

quest of the President submitted pursuant to section 1105 of title 31.

(3) In this subsection, the term “covered project” means a project connected to a Department of Defense Information Network for which funds are made available under this section.

(f) APPLICATION TO MILITARY CONSTRUCTION PROJECTS.—This section shall apply to military construction projects covered by subsection (a) for which a Department of Defense Form 1391 is submitted to the appropriate committees of Congress in connection with the budget of the Department of Defense for fiscal year 2023 and thereafter.

(Added Pub. L. 109-364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2493; amended Pub. L. 114-328, div. B, title XXVIII, §2805(a)(1), (b)(1)(A), (2), Dec. 23, 2016, 130 Stat. 2713, 2714; Pub. L. 115-91, div. B, title XXVIII, §§2801(e)(1), 2831(c)(1), Dec. 12, 2017, 131 Stat. 1845, 1857; Pub. L. 115-232, div. A, title X, §1081(a)(29), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 116-283, div. B, title XXVIII, §§2805(a), 2823(b), Jan. 1, 2021, 134 Stat. 4321, 4333; Pub. L. 117-81, div. B, title XXVIII, §2804, Dec. 27, 2021, 135 Stat. 2188; Pub. L. 118-31, div. B, title XXVIII, §2809, Dec. 22, 2023, 137 Stat. 746.)

Editorial Notes

AMENDMENTS

2023—Subsecs. (e), (f). Pub. L. 118-31 added subsec. (e) and redesignated former subsec. (e) as (f).

2021—Pub. L. 116-283, §2805(a), amended section generally. Prior to amendment, section related to energy resilience and conservation construction projects.

Subsecs. (c), (d). Pub. L. 117-81 added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 116-283, §2823(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 117-81, §2804(1), redesignated subsec. (d) as (e).

2018—Pub. L. 115-232 substituted “resilience” for “resiliency” in section catchline.

2017—Pub. L. 115-91, §2831(c)(1), substituted “energy resilience” for “energy resiliency” wherever appearing in text.

Subsec. (b)(1). Pub. L. 115-91, §2801(e)(1), struck out “in writing” after “shall notify” and “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided” after “received by such committees” and substituted “14-day period” for “21-day period”.

2016—Pub. L. 114-328, §2805(a)(1)(A), inserted “resiliency and” before “conservation construction projects” in section catchline. Text quoted in directory language of amendment was editorially conformed to the style of the catchline.

Subsec. (a). Pub. L. 114-328, §2805(a)(1)(B), substituted “military construction project for energy resiliency, energy security, or energy conservation” for “military construction project for energy conservation”.

Subsec. (b). Pub. L. 114-328, §2805(b)(1)(A), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 114-328, §2805(b)(2), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. B, title XXVIII, §2805(b)(1)(B), Dec. 23, 2016, 130 Stat. 2714, provided that: “The amendment made by subparagraph (A) [amending this sec-

tion] shall apply with respect to notifications provided during fiscal year 2017 or any succeeding fiscal year.”

§ 2915. Facilities: use of renewable forms of energy and energy efficient products

(a) USE OF RENEWABLE FORMS OF ENERGY ENCOURAGED.—The Secretary of Defense shall encourage the use of energy systems using solar energy or other renewable forms of energy as a source of energy for military construction projects (including military family housing projects) and facility repairs and renovations where use of such form of energy is consistent with the energy performance goals and energy performance master 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) CONSIDERATION DURING DESIGN PHASE OF PROJECTS.—(1) The Secretary concerned shall require that the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—

(A) is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title; and

(B) supported by the special considerations specified in subsection (e) of such section.

(2) The Secretary concerned shall require that contracts for construction resulting from such design include a requirement that energy systems using solar energy or other renewable forms of energy be installed if such systems can be shown to be cost effective.

(c) DETERMINATION OF COST EFFECTIVENESS.—(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy for a facility shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system for the facility with such a system, and (B) the original investment cost of the energy system for the facility without such a system can be recovered over the expected life of the facility.

(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a facility 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)).

(d) EXCEPTION TO SQUARE FEET AND COST PER SQUARE FOOT LIMITATIONS.—In order to equip a military construction project (including a military family housing project) with heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy, the Secretary concerned may authorize an increase in any otherwise applicable limitation with respect to the number of square feet or the cost per square foot of the project by such amount as may be necessary for such purpose. Any such increase under this sub-

section shall be in addition to any other administrative increase in cost per square foot or variation in floor area authorized by law.

(e) USE OF ENERGY EFFICIENT PRODUCTS IN FACILITIES.—(1) The Secretary of Defense shall ensure, to the maximum extent practicable, that energy efficient products meeting the requirements of the Department of Defense are used in construction, repair, or renovation of facilities by or for the Department carried out under chapter 169 of this title if such products are readily available and their use is consistent with the energy performance goals and energy performance master plan for the Department developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(2)(A) The Secretary of Defense shall prescribe a definition of the term “energy-efficient product” for purposes of this subsection and establish and maintain a list of products satisfying the definition. The definition and list shall be developed in consultation with the Secretary of Energy to ensure, to the maximum extent practicable, consistency with definitions of the term used by other Federal agencies.

(B) The Secretary shall modify the definition and list of energy-efficient products as necessary to account for emerging or changing technologies.

(C) The list of energy-efficient products shall be included as part of the energy performance master plan developed pursuant to section 2911(d)(2) of this title.

(3) In determining the energy efficiency of products, the Secretary shall consider products that—

(A) meet or exceed Energy Star specifications; or

(B) are listed on the Federal Energy Management Program Product Energy Efficiency Recommendations product list of the Department of Energy.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 166, §2857; amended Pub. L. 97-321, title VIII, §801(b)(1), (2), Oct. 15, 1982, 96 Stat. 1571; Pub. L. 98-525, title XIV, §1405(45)(A), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 101-218, §8(b), Dec. 11, 1989, 103 Stat. 1868; Pub. L. 101-510, div. B, title XXVIII, §2852(b), Nov. 5, 1990, 104 Stat. 1804; Pub. L. 102-25, title VII, §701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered §2915 and amended Pub. L. 109-364, div. B, title XXVIII, §§2851(b)(1), (3)(A), 2854, Oct. 17, 2006, 120 Stat. 2494, 2497; Pub. L. 111-383, div. B, title XXVIII, §2832(b), Jan. 7, 2011, 124 Stat. 4468; Pub. L. 112-81, div. B, title XXVIII, §2825(a), Dec. 31, 2011, 125 Stat. 1693; Pub. L. 115-91, div. B, title XXVIII, §2831(c)(2), Dec. 12, 2017, 131 Stat. 1857.)

Editorial Notes

AMENDMENTS

2017—Subsecs. (a), (b)(1)(B), (e)(1). Pub. L. 115-91, §2831(c)(2)(A), substituted “subsection (e)” for “subsection (c)”.

Subsec. (e)(2)(C). Pub. L. 115-91, §2831(c)(2)(B), substituted “2911(d)(2)” for “2911(b)(2)”.

2011—Pub. L. 111-383, §2832(b)(4), substituted “Facilities: use of renewable forms of energy and energy efficient products” for “New construction: use of renew-

able forms of energy and energy efficient products” in section catchline.

Subsec. (a). Pub. L. 111-383, §2832(b)(1), inserted “and facility repairs and renovations” after “military family housing projects)” and substituted “energy performance master plan” for “energy performance plan”.

Subsec. (b)(1). Pub. L. 111-383, §2832(b)(2), substituted “the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—” for “the design of all new facilities (including family housing) shall include consideration of energy systems using solar energy or other renewable forms of energy.” and added subpars. (A) and (B).

Subsec. (e). Pub. L. 111-383, §2832(b)(3)(A), substituted “Use of Energy Efficient Products in Facilities” for “Use of Energy Efficiency Products in New Construction” in heading.

Subsec. (e)(1). Pub. L. 111-383, §2832(b)(3)(B), substituted “construction, repair, or renovation of facilities” for “new facility construction” and “energy performance master plan” for “energy performance plan”.

Subsec. (e)(2). Pub. L. 112-81 added par. (2) and struck out former par. (2), which related to energy efficient products and provided examples of technologies, consistent with the products specified in paragraph (3).

Pub. L. 111-383, §2832(b)(3)(D), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 111-383, §2832(b)(3)(C), redesignated par. (2) as (3).

2006—Pub. L. 109-364, §2854(b)(1), substituted “New construction: use of renewable forms of energy and energy efficient products” for “Use of renewable forms of energy in new facilities” in section catchline.

Pub. L. 109-364, §2851(b)(1), renumbered section 2857 of this title as this section.

Subsec. (a). Pub. L. 109-364, §2854(b)(2),(3)(A)(i), inserted heading and substituted “is 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 “would be practical and economically feasible”.

Subsec. (b). Pub. L. 109-364, §2854(b)(3), inserted heading.

Subsec. (b)(1). Pub. L. 109-364, §2851(b)(3)(A)(ii), struck out “in those cases in which use of such forms of energy has the potential for reduced energy costs” before period at end.

Subsecs. (c), (d). Pub. L. 109-364, §2854(b)(4), (5) inserted headings.

Subsec. (e). Pub. L. 109-364, §2854(a), added subsec. (e). 1991—Subsec. (c)(2). Pub. L. 102-25 inserted “(42 U.S.C. 8254(a))” after “Policy Act”.

1990—Subsec. (c)(2), (3). Pub. L. 101-510 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 facility 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 with and without an energy system using solar energy or other renewable forms of energy over the expected life of the facility 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.”

1989—Subsec. (b)(1). Pub. L. 101-218 substituted “reduced energy costs” for “significant savings of fossil-fuel-derived energy”.

1984—Subsec. (b)(1). Pub. L. 98-525 substituted “use of such forms of energy has the potential for” for “use of solar energy has the potential for”.

1982—Pub. L. 97-321, §801(b)(2), substituted “renewable forms of energy in new facilities” for “solar energy systems” in section catchline.

Subsec. (a). Pub. L. 97-321, §801(b)(1)(A), substituted “energy systems using solar energy or other renewable forms of energy” and “such form of energy would” for “solar energy systems” and “solar energy would”, respectively.

Subsec. (b)(1). Pub. L. 97-321, §801(b)(1)(B), substituted “energy systems using solar energy or other renewable forms of energy” for “solar energy systems” and directed that “such form of energy has” be substituted for “a solar energy has”, but “a solar energy has” did not appear in par. (1). See 1984 Amendment note above.

Subsec. (b)(2). Pub. L. 97-321, §801(b)(1)(B)(i), substituted “energy systems using solar energy or other renewable forms of energy” for “solar energy systems”.

Subsec. (c). Pub. L. 97-321, §801(b)(1)(C)–(E), substituted: in par. (1) “an energy system using solar energy or other renewable forms of energy” for “a solar energy system” before “for a facility” and in items (A) and (B) “such a system” for “a solar energy system”; in par. (2)(A) “an energy system using solar energy or other renewable forms of energy” for “a solar energy system”; and in par. (3) “energy system using solar energy or other renewable forms of energy” for “solar energy system”, respectively.

Subsec. (d). Pub. L. 97-321, §801(b)(1)(F), substituted “heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy” for “solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-525, title XIV, §1405(45)(B), Oct. 19, 1984, 98 Stat. 2625, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if it had been included in the amendments made by section 801 of Public Law 97-321.”

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2916. Sale of electricity from alternate energy and cogeneration production facilities

(a) The Secretary of a military department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company of electrical energy generated from alternate energy or cogeneration type production facilities which are under the jurisdiction (or produced on land which is under the jurisdiction) of the Secretary concerned. The sale of such energy shall be made under such regulations, for such periods, and at such prices as the Secretary concerned prescribes consistent with the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(b)(1) Except as provided in paragraph (3), proceeds from sales under subsection (a) shall be credited to the appropriation account currently available to the military department concerned for the supply of electrical energy.

(2) Subject to the availability of appropriations for this purpose, proceeds credited under

paragraph (1) may be used to carry out military construction projects under the energy performance plan developed by the Secretary of Defense under section 2911(c)¹ of this title, including minor military construction projects authorized under section 2805 of this title that are designed to increase energy conservation.

(3) In the case of proceeds from a sale of electrical energy generated from any geothermal energy resource—

(A) 50 percent shall be credited to the appropriation account described in paragraph (1); and

(B) 50 percent shall be deposited in a special account in the Treasury established by the Secretary concerned which shall be provided directly to the commander of the military installation in which the geothermal energy resource is located to be used for—

(i) military construction projects described in paragraph (2) that benefit the military installation where the geothermal energy resource is located; or

(ii) energy or water security projects that—

(I) benefit the military installation where the geothermal energy resource is located;

(II) the commander of the military installation determines are necessary; and

(III) are directly coordinated with local area energy or groundwater governing authorities.

(c) Before carrying out a military construction project described in subsection (b) using proceeds from sales under subsection (a), the Secretary concerned shall notify Congress of the project, the justification for the project, and the estimated cost of the project. The project may be carried out only after the end of the 14-day period beginning on the date the notification is received by Congress in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 98-407, title VIII, §810(a), Aug. 28, 1984, 98 Stat. 1523, §2483; amended Pub. L. 103-160, div. B, title XXVIII, §2802, Nov. 30, 1993, 107 Stat. 1884; renumbered §2867, Pub. L. 105-85, div. A, title III, §371(b)(2), Nov. 18, 1997, 111 Stat. 1705; Pub. L. 108-136, div. A, title X, §1031(a)(49), Nov. 24, 2003, 117 Stat. 1602; renumbered §2916 and amended Pub. L. 109-364, div. B, title XXVIII, §2851(b)(1), (3)(B), Oct. 17, 2006, 120 Stat. 2494; Pub. L. 115-91, div. B, title XXVIII, §§2801(e)(2), 2831(c)(3), Dec. 12, 2017, 131 Stat. 1845, 1858; Pub. L. 115-232, div. A, title III, §313, Aug. 13, 2018, 132 Stat. 1711; Pub. L. 116-92, div. A, title III, §318, Dec. 20, 2019, 133 Stat. 1305.)

Editorial Notes

REFERENCES IN TEXT

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

Section 2911(c) of this title, referred to in subsec. (b)(2), was, prior to amendment by Pub. L. 115-91, a reference to section 2911(b) of this title. Pub. L. 115-91 re-

¹ See References in Text note below.