

CHAPTER 173—ENERGY SECURITY

SUBCHAPTER I—ENERGY SECURITY ACTIVITIES

Sec.	
2911.	Energy performance goals and plan for Department of Defense.
2912.	Availability and use of energy cost savings.
2913.	Energy savings contracts and activities.
2914.	Energy conservation construction projects.
2915.	New construction: use of renewable forms of energy and energy efficient products.
2916.	Sale of electricity from alternate energy and cogeneration production facilities.
2917.	Development of geothermal energy on military lands.
2918.	Fuel sources for heating systems; prohibition on converting certain heating facilities.

§ 2911. Energy performance goals and plan for Department of Defense

(a) ENERGY PERFORMANCE GOALS.—(1) The Secretary of Defense shall submit to the congressional defense committees the energy performance goals for the Department of Defense regarding transportation systems, support systems, utilities, and infrastructure and facilities.

(2) The energy performance goals shall be submitted annually not later than the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31 and cover that fiscal year as well as the next five, 10, and 20 years. The Secretary shall identify changes to the energy performance goals since the previous submission.

(b) ENERGY PERFORMANCE PLAN.—The Secretary of Defense shall develop, and update as necessary, a comprehensive plan to help achieve the energy performance goals for the Department of Defense.

(c) SPECIAL CONSIDERATIONS.—For the purpose of developing and implementing the energy performance goals and energy performance plan, the Secretary of Defense shall consider at a minimum the following:

(1) Opportunities to reduce the current rate of consumption of energy.

(2) Opportunities to reduce the future demand and the requirements for the use of energy.

(3) Opportunities to implement conservation measures to improve the efficient use of energy.

(4) Opportunities to pursue alternative energy initiatives, including the use of alternative fuels in military vehicles and equipment.

(5) Cost effectiveness, cost savings, and net present value of alternatives.

(6) The value of diversification of types and sources of energy used.

(7) The value of economies-of-scale associated with fewer energy types used.

(8) The value of the use of renewable energy sources.

(9) The potential for an action to serve as an incentive for members of the armed forces and civilian personnel to reduce energy consumption or adopt an improved energy performance measure.

(d) SELECTION OF ENERGY CONSERVATION MEASURES.—(1) For the purpose of implementing the energy performance plan, the Secretary of Defense shall provide that the selection of energy conservation measures, including energy efficient maintenance, shall be limited to those measures that—

(A) are readily available;

(B) demonstrate an economic return on the investment;

(C) are consistent with the energy performance goals and energy performance plan for the Department; and

(D) are supported by the special considerations specified in subsection (c).

(2) In this subsection, the term “energy efficient maintenance” includes—

(A) the repair of military vehicles, equipment, or facility and infrastructure systems, such as lighting, heating, or cooling equipment or systems, or industrial processes, by replacement with technology that—

(i) will achieve energy savings over the life-cycle of the equipment or system being repaired; and

(ii) will meet the same end needs as the equipment or system being repaired; and

(B) improvements in an operation or maintenance process, such as improved training or improved controls, that result in energy savings.

(e) GOAL REGARDING USE OF RENEWABLE ENERGY TO MEET ELECTRICITY NEEDS.—It shall be the goal of the Department of Defense—

(1) to produce or procure not less than 25 percent of the total quantity of electric energy it consumes within its facilities and in its activities during fiscal year 2025 and each fiscal year thereafter from renewable energy sources (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b))); and

(2) to produce or procure electric energy from renewable energy sources whenever the use of such renewable energy sources is consistent with the energy performance goals and energy performance plan for the Department and supported by the special considerations specified in subsection (c).

(Added Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(a)(1), Oct. 17, 2006, 120 Stat. 2489; amended Pub. L. 109–364, div. B, title XXVIII, Sec. 2852, Oct. 17, 2006, 120 Stat. 2496.)

§ 2912. Availability and use of energy cost savings

(a) AVAILABILITY.—An amount of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount

of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts entered into under section 2913 of this title, shall remain available for obligation under subsection (b) until expended, without additional authorization or appropriation.

(b) USE.—The Secretary of Defense shall provide that the amount that remains available for obligation under subsection (a) and the funds made available under section 2916(b)(2) of this title shall be used as follows:

(1) One-half of the amount shall be used for the implementation of additional energy conservation measures at buildings, facilities, or installations of the Department of Defense or related to vehicles and equipment of the Department, which are designated, in accordance with regulations prescribed by the Secretary of Defense, by the head of the department, agency, or instrumentality that realized the savings referred to in subsection (a).

(2) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

(A) improvements to existing military family housing units;

(B) any unspecified minor construction project that will enhance the quality of life of personnel; or

(C) any morale, welfare, or recreation facility or service.

(c) TREATMENT OF CERTAIN FINANCIAL INCENTIVES.—Financial incentives received from gas or electric utilities under section 2913 of this title shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(d) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this section in that fiscal year.

(Added Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(a)(1), Oct. 17, 2006, 120 Stat. 2491.)

§ 2913. Energy savings contracts and activities

(a) SHARED ENERGY SAVINGS CONTRACTS.—(1) The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of the Department of Defense as well as the private sector.

(2) In carrying out paragraph (1), the Secretary of Defense may—

(A) request statements of qualifications (as prescribed by the Secretary of Defense), including financial and performance

information, from firms engaged in providing shared energy savings contracting;

(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

(3) In carrying out paragraph (1), the Secretary may also provide for the direct negotiation, by departments, agencies, and instrumentalities of the Department of Defense, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

(b) PARTICIPATION IN GAS OR ELECTRIC UTILITY PROGRAMS.—The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation.

(c) ACCEPTANCE OF FINANCIAL INCENTIVE, GOODS, OR SERVICES.—The Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interests of the United States and consistent with the energy performance goals for the Department of Defense.

(d) AGREEMENTS WITH GAS OR ELECTRIC UTILITIES.—(1) The Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

(2) If an agreement under this subsection provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repaid by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

(3) Subject to the availability of appropriations, repayment of costs advanced under paragraph (2) shall be made from funds available to a military department for the purchase of utility services.

(4) An agreement under this subsection shall provide that title to any energy-saving device or technology installed at a military

installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(e) CONGRESSIONAL NOTIFICATION OF CANCELLATION CEILING FOR ENERGY SAVINGS PERFORMANCE CONTRACTS.—When a decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of \$7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(a)(1), Oct. 17, 2006, 120 Stat. 2491; amended Pub. L. 109–364, div. B, title XXVIII, Sec. 2853, Oct. 17, 2006, 120 Stat. 2496.)

§ 2914. Energy conservation construction projects

(a) PROJECTS AUTHORIZED.—The Secretary of Defense may carry out a military construction project for energy conservation, not previously authorized, using funds appropriated or otherwise made available for that purpose.

(b) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a project under this section, the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(a)(1), Oct. 17, 2006, 120 Stat. 2493.)

§ 2915. New construction: 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) where use of such form of energy 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.

(b) CONSIDERATION DURING DESIGN PHASE OF PROJECTS.—(1) The Secretary concerned shall require that the design of all new facilities (including family housing) shall include consideration of

energy systems using solar energy or other renewable forms of energy.

(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 subsection 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 EFFICIENCY PRODUCTS IN NEW CONSTRUCTION.—(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 new facility construction 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 plan for the Department developed under section 2911 of this title and supported by the special considerations specified in subsection (c) of such section.

(2) 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, Sec. 2(a), July 12, 1982, 96 Stat. 166, Sec. 2857; amended Pub. L. 97-321, title VIII, Sec. 801(b)(1), (2), Oct. 15, 1982, 96 Stat. 1571; Pub. L. 98-525, title XIV, Sec. 1405(45)(A), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 101-218, Sec. 8(b), Dec. 11, 1989, 103 Stat. 1868; Pub. L. 101-510, div. B, title XXVIII, Sec. 2852(b), Nov. 5, 1990, 104 Stat. 1804; Pub. L. 102-25, title VII, Sec. 701(g)(2), Apr. 6, 1991, 105 Stat. 115; renumbered Sec. 2915, and amended Pub. L. 109-364, div. B, title XXVIII, Secs. 2851(b)(1), (3)(A), 2854, Oct. 17, 2006, 120 Stat. 2494, 2497.)

§ 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) 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(b) of this title, including minor military construction projects authorized under section 2805 of this title that are designed to increase energy conservation.

(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 in writing 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 21-day period beginning on the date the notification is received by Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 98–407, title VIII, Sec. 810(a), Aug. 28, 1984, 98 Stat. 1523, Sec. 2483; Pub. L. 103–160, div. B, title XXVIII, Sec. 2802, Nov. 30, 1993, 107 Stat. 1884; renumbered Sec. 2867, Pub. L. 105–85, div. A, title III, Sec. 371(b)(2), Nov. 18, 1997, 110 Stat. 1705; Pub. L. 108–136, div. A, title X, Sec. 1031(a)(49), Nov. 24, 2003, 117 Stat. 1602; renumbered Sec. 2916, and amended Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(1), (3)(B), Oct. 17, 2006, 120 Stat. 2494.)

§ 2917. Development of geothermal energy on military lands

The Secretary of a military department may develop, or authorize the development of, any geothermal energy resource within lands under the Secretary's jurisdiction, including public lands, for the use or benefit of the Department of Defense if that development is in the public interest, as determined by the Secretary concerned, and will not deter commercial development and use of other portions of such resource if offered for leasing.

(Added Pub. L. 97–214, Sec. 6(c)(1), July 12, 1982, 96 Stat. 172, Sec. 2689; renumbered Sec. 2917, Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(1), Oct. 17, 2006, 120 Stat. 2494.)

§ 2918. Fuel sources for heating systems; prohibition on converting certain heating facilities

(a)(1) The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military

department is the most cost effective fuel for that heating system over the life cycle of the system.

(2) The Secretary of Defense shall prescribe regulations for the determination of the life-cycle cost effectiveness of a fuel for the purposes of paragraph (1).

(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary determines that the conversion—

(1) is required by the government of the country in which the facility is located; or

(2) is cost-effective over the life cycle of the facility.

(Added Pub. L. 97–214, Sec. 6(c)(1), July 12, 1982, 96 Stat. 173; Sec. 2690, amended Pub. L. 99–661, div. A, title XII, Sec. 1205(a)(1), Nov. 14, 1986, 100 Stat. 3971; Pub. L. 105–85, div. A, title X, Sec. 1041(a), Nov. 18, 1997, 111 Stat. 1885; renumbered Sec. 2918, Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(1), Oct. 17, 2006, 120 Stat. 2494.)

SUBCHAPTER II—ENERGY-RELATED PROCUREMENT

Sec.

2922. Liquid fuels and natural gas: contracts for storage, handling, or distribution.

2922a. Contracts for energy or fuel for military installations.

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

2922c. Procurement of gasohol as motor vehicle fuel.

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

2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority.

2922f. Preference for energy efficient electric equipment.

§ 2922. Liquid fuels and natural gas: contracts for storage, handling, or distribution

(a) **AUTHORITY TO CONTRACT.**—The Secretary of Defense and the Secretary of a military department may each contract for storage facilities for, or the storage, handling, or distribution of, liquid fuels or natural gas.

(b) **PERIOD OF CONTRACT.**—The period of a contract entered into under subsection (a) may not exceed 5 years. However, the contract may provide options for the Secretary to renew the contract for additional periods of not more than 5 years each, but not for more than a total of 20 years.

(c) **OPTION TO PURCHASE FACILITY.**—A contract under this section may contain an option for the purchase by the United States of the facility covered by the contract at the expiration or termination of the contract, without regard to subsections (a) and (b) of section 3324 of title 31, and before approval of title to the underlying land by the Attorney General.

(Added Pub. L. 85–861, Sec. 1(46), Sept. 2, 1958, 72 Stat. 1457; Sec. 2388, amended Pub. L. 97–214, Sec. 10(a)(3), July 12, 1982, 96 Stat. 175; Pub. L. 97–258, Sec. 3(b)(6), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 97–295, Sec. 1(27), Oct. 12, 1982, 96 Stat. 1291; Pub. L. 98–525, title XIV, Sec. 1405(56)(A), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 101–510, div. A, title XIII, Sec. 1322(a)(6), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103–160, div. A, title VIII, Sec. 825, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 103–355, title III, Sec. 3064, Oct. 13, 1994, 108 Stat. 3337; renumbered Sec. 2922, Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

§ 2922a. Contracts for energy or fuel for military installations

(a) Subject to subsection (b), the Secretary of a military department may enter into contracts for periods of up to 30 years—

(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.

(Added Pub. L. 97–214, Sec. 6(a)(1), July 12, 1982, 96 Stat. 171, Sec. 2394; amended Pub. L. 97–321, title VIII, Sec. 805(b)(3), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 100–26, Sec. 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIII, Sec. 1301(12), Nov. 5, 1990, 104 Stat. 1668; renumbered Sec. 2922a, and amended Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(2), (3)(C), Oct. 17, 2006, 120 Stat. 2494.)

§ 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 (c) 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 2857 of this title.

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

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

§ 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 the United States in order to assist in meeting the fuel requirements of the Department of Defense when the Secretary determines that it is in the national interest.

(b) AUTHORITY TO PROCURE.—The Secretary of Defense may enter into 1 or more contracts or other agreements (that meet the requirements of this section) to procure a covered fuel to meet 1 or more fuel requirements of the Department of Defense.

(c) CLEAN FUEL REQUIREMENTS.—A covered fuel may be procured under subsection (b) only if the covered fuel meets such standards for clean fuel produced from domestic sources as the Secretary of Defense shall establish for purposes of this section in consultation with the Department of Energy.

(d) MULTIYEAR CONTRACT AUTHORITY.—Subject to applicable provisions of law, any contract or other agreement for the procurement of covered fuel under subsection (b) may be for 1 or more years at the election of the Secretary of Defense.

(e) FUEL SOURCE ANALYSIS.—In order to facilitate the procurement by the Department of Defense of covered fuel under subsection (b), the Secretary of Defense may carry out a comprehensive assessment of current and potential locations in the United States for the supply of covered fuel to the Department.

(Added Pub. L. 109–58, title III, Sec. 369(q)(1), Aug. 8, 2005, 119 Stat. 733, Sec. 2398a; renumbered Sec. 2922d, Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

§ 2922e. Acquisition of certain fuel sources: authority to waive contract procedures; acquisition by exchange; sales authority

(a) WAIVER AUTHORITY.—The Secretary of Defense may, for any purchase of a defined fuel source, waive the application of any provision of law prescribing procedures to be followed in the formation of contracts, prescribing terms and conditions to be included

in contracts, or regulating the performance of contracts if the Secretary determines—

(1) that market conditions for the defined fuel source have adversely affected (or will in the near future adversely affect) the acquisition of that defined fuel source by the Department of Defense; and

(2) the waiver will expedite or facilitate the acquisition of that defined fuel source for Government needs.

(b) SCOPE OF WAIVER.—A waiver under subsection (a) may be made with respect to a particular contract or with respect to classes of contracts. Such a waiver that is applicable to a contract for the purchase of a defined fuel source may also be made applicable to a subcontract under that contract.

(c) EXCHANGE AUTHORITY.—The Secretary of Defense may acquire a defined fuel source or services related to a defined fuel source by exchange of a defined fuel source or services related to a defined fuel source.

(d) AUTHORITY TO SELL.—The Secretary of Defense may sell a defined fuel source of the Department of Defense if the Secretary determines that the sale would be in the public interest. The proceeds of such a sale shall be credited to appropriations of the Department of Defense for the acquisition of a defined fuel source or services related to a defined fuel source. Amounts so credited shall be available for obligation for the same period as the appropriations to which the amounts are credited.

(e) PETROLEUM DEFINED.—In this section, the term “petroleum” means natural or synthetic crude, blends of natural or synthetic crude, and products refined or derived from natural or synthetic crude or from such blends.

(f) DEFINED FUEL SOURCES.—In this section, the term “defined fuel source” means any of the following:

- (1) Petroleum.
- (2) Natural gas.
- (3) Coal.
- (4) Coke.

(Added Pub. L. 98–525, title XII, Sec. 1234(a), Oct. 19, 1984, 98 Stat. 2604, Sec. 2404; amended Pub. L. 100–26, Sec. 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIII, Sec. 1322(a)(8), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 103–160, div. A, title VIII, Sec. 826, Nov. 30, 1993, 107 Stat. 1711; Pub. L. 106–65, div. A, title VIII, Sec. 803(a), (b)(1), Oct. 5, 1999, 113 Stat. 703; renumbered Sec. 2922e, Pub. L. 109–364, div. B, title XXVIII, Sec. 2851(b)(2), Oct. 17, 2006, 120 Stat. 2494.)

§ 2922f. Preference for energy efficient electric equipment

(a) In establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, if providing such a preference 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.

- (b) Subsection (a) applies to the following electric equipment:
- (1) Electric lamps.
 - (2) Electric ballasts.
 - (3) Electric motors.
 - (4) Electric refrigeration equipment.

(Added Pub. L. 102-484, div. A, title III, Sec. 384(a)(1)(A), Oct. 23, 1992, 106 Stat. 2392, Sec. 2410c; renumbered Sec. 2922f, and amended Pub. L. 109-364, div. B, title XXVIII, Sec. 2851(b)(2), (3)(E), Oct. 17, 2006, 120 Stat. 2494, 2495.)

SUBCHAPTER III—GENERAL PROVISIONS

Sec.
2925. Annual report.

§ 2925. Annual report

(a) **REPORT REQUIRED.**—As part of the annual submission of the energy performance goals for the Department of Defense under section 2911 of this title, the Secretary of Defense shall submit a report containing the following:

(1) A description of the progress made to achieve the goals of the Energy Policy Act of 2005 (Public Law 109-58) and the energy performance goals for the Department of Defense during the preceding fiscal year.

(2) A description of the actions taken to implement the energy performance plan in effect under section 2911 of this title and carry out this chapter during the preceding fiscal year.

(3) A description of the energy savings realized from such actions.

(4) An estimate of the types and quantities of energy consumed by the Department of Defense and members of the armed forces and civilian personnel residing or working on military installations during the preceding fiscal year, including a breakdown of energy consumption by user groups and types of energy, energy costs, and the quantities of renewable energy produced or procured by the Department.

(5) A description of the types and amount of financial incentives received under section 2913 of this title during the preceding fiscal year and the appropriation account or accounts to which the incentives were credited.

(b) **INITIAL REPORT.**—In the first report required under this section, the Secretary of Defense shall include the following:

(1) Such recommendations for changes to this chapter as the Secretary considers appropriate to improve energy performance.

(2) A description of how responsibility over energy performance is distributed within the Department of Defense and a discussion on whether such responsibilities should be consolidated within a single entity.

(3) A discussion of the manner in which the Secretary intends to balance the considerations specified in subsection (c) of section 2911 of this title in developing and implementing the energy performance goals and energy performance plan.

(4) A discussion of the extent to which non-direct energy costs are considered in making research and development, procurement, and construction decisions.

(Added Pub. L. 109-364, div. B, title XXVIII, Sec. 2851(a)(1), Oct. 17, 2006, 120 Stat. 2493.)