

the sales price set forth in the price guarantee, and maximum liability under such guarantee, may be renegotiated.

(Pub. L. 96-294, title II, §215, June 30, 1980, 94 Stat. 692.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(2), was in the original "this title", meaning title II of Pub. L. 96-294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

#### § 8816. Purchase agreements

##### (a) Authority of Secretary concerned; consultative requirements

Subject to sections 8812 and 8817 of this title, the Secretary concerned may commit to make, and make, purchase agreements for all or part of the biomass energy production of any biomass energy project, if the Secretary determines—

- (1) that such biomass energy is of a type, quantity, and quality that can be used by Federal agencies; and
- (2) that the quantity of such biomass energy, if delivery is accepted, would not exceed the likely needs of Federal agencies.

Each Secretary concerned shall consult with the other Secretary before making any determination under paragraph (2).

##### (b) Maximum sales price

The sales price specified in a purchase agreement under this section may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this chapter.

##### (c) Assurances required

The Secretary concerned in entering into, or committing to enter into, a purchase agreement under this section shall require—

- (1) assurances that the quality of the biomass energy purchased will meet standards for the use for which such energy is purchased;
- (2) assurances that the ordered quantities of such energy will be delivered on a timely basis; and
- (3) such other assurances as may reasonably be required.

##### (d) Arrangements for delivery pursuant to agreement; charge to Federal agency receiving delivery

The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement under this section if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. Any Federal agency receiving such energy shall be charged (in accordance with otherwise applicable law), from sums appropriated to such Federal agency, for the prevailing market price as

of the date of delivery, as determined by the Secretary of Energy, for the product which the biomass energy is replacing.

##### (e) Consultative requirements

The Secretary concerned shall consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section.

##### (f) Terms and conditions

Each purchase agreement, and commitment to enter into a purchase agreement, under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement.

##### (g) Maximum dollar amount of liability of United States

Each purchase agreement, or commitment to enter into a purchase agreement, which is made under this section shall specify the maximum dollar amount of liability of the United States under that agreement.

##### (h) Renegotiation of sales price and maximum liability

If the Secretary concerned determines, in the discretion of the Secretary, that—

- (1) a biomass energy project would not otherwise be satisfactorily completed or continued, and
- (2) completion or continuation of such project would be necessary to achieve the purposes of this chapter,

the sales price set forth in the purchase agreement, and maximum liability under such agreement, may be renegotiated.

(Pub. L. 96-294, title II, §216, June 30, 1980, 94 Stat. 692.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (h)(2), was in the original "this title", meaning title II of Pub. L. 96-294, June 30, 1980, 94 Stat. 683, known as the Biomass Energy and Alcohol Fuels Act of 1980, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 8801 of this title and Tables.

#### § 8817. General requirements regarding financial assistance

##### (a) Priorities, terms, availability, etc.

(1) Priority for financial assistance under this subchapter, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that—

- (A) uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, or waste heat; or
- (B) applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies.

Nothing in this paragraph shall be construed to exclude financial assistance for any project