

ucts are creating new markets for agriculture and expanding opportunities in rural America. Therefore, I direct the Secretary of Agriculture to prepare a report on job creation and the economic impact associated with the biobased product industry to be submitted to the President through the Domestic Policy Council and OSTP within 2 years of the date of this memorandum. The study shall include:

- (a) the number of American jobs originating from the biobased product industry annually over the last 10 years, including the job changes in specific sectors;
- (b) the dollar value of the current domestic biobased products industry, including intermediates, feedstocks, and finished products, but excluding biofuels;
- (c) a forecast for biobased job creation potential over the next 10 years;
- (d) a forecast for growth in the biobased industry over the next 10 years; and
- (e) jobs data for both biofuels and biobased products, but shall generate separate data for each category.

**SEC. 7. Education and Outreach.** In compliance with the 2002 Farm Bill, several agencies established agency promotion programs to support the biobased products procurement preference. The Federal Acquisition Institute has added biobased procurement training to its course offerings. To assure both formal and informal educational and outreach instruction on the BioPreferred program are in place and being implemented by each agency, I direct:

- (a) the Secretary of Agriculture to update all existing USDA BioPreferred and related sustainable acquisition training materials within 1 year of the date of this memorandum;
- (b) the Senior Sustainability Officers and Chief Acquisition Officers of agencies to work cooperatively with the Secretary of Agriculture to immediately implement such BioPreferred program agency education and outreach programs as are necessary to meet the requirements of this memorandum and relevant statutes; and
- (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 scor-

ing 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 co-operatives;
- (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 positive 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 accordance 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.

**(h) Additional funding for electric loans for renewable energy****(1) Appropriations**

Notwithstanding subsections (a) through (e), and (g), in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$1,000,000,000, to remain available until September 30, 2031, for the cost of loans under section 940g of title 7, including for projects that store electricity that support the types of eligible projects under that section, which shall be forgiven in an amount that is not greater than 50 percent of the loan based on how the borrower and the project meets the terms and conditions for loan forgiveness consistent with the purposes of that section established by the Secretary, except as provided in paragraph (3).

**(2) Limitation**

The Secretary shall not enter into any loan agreement pursuant this subsection that could result in disbursements after September 30, 2031.

**(3) Exception**

The Secretary shall establish criteria for waiving the 50 percent limitation described in paragraph (1).

**(i) Biofuel infrastructure and agriculture product market expansion****(1) Appropriation**

Notwithstanding subsections (a) through (e) and subsection (g), in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$500,000,000, to remain available until September 30, 2031, to carry out this subsection.

**(2) Use of funds**

The Secretary shall use the amounts made available by paragraph (1) to provide grants, for which the Federal share shall be not more than 75 percent of the total cost of carrying out a project for which the grant is provided, on a competitive basis, to increase the sale and use of agricultural commodity-based fuels through infrastructure improvements for blending, storing, supplying, or distributing biofuels, except for transportation infrastructure not on location where such biofuels are blended, stored, supplied, or distributed—

(A) by installing, retrofitting, or otherwise upgrading fuel dispensers or pumps and related equipment, storage tank system components, and other infrastructure required at a location related to dispensing certain biofuel blends to ensure the increased sales of fuels with high levels of commodity-based ethanol and biodiesel that are at or greater than the levels required in the Notice of Funding Availability for the Higher Blends Infrastructure Incentive Program for Fiscal Year 2020, published in the Federal Register (85 Fed. Reg. 26656), as determined by the Secretary; and

(B) by building and retrofitting home heating oil distribution centers or equivalent en-

titles and distribution systems for ethanol and biodiesel blends.

**(j) USDA assistance for rural electric cooperatives****(1) Appropriation**

Notwithstanding subsections (a) through (e) and (g), in addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$9,700,000,000, to remain available until September 30, 2031, for the long-term resiliency, reliability, and affordability of rural electric systems by providing to an eligible entity (defined as an electric cooperative described in section 501(c)(12) or 1381(a)(2) of title 26 and is or has been a Rural Utilities Service electric loan borrower pursuant to the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.] or serving a predominantly rural area or a wholly or jointly owned subsidiary of such electric cooperative) loans, modifications of loans, the cost of loans and modifications, and other financial assistance to achieve the greatest reduction in carbon dioxide, methane, and nitrous oxide emissions associated with rural electric systems through the purchase of renewable energy, renewable energy systems, zero-emission systems, and carbon capture and storage systems, to deploy such systems, or to make energy efficiency improvements to electric generation and transmission systems of the eligible entity after August 16, 2022.

**(2) Limitation**

No eligible entity may receive an amount equal to more than 10 percent of the total amount made available by this subsection.

**(3) Requirement**

The amount of a grant under this subsection shall be not more than 25 percent of the total project costs of the eligible entity carrying out a project using a grant under this subsection.

**(4) Prohibition**

Nothing in this subsection shall be interpreted to authorize funds of the Commodity Credit Corporation for activities under this subsection if such funds are not expressly authorized or currently expended for such purposes.

**(5) Disbursements**

The Secretary shall not enter into, pursuant to this subsection—

(A) any loan agreement that may result in a disbursement after September 30, 2031; or

(B) any grant agreement that may result in any outlay after September 30, 2031.

(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; Pub. L. 117–169, title II, §§ 22001, 22003, 22004, Aug. 16, 2022, 136 Stat. 2018, 2020.)

**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.

The Rural Electrification Act of 1936, referred to in subsec. (j)(1), is act May 20, 1936, ch. 432, 49 Stat. 1363, which is classified generally to chapter 31 (§901 et seq.) of this title. For complete classification of this Act to the Code, see section 901 of this title and Tables.

## 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

2022—Subsec. (h). Pub. L. 117-169, §22201, added subsec. (h).

Subsec. (i). Pub. L. 117-169, §22203, added subsec. (i).

Subsec. (j). Pub. L. 117-169, §22204, added subsec. (j).

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.