

(1) under section 2917 of this title; and

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

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

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

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

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

Editorial Notes

AMENDMENTS

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

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

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

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

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

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

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

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

1987—Subsec. (c). Pub. L. 100-26, which directed that “The term” be inserted in each paragraph after the paragraph designation and the first word after the first quotation marks in each paragraph be revised so that the initial letter of such word is lowercase, could not be executed because subsec. (c) contained no paragraphs and no quoted words. The probable intent of Congress was to amend section 2393(c) of this title.

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1982, and applicable to military construction projects, and to construction and ac-

quisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

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

(a) In procuring energy systems the Secretary of a military department shall procure systems that use solar energy or other renewable forms of energy whenever the Secretary determines that such procurement is possible, suited to supplying the energy needs of the military department under the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (e) of such section.

(b) The Secretary of Defense shall from time to time study uses for solar energy and other renewable forms of energy to determine what uses of such forms of energy may be reliable in supplying the energy needs of the Department of Defense. The Secretary of Defense, based upon the results of such studies, shall from time to time issue policy guidelines to be followed by the Secretaries of the military departments in carrying out subsection (a) and section 2915 of this title.

(Added Pub. L. 97-321, title VIII, §801(a)(1), Oct. 15, 1982, 96 Stat. 1569, §2394a; amended Pub. L. 98-525, title XIV, §1405(36), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 101-510, div. A, title XIII, §1322(a)(7), div. B, title XXVIII, §2852(a), Nov. 5, 1990, 104 Stat. 1671, 1804; Pub. L. 102-25, title VII, §701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered §2922b and amended Pub. L. 109-364, div. B, title XXVIII, §2851(b)(2), (3)(D), Oct. 17, 2006, 120 Stat. 2494, 2495; Pub. L. 115-91, div. B, title XXVIII, §2831(c)(4), Dec. 12, 2017, 131 Stat. 1858.)

Editorial Notes

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 substituted “subsection (e)” for “subsection (c)”.

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

Subsec. (a). Pub. L. 109-364, §2851(b)(3)(D)(i), substituted “possible, suited” for “possible and will be cost effective, reliable, and otherwise suited” and “the jurisdiction of the Secretary, consistent with the energy performance goals and energy performance plan for the Department of Defense developed under section 2911 of this title, and supported by the special considerations specified in subsection (c) of such section” for “his jurisdiction”.

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

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

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

“(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a system shall be made using the lifecycle cost methods and procedures established pursu-

ant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).”

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

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

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

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

SUBMISSION DATE FOR FIRST REPORT

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

§ 2922c. Procurement of gasohol as motor vehicle fuel

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

(b) SOLICITATIONS.—Whenever the Secretary issues a solicitation for bids to procure unleaded gasoline under subsection (a), the Secretary shall expressly include in such solicitation a request for bids on alcohol-gasoline blends containing at least 10 percent domestically produced alcohol.

(Added Pub. L. 97-295, § 1(29)(A), Oct. 12, 1982, 96 Stat. 1293, § 2398; amended Pub. L. 102-190, div. A, title VIII, § 841(a), Dec. 5, 1991, 105 Stat. 1448; Pub. L. 104-106, div. A, title X, § 1061(h), Feb. 10, 1996, 110 Stat. 443; renumbered § 2922c, Pub. L. 109-364, div. B, title XXVIII, § 2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2398	10:2388 (note).	Nov. 9, 1979, Pub. L. 96-107, § 815, 93 Stat. 817.

The word “prescribed” is substituted for “determined” because it is more appropriate. The word “Secretary” is substituted for “Department of Defense” because the responsibility is in the head of the agency. The word “shall” is substituted for “is authorized and directed” for clarity.

Editorial Notes

REFERENCES IN TEXT

Executive Order Number 12661, referred to in subsec. (a), is set out under section 8871 of Title 42, The Public Health and Welfare.

Section 4081 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 4081 of Title 26, Internal Revenue Code.

AMENDMENTS

2006—Pub. L. 109-364 renumbered section 2398 of this title as this section.

1996—Subsec. (a). Pub. L. 104-106, § 1061(h)(1), (2)(A), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: “DOD MOTOR VEHICLES.—To the maximum extent feasible and consistent with overall defense needs and vehicle management practices prescribed by the Secretary of Defense, the Secretary shall make contracts, by competitive bid and subject to appropriations, to purchase domestically produced alcohol or alcohol-gasoline blends containing at least 10 percent domestically produced alcohol for use in motor vehicles owned or operated by the Department of Defense.”

Subsec. (b). Pub. L. 104-106, § 1061(h)(2), redesignated subsec. (c) as (b) and substituted “subsection (a)” for “subsection (b)”. Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 104-106, § 1061(h)(2)(A), redesignated subsec. (c) as (b).

1991—Pub. L. 102-190 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-190, div. A, title VIII, § 841(b), Dec. 5, 1991, 105 Stat. 1448, provided that: “Section 2398(b) [now 2922c(a)] of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded pursuant to solicitations issued after the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 5, 1991].”

§ 2922d. Procurement of fuel derived from coal, oil shale, and tar sands

(a) USE OF FUEL TO MEET DEPARTMENT OF DEFENSE NEEDS.—The Secretary of Defense shall develop a strategy to use fuel produced, in whole or in part, from coal, oil shale, and tar sands (referred to in this section as a “covered fuel”) that are extracted by either mining or in-situ methods and refined or otherwise processed in