

strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after August 8, 2005, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

(Pub. L. 109-58, title I, §154, Aug. 8, 2005, 119 Stat. 650.)

## SUBCHAPTER II—RENEWABLE ENERGY

### PART A—GENERAL PROVISIONS

#### § 15851. Assessment of renewable energy resources

##### (a) Resource assessment

Not later than 6 months after August 8, 2005, and each year thereafter, the Secretary shall review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, marine, geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

##### (b) Contents of reports

Not later than 1 year after August 8, 2005, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

##### (c) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated to the Secretary \$10,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 109-58, title II, §201, Aug. 8, 2005, 119 Stat. 650; Pub. L. 116-260, div. Z, title III, §3006(b)(1), Dec. 27, 2020, 134 Stat. 2512.)

### Editorial Notes

#### AMENDMENTS

2020—Subsec. (a). Pub. L. 116-260 substituted “marine” for “ocean (including tidal, wave, current, and thermal)”.

#### § 15852. Federal purchase requirement

##### (a) Requirement

The President, acting through the Secretary, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

##### (b) Definitions

In this section:

###### (1) Biomass

The term “biomass” means any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency and any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

###### (2) Renewable energy

The term “renewable energy” means marine energy (as defined in section 17211 of this title), or electric energy produced from solar, wind, biomass, landfill gas, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

##### (c) Calculation

###### (1) In general

For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(A) the renewable energy is produced and used on-site at a Federal facility;

(B) the renewable energy is produced on Federal lands and used at a Federal facility; or

(C) the renewable energy is produced on Indian land as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

**(2) Separate calculation**

**(A) In general**

For purposes of determining compliance with the requirement of this section, any energy consumption that is avoided through the use of geothermal energy shall be considered to be renewable energy produced.

**(B) Efficiency accounting**

Energy consumption that is avoided through the use of geothermal energy that is considered to be renewable energy under this section shall not be considered energy efficiency for the purpose of compliance with Federal energy efficiency goals, targets, and incentives.

**(d) Report**

Not later than April 15, 2007, and every 2 years thereafter, the Secretary shall provide a report to Congress on the progress of the Federal Government in meeting the goals established by this section.

(Pub. L. 109–58, title II, §203, Aug. 8, 2005, 119 Stat. 652; Pub. L. 116–260, div. Z, title III, §§3002(o), 3006(b)(2), Dec. 27, 2020, 134 Stat. 2497, 2512.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Energy Policy Act of 1992, referred to in subsec. (c)(1)(C), is Pub. L. 102–486, Oct. 24, 1992, 106 Stat. 2776. Title XXVI of the Act is classified generally to chapter 37 (§3501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of this title and Tables.

**AMENDMENTS**

2020—Subsec. (b)(2). Pub. L. 116–260, §3006(b)(2), inserted “marine energy (as defined in section 17202 of this title), or” before “electric energy” and struck out “ocean (including tidal, wave, current, and thermal),” before “geothermal”.

Pub. L. 116–260, §3002(o)(1), substituted “produced” for “generated”.

Subsec. (c). Pub. L. 116–260, §3002(o)(2), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), and added par. (2).

**Executive Documents**

**FEDERAL LEADERSHIP ON ENERGY MANAGEMENT**

Memorandum of President of the United States, Dec. 5, 2013, 78 F.R. 75209, which set a renewable energy target and building performance and energy management requirements for Federal agencies, was revoked by Ex. Ord. No. 13693, §16(b), Mar. 19, 2015, 80 F.R. 15880, formerly set out in a note under section 4321 of this title.

**§ 15853. Rebate program**

**(1) Establishment**

The Secretary shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

**(2) Amount of rebate**

Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

- (A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or
- (B) \$3,000.

**(3) Definition**

For purposes of this section, the term “renewable energy system” has the meaning given that term in section 6865(c)(6)(A) of this title.

**(4) Authorization of appropriations**

There are authorized to be appropriated to the Secretary for carrying out this section, to remain available until expended—

- (A) \$150,000,000 for fiscal year 2006;
- (B) \$150,000,000 for fiscal year 2007;
- (C) \$200,000,000 for fiscal year 2008;
- (D) \$250,000,000 for fiscal year 2009; and
- (E) \$250,000,000 for fiscal year 2010.

(Pub. L. 109–58, title II, §206(c), Aug. 8, 2005, 119 Stat. 655.)

**§ 15854. Sugar Cane Ethanol Program**

**(a) Definition of program**

In this section, the term “program” means the Sugar Cane Ethanol Program established by subsection (b).

**(b) Establishment**

There is established within the Environmental Protection Agency a program to be known as the “Sugar Cane Ethanol Program”.

**(c) Project**

**(1) In general**

Subject to the availability of appropriations under subsection (d), in carrying out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

- (A) carried out in multiple States—
  - (i) in each of which is produced cane sugar that is eligible for loans under section 7272 of title 7, or a similar subsequent authority; and
  - (ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and
- (B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

**(2) Requirements**

A project described in paragraph (1) shall—

- (A) be limited to sugar producers and the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii, divided equally among the States, to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;
- (B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and
- (C) not last more than 3 years.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$36,000,000, to remain available until expended.

(Pub. L. 109–58, title II, §208, Aug. 8, 2005, 119 Stat. 656.)

**§ 15855. Grants to improve the commercial value of forest biomass for electric energy, useful heat, transportation fuels, and other commercial purposes**

**(a) Definitions**

In this section:

**(1) Biomass**

The term “biomass” means nonmerchable materials or precommercial thinnings that are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

- (A) to reduce hazardous fuels;
- (B) to reduce or contain disease or insect infestation; or
- (C) to restore forest health.

**(2) Indian tribe**

The term “Indian tribe” has the meaning given the term in section 5304(e) of title 25.

**(3) Nonmerchable**

For purposes of subsection (b), the term “nonmerchable” means that portion of the byproducts of preventive treatments that would not otherwise be used for higher value products.

**(4) Person**

The term “person” includes—

- (A) an individual;
- (B) a community (as determined by the Secretary concerned);
- (C) an Indian tribe;
- (D) a small business or a corporation that is incorporated in the United States; and
- (E) a nonprofit organization.

**(5) Preferred community**

The term “preferred community” means—

- (A) any Indian tribe;
- (B) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—
  - (i) has a population of not more than 50,000 individuals; and
  - (ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or
- (C) any county that—
  - (i) is not contained within a metropolitan statistical area; and
  - (ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near Federal or Indian land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

**(6) Secretary concerned**

The term “Secretary concerned” means the Secretary of Agriculture or the Secretary of the Interior.

**(b) Biomass commercial use grant program**

**(1) In general**

The Secretary concerned may make grants to any person in a preferred community that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, or transportation fuels to offset the costs incurred to purchase biomass for use by such facility.

**(2) Grant amounts**

A grant under this subsection may not exceed \$20 per green ton of biomass delivered.

**(3) Monitoring of grant recipient activities**

As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

**(c) Improved biomass use grant program**

**(1) In general**

The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

**(2) Selection**

The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to—

- (A) the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy;
- (B) opportunities for the creation or expansion of small businesses and micro-businesses;
- (C) the potential for new job creation;
- (D) the potential for the project to improve efficiency or develop cleaner technologies for biomass utilization; and
- (E) the potential for the project to reduce the hazardous fuels from the areas in greatest need of treatment.

**(3) Grant amount**

A grant under this subsection may not exceed \$500,000.

**(d) Authorization of appropriations**

There are authorized to be appropriated \$50,000,000 for fiscal year 2006 and \$35,000,000 for each of fiscal years 2007 through 2016 to carry out this section.

**(e) Report**

Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Com-

mittee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives, a report describing the results of the grant programs authorized by this section. The report shall include the following:

- (1) An identification of the size, type, and use of biomass by persons that receive grants under this section.
- (2) The distance between the land from which the biomass was removed and the facility that used the biomass.
- (3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

(Pub. L. 109–58, title II, §210, Aug. 8, 2005, 119 Stat. 658; Pub. L. 109–375, §6, Dec. 1, 2006, 120 Stat. 2658.)

#### Editorial Notes

##### AMENDMENTS

2006—Subsec. (d). Pub. L. 109–375 substituted “\$50,000,000 for fiscal year 2006 and \$35,000,000 for each of fiscal years 2007 through 2016” for “\$50,000,000 for each of the fiscal years 2006 through 2016”.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### PART B—GEOTHERMAL ENERGY

### § 15871. Coordination of geothermal leasing and permitting on Federal lands

#### (a) In general

Not later than 180 days after August 8, 2005, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act) [30 U.S.C. 1001 et seq.], and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

#### (b) Lease and permit applications

The memorandum of understanding shall—

- (1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing;
- (2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and
- (3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on August 8, 2005, including, as necessary, by issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under

which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application.

#### (c) Data retrieval system

The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

(Pub. L. 109–58, title II, §225, Aug. 8, 2005, 119 Stat. 665.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsec. (a), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

This Act, referred to in subsec. (a), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

### § 15872. Assessment of geothermal energy potential

Not later than 3 years after August 8, 2005, and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

- (1) update the Assessment of Geothermal Resources made during 1978; and
- (2) submit to Congress the updated assessment.

(Pub. L. 109–58, title II, §226, Aug. 8, 2005, 119 Stat. 665.)

### § 15873. Deposit and use of geothermal lease revenues for 5 fiscal years

#### (a) Deposit of geothermal resources leases

Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after August 8, 2005, as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

#### (b) Use of deposits

Amounts deposited under subsection (a) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, to implement the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.] and this Act.

#### (c) Transfer of funds

For the purposes of coordination and processing of geothermal leases and geothermal use

authorizations on Federal land the Secretary of the Interior may authorize the expenditure or transfer of such funds as are necessary to the Forest Service.

(Pub. L. 109–58, title II, §234, Aug. 8, 2005, 119 Stat. 671.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in subsecs. (a) and (b), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§1001 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

This Act, referred to in subsec. (b), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

#### § 15874. Intermountain West Geothermal Consortium

##### (a) Participation authorized

The Secretary, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

##### (b) Members

The consortium referred to in subsection (a) shall—

(1) be known as the “Intermountain West Geothermal Consortium”;

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

##### (c) Financial assistance

The Secretary, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

(Pub. L. 109–58, title II, §237, Aug. 8, 2005, 119 Stat. 673.)

#### PART C—HYDROELECTRIC

#### § 15881. Hydroelectric production incentives

##### (a) Incentive payments

For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

##### (b) Definitions

For purposes of this section:

##### (1) Qualified hydroelectric facility

The term “qualified hydroelectric facility” means a turbine or other generating device owned or solely operated by a non-Federal entity—

(A) that generates hydroelectric energy for sale; and

(B)(i) that is added to an existing dam or conduit; or

(ii)(I) that has a generating capacity of not more than 20 megawatts;

(II) for which the non-Federal entity has received a construction authorization from the Federal Energy Regulatory Commission, if applicable; and

(III) that is constructed in an area in which there is inadequate electric service, as determined by the Secretary, including by taking into consideration—

(aa) access to the electric grid;

(bb) the frequency of electric outages; or

(cc) the affordability of electricity.

##### (2) Existing dam or conduit

The term “existing dam or conduit” means any dam or conduit the construction of which was completed before November 15, 2021, and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

##### (3) Conduit

The term “conduit” has the same meaning as when used in section 823a(a)(2) of title 16.

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after November 15, 2021.

##### (c) Eligibility window

Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins oper-

ation during the period of 22 fiscal years beginning with the first full fiscal year occurring after August 8, 2005.

**(d) Incentive period**

A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the “incentive period”). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

**(e) Amount of payment**

**(1) In general**

Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than \$1,000,000 in 1 calendar year.

**(2) Adjustments**

The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 45K(d)(2)(B) of title 26, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

**(f) Sunset**

No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 32 fiscal years beginning with the first full fiscal year occurring after August 8, 2005, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

**(g) Authorization of appropriations**

There is authorized to be appropriated to the Secretary to carry out this section \$125,000,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 109–58, title II, § 242, Aug. 8, 2005, 119 Stat. 677; Pub. L. 116–260, div. Z, title III, § 3005(a), Dec. 27, 2020, 134 Stat. 2511; Pub. L. 117–58, div. D, title III, § 40331, Nov. 15, 2021, 135 Stat. 1022.)

**Editorial Notes**

**AMENDMENTS**

2021—Subsec. (b). Pub. L. 117–58, § 40331(2), substituted “November 15, 2021” for “August 8, 2005” in concluding provisions.

Subsec. (b)(2). Pub. L. 117–58, § 40331(1), substituted “before November 15, 2021” for “before August 8, 2005”.

Subsec. (e)(1). Pub. L. 117–58, § 40331(3), substituted “\$1,000,000” for “\$750,000”.

Subsec. (g). Pub. L. 117–58, § 40331(4), added subsec. (g) and struck out former subsec. (g). Prior to amendment, text read as follows: “There are authorized to be appro-

priated to the Secretary to carry out the purposes of this section \$10,000,000 for each of fiscal years 2021 through 2036.”

2020—Subsec. (b)(1). Pub. L. 116–260, § 3005(a)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The term ‘qualified hydroelectric facility’ means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.”

Subsec. (c). Pub. L. 116–260, § 3005(a)(2), substituted “22” for “10”.

Subsec. (e)(2). Pub. L. 116–260, § 3005(a)(3), substituted “section 45K(d)(2)(B)” for “section 29(d)(2)(B)”.

Subsec. (f). Pub. L. 116–260, § 3005(a)(4), substituted “32” for “20”.

Subsec. (g). Pub. L. 116–260, § 3005(a)(5), substituted “each of fiscal years 2021 through 2036” for “each of the fiscal years 2006 through 2015”.

**Statutory Notes and Related Subsidiaries**

**WAGE RATE REQUIREMENTS**

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

**§ 15882. Hydroelectric efficiency improvement incentives**

**(a) Incentive payments**

The Secretary shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

**(b) Limitations**

Incentive payments under this section shall not exceed 30 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of \$5,000,000 may be made with respect to improvements at a single facility in any 1 fiscal year.

**(c) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$75,000,000 for fiscal year 2022 to remain available until expended.

(Pub. L. 109–58, title II, § 243, Aug. 8, 2005, 119 Stat. 678; Pub. L. 116–260, div. Z, title III, § 3005(b), Dec. 27, 2020, 134 Stat. 2511; Pub. L. 117–58, div. D, title III, § 40332(a), Nov. 15, 2021, 135 Stat. 1023.)

**Editorial Notes**

**AMENDMENTS**

2021—Pub. L. 117–58, § 40332(a)(1), inserted “incentives” after “improvement” in section catchline.

Subsec. (b). Pub. L. 117–58, § 40332(a)(2), substituted “30 percent” for “10 percent” and “\$5,000,000” for “\$750,000” and inserted “in any 1 fiscal year” before period.

Subsec. (c). Pub. L. 117–58, § 40332(a)(3), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “There are authorized to be appropriated to carry out this section not more than \$10,000,000 for each of fiscal years 2021 through 2036.”

2020—Subsec. (c). Pub. L. 116–260 substituted “each of fiscal years 2021 through 2036” for “each of the fiscal years 2006 through 2015”.

**Statutory Notes and Related Subsidiaries****WAGE RATE REQUIREMENTS**

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.

**§ 15883. Maintaining and enhancing hydroelectricity incentives****(a) Definition of qualified hydroelectric facility**

In this section, the term “qualified hydroelectric facility” means a hydroelectric project that—

(1)(A) is licensed by the Federal Energy Regulatory Commission; or

(B) is a hydroelectric project constructed, operated, or maintained pursuant to a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to the Federal Power Act (16 U.S.C. 791a et seq.);

(2) is placed into service before November 15, 2021; and

(3)(A) is in compliance with all applicable Federal, Tribal, and State requirements; or

(B) would be brought into compliance with the requirements described in subparagraph (A) as a result of the capital improvements carried out using an incentive payment under this section.

**(b) Incentive payments**

The Secretary shall make incentive payments to the owners or operators of qualified hydroelectric facilities for capital improvements directly related to—

(1) improving grid resiliency, including—

(A) adapting more quickly to changing grid conditions;

(B) providing ancillary services (including black start capabilities, voltage support, and spinning reserves);

(C) integrating other variable sources of electricity generation; and

(D) managing accumulated reservoir sediments;

(2) improving dam safety to ensure acceptable performance under all loading conditions (including static, hydrologic, and seismic conditions), including—

(A) the maintenance or upgrade of spillways or other appurtenant structures;

(B) dam stability improvements, including erosion repair and enhanced seepage controls; and

(C) upgrades or replacements of floodgates or natural infrastructure restoration or protection to improve flood risk reduction; or

(3) environmental improvements, including—

(A) adding or improving safe and effective fish passage, including new or upgraded turbine technology, fish ladders, fishways, and all other associated technology, equipment, or other fish passage technology to a qualified hydroelectric facility;

(B) improving the quality of the water retained or released by a qualified hydroelectric facility;

(C) promoting downstream sediment transport processes and habitat maintenance; and

(D) improving recreational access to the project vicinity, including roads, trails, boat ingress and egress, flows to improve recreation, and infrastructure that improves river recreation opportunity.

**(c) Limitations****(1) Costs**

Incentive payments under this section shall not exceed 30 percent of the costs of the applicable capital improvement.

**(2) Maximum amount**

Not more than 1 incentive payment may be made under this section with respect to capital improvements at a single qualified hydroelectric facility in any 1 fiscal year, the amount of which shall not exceed \$5,000,000.

**(d) Authorization of appropriations**

There is authorized to be appropriated to the Secretary to carry out this section \$553,600,000 for fiscal year 2022, to remain available until expended.

(Pub. L. 109-58, title II, §247, as added Pub. L. 117-58, div. D, title III, §40333(a), Nov. 15, 2021, 135 Stat. 1023.)

**Editorial Notes****REFERENCES IN TEXT**

The Federal Power Act, referred to in subsec. (a)(1)(B), is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

**Statutory Notes and Related Subsidiaries****WAGE RATE REQUIREMENTS**

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.

**PART D—INSULAR ENERGY****§ 15891. Projects enhancing insular energy independence****(a) Project feasibility studies****(1) In general**

On a request described in paragraph (2), the Secretary shall conduct a feasibility study of a project to implement a strategy or project identified in the plans submitted to Congress pursuant to section 1492 of title 48 as having the potential to—

(A) significantly reduce the dependence of an insular area on imported fossil fuels; or

(B) provide needed distributed generation to an insular area.

**(2) Request**

The Secretary shall conduct a feasibility study under paragraph (1) on—

(A) the request of an electric utility located in an insular area that commits to

fund at least 10 percent of the cost of the study; and

(B) if the electric utility is located in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, written support for that request by the President or the Ambassador of the affected freely associated state.

**(3) Consultation**

The Secretary shall consult with regional utility organizations in—

(A) conducting feasibility studies under paragraph (1); and

(B) determining the feasibility of potential projects.

**(4) Feasibility**

For the purpose of a feasibility study under paragraph (1), a project shall be determined to be feasible if the project would significantly reduce the dependence of an insular area on imported fossil fuels, or provide needed distributed generation to an insular area, at a reasonable cost.

**(b) Implementation**

**(1) In general**

On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project is feasible under subsection (a) and a commitment by an electric utility to operate and maintain the project, the Secretary may provide such technical and financial assistance as the Secretary determines is appropriate for the implementation of the project.

**(2) Regional utility organizations**

In providing assistance under paragraph (1), the Secretary shall consider providing the assistance through regional utility organizations.

**(c) Authorization of appropriations**

**(1) In general**

There are authorized to be appropriated to the Secretary—

(A) \$500,000 for each fiscal year for project feasibility studies under subsection (a); and

(B) \$4,000,000 for each fiscal year for project implementation under subsection (b).

**(2) Limitation of funds received by insular areas**

No insular area may receive, during any 3-year period, more than 20 percent of the total funds made available during that 3-year period under subparagraphs (A) and (B) of paragraph (1) unless the Secretary determines that providing funding in excess of that percentage best advances existing opportunities to meet the objectives of this section.

(Pub. L. 109-58, title II, §252, Aug. 8, 2005, 119 Stat. 682.)

SUBCHAPTER III—OIL AND GAS

PART A—PRODUCTION INCENTIVES

**§ 15901. Definition of Secretary**

In this part, the term “Secretary” means the Secretary of the Interior.

(Pub. L. 109-58, title III, §341, Aug. 8, 2005, 119 Stat. 697.)

**Editorial Notes**

REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle E (§§341-357) of title III of Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 697, which enacted this part, amended sections 6504, 6506a, 6507, and 6508 of this title, sections 184 and 226 of Title 30, Mineral Lands and Mining, and section 1337 of Title 43, Public Lands, and enacted provisions set out as a note under section 226 of Title 30. For complete classification of subtitle E to the Code, see Tables.

**§ 15902. Program on oil and gas royalties in-kind**

**(a) Applicability of section**

Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after August 8, 2005, under any Federal oil or gas lease or permit under—

(1) section 192 of title 30;

(2) section 1353 of title 43; or

(3) any other Federal law governing leasing of Federal land for oil and gas development.

**(b) Terms and conditions**

All royalty accruing to the United States shall, on the demand of the Secretary, be paid in-kind. If the Secretary makes such a demand, the following provisions apply to the payment:

**(1) Satisfaction of royalty obligation**

Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

**(2) Marketable condition**

**(A) Definition of marketable condition**

In this paragraph, the term “in marketable condition” means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

**(B) Requirement**

Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

**(3) Disposition by the Secretary**

The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 1353(a)(3) of title 43<sup>1</sup> for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

**(4) Retention by the Secretary**

The Secretary may, notwithstanding section 3302 of title 31, retain and use a portion of the

<sup>1</sup>So in original. Probably should be followed by a closing parenthesis.