loan guarantees under this section not more than 15 percent of such funds to promote biobased product manufacturing.

(2) Discretionary funding

In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section \$75,000,000 for each of fiscal years 2014 through 2023.

(Pub. L. 107-171, title IX, §9003, as added Pub. L. 110-234, title IX, §9001(a), May 22, 2008, 122 Stat. 1310, and Pub. L. 110-246, §4(a), title IX, §9001(a), June 18, 2008, 122 Stat. 1664, 2072; amended Pub. L. 112-240, title VII, §701(f)(2), Jan. 2, 2013, 126 Stat. 2365; Pub. L. 113-79, title IX, §9003, Feb. 7, 2014, 128 Stat. 928; Pub. L. 115-334, title IX, §9003, Dec. 20, 2018, 132 Stat. 4884.)

Editorial Notes

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (f)(2), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 enacted identical sections. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 8103, Pub. L. 107-171, title IX, §9003, May 13, 2002, 116 Stat. 478, related to biorefinery development grants, prior to the general amendment of this chapter by Pub. L. 110-246.

AMENDMENTS

2018—Subsec. (b)(3)(A). Pub. L. 115-334, §9003(1)(A), substituted “produces any 1 or more, or a combination, of—” and cls. (i) to (iii) for “produces an advanced biofuel; and”.

Subsec. (b)(3)(B). Pub. L. 115-334, §9003(1)(B), substituted “produces any 1 or more, or a combination, of—” and cls. (i) to (iii) for “produces an advanced biofuel.”

Subsec. (g)(1)(A)(iii), (iv). Pub. L. 115-334, §9003(2)(A), added cls. (iii) and (iv).

Subsec. (g)(2). Pub. L. 115-334, §9003(2)(B), substituted “2023” for “2018”.

2014—Pub. L. 113-79, §9003(a)(1), inserted “, renewable chemical, and biobased product manufacturing” after “Biorefinery” in section catchline.

Subsec. (a). Pub. L. 113-79, §9003(a)(2), inserted “renewable chemicals, and biobased product manufacturing” after “advanced biofuels,” in introductory provisions.

Subsec. (b). Pub. L. 113-79, §9003(a)(3), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (c). Pub. L. 113-79, §9003(a)(4), substituted “to eligible entities guarantees for loans” for “to eligible entities—

“(1) grants to assist in paying the costs of the development and construction of demonstration-scale biorefineries to demonstrate the commercial viability of 1 or more processes for converting renewable biomass to advanced biofuels; and

“(2) guarantees for loans”.

Subsec. (d). Pub. L. 113-79, §9003(a)(5), (6), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to awarding of grants under subsec. (c)(1).

Subsec. (d)(1)(C). Pub. L. 113-79, §9003(a)(7)(B), substituted “subsection (c)” for “subsection (c)(2)”.

Subsec. (d)(1)(D). Pub. L. 113-79, §9003(a)(7)(A), added subpar. (D).

Subsec. (d)(2)(A), (B). Pub. L. 113-79, §9003(a)(7)(B), substituted “subsection (c)” for “subsection (c)(2)” wherever appearing.

Subsec. (d)(2)(C). Pub. L. 113-79, §9003(a)(7)(C), substituted “subsection (g)” for “subsection (h)”.

Subsecs. (e) to (g). Pub. L. 113-79, §9003(a)(6), redesignated subsecs. (f) to (h) as (e) to (g), respectively.

Subsec. (g)(1). Pub. L. 113-79, §9003(b)(1), added par. (1) and struck out former par. (1) which related to mandatory funding for loan guarantees for fiscal years 2009 and 2010.

Subsec. (g)(2). Pub. L. 113-79, §9003(b)(2), substituted “\$75,000,000 for each of fiscal years 2014 through 2018” for “\$150,000,000 for each of fiscal years 2009 through 2013”.

Subsec. (h). Pub. L. 113-79, §9003(a)(6), redesignated subsec. (h) as (g).

2013—Subsec. (h)(2). Pub. L. 112-240 substituted “2013” for “2012”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-240 effective Sept. 30, 2012, see section 701(j) of Pub. L. 112-240, set out in a 1-Year Extension of Agricultural Programs note under section 8701 of this title.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as a note under section 8701 of this title.

§ 8104. Repealed. Pub. L. 115-334, title IX, § 9004, Dec. 20, 2018, 132 Stat. 4885

Section, Pub. L. 107-171, title IX, §9004, as added Pub. L. 110-234, title IX, §9001(a), May 22, 2008, 122 Stat. 1313, and Pub. L. 110-246, §4(a), title IX, §9001(a), June 18, 2008, 122 Stat. 1664, 2075; amended Pub. L. 112-240, title VII, §701(f)(3), Jan. 2, 2013, 126 Stat. 2365; Pub. L. 113-79, title IX, §9004, Feb. 7, 2014, 128 Stat. 930, related to repowering assistance program.

A prior section 8104, Pub. L. 107-171, title IX, §9004, May 13, 2002, 116 Stat. 480, related to a biodiesel fuel education program, prior to the general amendment of

this chapter by Pub. L. 110-246. See section 8106 of this title.

§ 8105. Bioenergy program for advanced biofuels

(a) Definition of eligible producer

In this section, the term “eligible producer” means a producer of advanced biofuels.

(b) Payments

The Secretary shall make payments to eligible producers to support and ensure an expanding production of advanced biofuels.

(c) Contracts

To receive a payment, an eligible producer shall—

(1) enter into a contract with the Secretary for production of advanced biofuels; and

(2) submit to the Secretary such records as the Secretary may require as evidence of the production of advanced biofuels.

(d) Basis for payments

The Secretary shall make payments under this section to eligible producers based on—

(1) the quantity and duration of production by the eligible producer of an advanced biofuel;

(2) the net nonrenewable energy content of the advanced biofuel, if sufficient data is available, as determined by the Secretary; and

(3) other appropriate factors, as determined by the Secretary.

(e) Equitable distribution

(1) Amount

The Secretary shall limit the amount of payments that may be received by a single eligible producer under this section in order to distribute the total amount of funding available in an equitable manner.

(2) Feedstock

The total amount of payments made in a fiscal year under this section to one or more eligible producers for the production of advanced biofuels derived from a single eligible commodity, including intermediate ingredients of that single commodity or use of that single commodity and its intermediate ingredients in combination with another commodity, shall not exceed one-third of the total amount of funds made available under subsection (g).

(f) Other requirements

To receive a payment under this section, an eligible producer shall meet any other requirements of Federal and State law (including regulations) applicable to the production of advanced biofuels.

(g) Funding

(1) Mandatory funding

Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

(A) \$55,000,000 for fiscal year 2009;

(B) \$55,000,000 for fiscal year 2010;

(C) \$85,000,000 for fiscal year 2011;

(D) \$105,000,000 for fiscal year 2012;

(E) \$15,000,000 for each of fiscal years 2014 through 2018; and