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106TH CONGRESS
1ST SESSION

H. R. 1655

To authorize appropriations for fiscal years 2000 and 2001 for the civilian energy and scientific research, development, and demonstration and related commercial application of energy technology programs, projects, and activities of the Department of Energy, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 1999

Mr. CALVERT introduced the following bill; which was referred to the Committee on Science

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A BILL

To authorize appropriations for fiscal years 2000 and 2001 for the civilian energy and scientific research, development, and demonstration and related commercial application of energy technology programs, projects, and activities of the Department of Energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of Energy Research, Development, and Demonstration Authorization Act of 1999''.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term—

(1) ''Department'' means the Department of Energy; and

(2) ''Secretary'' means the Secretary of Energy.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) ENERGY SUPPLY.—There are authorized to be appropriated to the Secretary for Energy Supply civilian energy and scientific research, development, and demonstration and related commercial application of energy technology operation and maintenance and construction programs, projects, and activities for which specific sums are not authorized under other authority of law $546,178,000 for fiscal year 2000 and $566,744,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $316,624,000 for fiscal year 2000 and $325,321,000 for fiscal year 2001 shall be for Solar and Renewable Resources Technologies, including—

(A) $3,708,000 for fiscal year 2000 and $3,819,000 for fiscal year 2001 for Solar Building Technology Research;

(B) $83,345,000 for fiscal year 2000 and $85,845,000 for fiscal year 2001 for Photovoltaic Energy Systems;

(C) $17,510,000 for fiscal year 2000 and $18,035,000 for fiscal year 2001 for Concentrating Solar Power;

(D) $75,396,000 for fiscal year 2000 and $77,658,000 for fiscal year 2001 for Biopower/Biofuels Energy Systems;

(E) $35,814,000 for fiscal year 2000 and $36,889,000 for fiscal year 2001 for Wind Energy Systems;

(F) $1,500,000 for fiscal year 2000 and $1,500,000 for fiscal year 2001 for the Renewable Energy Production Incentive Program;

(G) $6,000,000 for fiscal year 2000 and $6,000,000 for fiscal year 2001 for the International Solar Energy Program;

(H) $1,100,000 for fiscal year 2000 and $1,100,000 for fiscal year 2001 for the National Renewable Energy Laboratory;

(I) $29,500,000 for fiscal year 2000 and $30,385,000 for fiscal year 2001 for Geothermal;

(J) $3,348,000 for fiscal year 2000 and $3,448,000 for fiscal year 2001 for Hydropower;

(K) $41,303,000 for fiscal year 2000 and $42,542,000 for fiscal year 2001 for Electric Energy Systems and Storage; and

(L) $18,100,000 for fiscal year 2000 and $18,100,000 for fiscal year 2001 for Program Direction;

(2) $115,742,000 for fiscal year 2000 and $127,256,000 for fiscal year 2001 shall be for Nuclear Energy, including—

(A) $37,000,000 for fiscal year 2000 and $37,000,000 for fiscal year 2001 for Advanced Radioisotope Power Systems;

(B) $6,070,000 for fiscal year 2000 and $6,070,000 for fiscal year 2001 for Test Reactor Area Landlord operation and maintenance;

(C) $1,430,000 for fiscal year 2000 and $1,944,000 for fiscal year 2001 for construction of Project 99–E–200, Test Reactor Area Electric Utility Upgrade, Idaho National Engineering and Environmental Laboratory;

(D) $1,500,000 for fiscal year 2000 and $2,500,000 for fiscal year 2001 for construction of Project 95–E–201, Test Reactor Area Fire and Life Safety Improvements, Idaho National Engineering and Environmental Laboratory;

(E) $13,500,000 for fiscal year 2000 and $16,000,000 for fiscal year 2001 for University Reactor Fuel Assistance and Support;

(F) $5,000,000 for fiscal year 2000 and $7,500,000 for fiscal year 2001 for Nuclear Energy Plant Optimization;

(G) $30,000,000 for fiscal year 2000 and $35,000,000 for fiscal year 2001 for the Nuclear Energy Research Initiative; and

(H) $21,242,000 for fiscal year 2000 and $21,242,000 for fiscal year 2001 for Program Direction;

(3) $102,000,000 for fiscal year 2000 and $102,000,000 for fiscal year 2001 shall be for Field Operations; and

(4) $11,812,000 for fiscal year 2000 and $12,166,000 for fiscal year 2001 shall be for Oak Ridge Landlord.

(b) SCIENCE.—There are authorized to be appropriated to the Secretary for Science scientific and civilian energy research, development, and demonstration operation and maintenance and construction programs, projects, and activities for which specific sums are not authorized under other authority of law $2,557,761,000 for

fiscal year 2000 and $2,691,465,000 for fiscal year 2001, to remain available until expended, of which—

(1) $715,090,000 for fiscal year 2000 and $753,110,000 for fiscal year 2001 shall be for High Energy Physics, including—

(A) $235,190,000 for fiscal year 2000 and $246,950,000 for fiscal year 2001 for High Energy Physics Research and Technology;

(B) $451,200,000 for fiscal year 2000 and $473,760,000 for fiscal year 2001 for High Energy Physics Facility Operations;

(C) $2,000,000 for fiscal year 2000 and $5,200,000 for fiscal year 2001 for construction of Project 00–G–307, Research Office Building, Stanford Linear Accelerator Center;

(D) $4,700,000 for fiscal year 2000 and $4,200,000 for fiscal year 2001 for construction of Project 99–G–306, Wilson Hall Safety Improvements Project, Fermi National Accelerator Laboratory; and

(E) $22,000,000 for fiscal year 2000 and $23,000,000 for fiscal year 2001 for construction of Project 98–G–304, Neutrinos at the Main Injector, Fermi National Accelerator Laboratory;

(2) $357,714,000 for fiscal year 2000 and $375,600,000 for fiscal year 2001 shall be for Nuclear Physics;

(3) $413,674,000 for fiscal year 2000 and $434,357,000 for fiscal year 2001 shall be for Biological and Environmental Research;

(4) $698,800,000 for fiscal year 2000 and $733,740,000 for fiscal year 2001 shall be for Basic Energy Sciences, including—

(A) $405,390,000 for fiscal year 2000 and $425,660,000 for fiscal year 2001 for Materials Sciences Research and Facilities Operations;

(B) $217,179,000 for fiscal year 2000 and $228,038,000 for fiscal year 2001 for Chemical Sciences Research and Facilities Operations;

(C) $18,820,000 for fiscal year 2000 and $19,761,000 for fiscal year 2001 for Engineering Research;

(D) $26,056,000 for fiscal year 2000 and $27,359,000 for fiscal year 2001 for Geosciences Research; and

(E) $31,355,000 for fiscal year 2000 and $32,923,000 for fiscal year 2001 for Energy Biosciences;

(5) $31,474,000 for fiscal year 2000 and $32,333,000 for fiscal year 2001 shall be for Computational and Technology Research, including—

(A) $17,174,000 for fiscal year 2000 and $18,033,000 for fiscal year 2001 for Mathematical, Information, and Computational Sciences; and

(B) $14,300,000 for fiscal year 2000 and $14,300,000 for fiscal year 2001 for Laboratory Technology Research;

(6) $1,000,000 for fiscal year 2000 and $1,000,000 for fiscal year 2001 shall be for Energy Research Analysis;

(7) $22,323,000 for fiscal year 2000 and $23,439,000 for fiscal year 2001 shall be for Multiprogram Energy Laboratories—Facility Support;

(8) $250,000,000 for fiscal year 2000 and $275,000,000 for fiscal year 2001 shall be for Fusion Energy Sciences, including $13,600,000 for fiscal year 2000 and $19,400,000 for fiscal year 2001 for Tokamak Fusion Test Reactor Decontamination and Decommissioning;

(9) $49,800,000 for fiscal year 2000 and $49,800,000 for fiscal year 2001 shall be for Science Program Direction; and

(10) $17,900,000 for fiscal year 2000 and $13,100,000 for fiscal year 2001 shall be for Spallation Neutron Source research and development.

(c) FOSSIL ENERGY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for Fossil Energy Research and Development civilian energy and scientific research, development, and demonstration and related commercial application of energy technology operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $397,564,000 for fiscal year 2000 and $427,102,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $126,609,000 for fiscal year 2000 and $126,614,000 for fiscal year 2001 shall be for Coal, including—

(A) $5,250,000 for fiscal year 2000 and $5,407,000 for fiscal year 2001 for Coal Preparation;

(B) $1,641,000 for fiscal year 2000 for Direct Liquefaction;

(C) $6,659,000 for fiscal year 2000 and $6,859,000 for fiscal year 2001 for Indirect Liquefaction;

(D) $2,200,000 for fiscal year 2000 and $2,310,000 for fiscal year 2001 for Advanced Clean Fuels Research Advanced Research and Environmental Technology;

(E) $3,000,000 for fiscal year 2000 for Advanced Pulverized Coal-Fired Powerplant;

(F) $7,010,000 for fiscal year 2000 and $7,220,000 for fiscal year 2001 for Indirect Fired Cycle;

(G) $38,661,000 for fiscal year 2000 and $39,821,000 for fiscal year 2001 for High-Efficiency-Integrated Gasification Combined Cycle;

(H) $15,077,000 for fiscal year 2000 and $15,529,000 for fiscal year 2001 for High-Efficiency Pressurized Fluidized Bed;

(I) $23,864,000 for fiscal year 2000 and $25,057,000 for fiscal year 2001 for Advanced Clean/Efficient Power Systems Advanced Research and Environmental Technology; and

(J) $23,247,000 for fiscal year 2000 and $24,410,000 for fiscal year 2001 for Advanced Research and Technology Development;

(2) $50,574,000 for fiscal year 2000 and $52,091,000 for fiscal year 2001 shall be for Oil Technology, including—

(A) $31,720,000 for fiscal year 2000 and $32,671,000 for fiscal year 2001 for Exploration and Production Supporting Research;

(B) $8,034,000 for fiscal year 2000 and $8,275,000 for fiscal year 2001 for Recovery Field Demonstrations; and

(C) $10,820,000 for fiscal year 2000 and $11,145,000 for fiscal year 2001 for Oil Technology Effective Environmental Protection;

(3) $107,916,000 for fiscal year 2000 and $108,831,000 for fiscal year 2001 shall be for Gas, including—

(A) $14,932,000 for fiscal year 2000 and $15,380,000 for fiscal year 2001 for Natural Gas Research Exploration and Production;

(B) $1,030,000 for fiscal year 2000 and $1,061,000 for fiscal year 2001 for Natural Gas Research Delivery and Storage;

(C) $41,808,000 for fiscal year 2000 and $41,808,000 for fiscal year 2001 for Natural Gas Research Advanced Turbine Systems;

(D) $9,330,000 for fiscal year 2000 and $9,610,000 for fiscal year 2001 for Natural Gas Research Emerging Processing Technology Applications;

(E) $3,108,000 for fiscal year 2000 and $3,201,000 for fiscal year 2001 for Natural Gas Effective Environmental Protection;

(F) $1,260,000 for fiscal year 2000 and $1,323,000 for fiscal year 2001 for Fuel Cells Advanced Research; and

(G) $36,449,000 for fiscal year 2000 and $36,449,000 for fiscal year 2001 for Fuel Cells Systems;

(4) $71,114,000 for fiscal year 2000 and $72,796,000 for fiscal year 2001 shall be for Program Direction and Management Support, including—

(A) $15,049,000 for fiscal year 2000 and $15,049,000 for fiscal year 2001 for Headquarters Program Direction; and

(B) $56,065,000 for fiscal year 2000 and $57,747,000 for fiscal year 2001 for Energy Technology Center Program Direction;

(5) $2,000,000 for fiscal year 2000 and $2,060,000 for fiscal year 2001 shall be for GP–F–100, Plant and Capital Equipment, at Energy Technology Center sites;

(6) $7,148,000 for fiscal year 2000 and $7,537,000 for fiscal year 2001 shall be for Cooperative Research and Development;

(7) $2,173,000 for fiscal year 2000 and $2,173,000 for fiscal year 2001 shall be for Fuels Conversion, Natural Gas, and Electricity;

(8) $5,000,000 for fiscal year 2000 and $5,000,000 for fiscal year 2001 shall be for Advanced Metallurgical Processes; and

(9) $25,000,000 for fiscal year 2000 and $50,000,000 for fiscal year 2001 shall be for a Fossil Energy Science Initiative to be managed by the Assistant Secretary for Fossil Energy in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to fossil energy.

(d) ENERGY CONSERVATION RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for Energy Conservation Research and Development civilian energy and scientific research, development, and demonstration and related application of energy technology operation and maintenance programs, projects, and activities for which specific sums are not authorized under other authority of law $503,383,000 for fiscal year 2000

and $540,797,000 for fiscal year 2001, to remain available through the end of fiscal year 2002, of which—

(1) $204,935,000 for fiscal year 2000 and $210,845,000 for fiscal year 2001 shall be for the Transportation Sector, including—

(A) $129,714,000 for fiscal year 2000 and $133,606,000 for fiscal year 2001 for Vehicle Technology Research and Development;

(B) $23,500,000 for fiscal year 2000 and $24,205,000 for fiscal year 2001 for Fuels Utilization Research and Development;

(C) $5,196,000 for fiscal year 2000 and $5,352,000 for fiscal year 2001 for Technology Deployment;

(D) $38,599,000 for fiscal year 2000 and $39,757,000 for fiscal year 2001 for Materials Technology; and

(E) $7,925,000 for fiscal year 2000 and $7,925,000 for fiscal year 2001 for Management and Planning;

(2) $155,131,000 for fiscal year 2000 and $159,534,000 for fiscal year 2001 shall be for the Industry Sector, including—

(A) $59,180,000 for fiscal year 2000 and $60,955,000 for fiscal year 2001 for Industries of the Future (Specific);

(B) $87,600,000 for fiscal year 2000 and $90,228,000 for fiscal year 2001 for Industries of the Future (Crosscutting); and

(C) $8,351,000 for fiscal year 2000 and $8,351,000 for fiscal year 2001 for Management and Planning;

(3) $83,185,000 for fiscal year 2000 and $85,286,000 for fiscal year 2001 shall be for the Building Technology, State and Community Sector (nongrants), including—

(A) $55,870,000 for fiscal year 2000 and $57,546,000 for fiscal year 2001 for Building Research;

(B) $14,144,000 for fiscal year 2000 and $14,568,000 for fiscal year 2001 for Building Technology Assistance (nongrants); and

(C) $13,171,000 for fiscal year 2000 and $13,171,000 for fiscal year 2001 for Management and Planning;

(4) $35,132,000 for fiscal year 2000 and $35,132,000 for fiscal year 2001 shall be for Policy and Management; and

(5) $25,000,000 for fiscal year 2000 and $50,000,000 for fiscal year 2001 shall be for an Energy Efficiency Science Initiative to be managed by the Assistant Secretary for Energy Efficiency and Renewable Energy in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

SEC. 4. NOTICE.

(a) REPROGRAMMING.—The Secretary may use for any authorized activities of the Department under this Act—

(1) up to the lesser of $250,000 or 5 percent of the total funding for a fiscal year of a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology program, project, or activity of the Department; or

(2) after the expiration of 60 days after transmitting to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report described in subsection (b), up to 25 percent of the total funding for a fiscal year

of a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology program, project, or activity of the Department.

(b) REPORT.—(1) The report referred to in subsection (a)(2) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 60-day period under subsection (a)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—In no event may funds be used pursuant to subsection (a) for a program, project, or activity for which funding has been requested to the Congress but which has not been funded by the Congress.

(d) NOTICE OF REORGANIZATION.—The Secretary shall provide notice to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, not later than 15 days before any major reorganization of any civilian energy or scientific research, development, or demonstration or related commercial application

of energy technology program, project, or activity of the Department.

(e) COPY OF REPORTS.—The Secretary shall provide copies to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, of any report relating to the civilian energy or scientific research, development, or demonstration or related commercial application of energy technology programs, projects, and activities of the Department prepared at the direction of any committee of Congress.

SEC. 5. LIMITATION ON DEMONSTRATIONS.

The Department of Energy shall provide funding for civilian energy or scientific or related commercial application of energy technology demonstration programs, projects, and activities only for technologies or processes that are substantially new, and not for incremental improvements to technologies or processes that exist in the marketplace.

SEC. 6. LIMITS ON GENERAL PLANT PROJECTS.

If, at any time during the construction of a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology project of the Department for which no specific

funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds $500,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, explaining the project and the reasons for the estimate or revision.

SEC. 7. LIMITS ON CONSTRUCTION PROJECTS.

(a) LIMITATION.—Except as provided in subsection (b), construction on a civilian energy or scientific research, development, or demonstration or related commercial application of energy technology project of the Department for which funding has been specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 5 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) NOTICE.—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 60 days has elapsed after the date on which the report is received by the committees.

(c) EXCLUSION.—In the computation of the 60-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

SEC. 8. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian energy or scientific research, development, or demonstration or related commercial application of energy

technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $500,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than $1,000,000.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian energy or scientific research, development, and demonstration or related commercial application of energy technology program, project, or activity of the Department if the total estimated cost for such design does not exceed $100,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds $100,000, funds for such design must be specifically authorized by law.

SEC. 9. LIMITS ON USE OF FUNDS.

(a) HIGH PERFORMANCE COMPUTING AND COMMUNICATIONS (HPCC) PROGRAM.—None of the funds authorized by this Act may be used for the Department's High Performance Computing and Communications (HPCC) Program.

(b) SCIENTIFIC SIMULATION INITIATIVE (SSI).—None of the funds authorized by this Act may be used for the Department's Scientific Simulation Initiative (SSI).

(c) CONSTRUCTION OF THE SPALLATION NEUTRON SOURCE (SNS).—None of the funds authorized by this Act may be used for the construction of the Project 99–E–334, the Spallation Neutron Source (SNS) at Oak Ridge National Laboratory.

(d) INTERNATIONAL THERMONUCLEAR EXPERIMENTAL REACTOR (ITER) ENGINEERING DESIGN ACTIVITIES (EDA).—None of the funds authorized by this Act may be used either directly or indirectly for United States participation in International Thermonuclear Experimental Reactor (ITER) Engineering Design Activities (EDA).

(e) OFFICE OF SCIENCE.—None of the funds authorized by this Act may be used either directly or indirectly to fund the salary of an individual holding the position of Director or Deputy Director of the Office of Science,

or Associate Director (except for the Office of Laboratory Policy and the Office of Resource Management), or Director, Office of Planning and Analysis within the Department's Office of Science unless such individual holds a postgraduate degree in science or engineering.

(f) TRAVEL.—Not more than 1 percent of the funds authorized by this Act may be used either directly or indirectly to fund travel costs of the Department or travel costs for persons awarded grants, contracts, subcontracts, or any other form of financial assistance by the Department. As part of the Department's annual budget request submission to the Congress, the Secretary shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, that identifies—

(1) the estimated amount of travel costs by the Department and for persons awarded grants, contracts, subcontracts, or any other form of financial assistance by the Department for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

(2) the major purposes for such travel; and

(3) the sources of funds for such travel.

(g) TRADE ASSOCIATIONS.—No funds authorized by this Act may be used either directly or indirectly to fund a grant, contract, subcontract, or any other form of financial assistance awarded by the Department to a trade association on a noncompetitive basis. As part of the Department's annual budget request submission to the Congress, the Secretary shall submit a report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, that identifies—

(1) the estimated amount of funds provided by the Department to trade associations, by trade association, for the fiscal year of such budget submission, as well as for the 2 previous fiscal years;

(2) the services either provided or to be provided by each such trade association; and

(3) the sources of funds for services provided by each such trade association.

SEC. 10. MANAGEMENT AND OPERATING CONTRACTS.

(a) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated by this Act for civilian energy or scientific research, development, and demonstration or related commercial application of energy technology programs, projects, and activities may

be used to award a management and operating contract for a federally owned or operated civilian energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

SEC. 11. FEDERAL ACQUISITION REGULATION.

(a) REQUIREMENT.—None of the funds authorized to be appropriated by this Act for civilian energy or scientific research, development, and demonstration or related commercial application of energy technology programs, projects, and activities may be used to award, amend, or modify a contract of the Department in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary grants, on a case-by-case basis, a waiver to

allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(b) CONGRESSIONAL NOTICE.—At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, a report notifying the committees of the waiver and setting forth the reasons for the waiver.

SEC. 12. REQUESTS FOR PROPOSALS.

None of the funds authorized to be appropriated by this Act may be used by the Department to prepare or initiate Requests for Proposals (RFPs) for a civilian energy or scientific research, development, and demonstration or related commercial application of energy technology program, project, or activity if the program, project, or activity has not been specifically authorized by Congress.

SEC. 13. PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.

None of the funds authorized to be appropriated by this Act may be used by any civilian energy or scientific research, development, and demonstration or related com-

mercial application of energy technology program, project, or activity of the Department to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that the articles or services are not available from a commercial source in the United States.

SEC. 14. ELIGIBILITY FOR AWARDS.

(a) IN GENERAL.—The Secretary shall exclude from consideration for grant agreements for civilian energy and scientific research, development, and demonstration or related commercial application of energy technology programs, projects, and activities made by the Department after fiscal year 1999 any person who received funds, other than those described in subsection (b), appropriated for a fiscal year after fiscal year 1999, under a grant agreement from any Federal funding source for a program, project, or activity that was not subjected to a competitive, merit-based award process, except as specifically authorized by this Act. Any exclusion from consideration pursuant to this section shall be effective for a period of 5 years after the person receives such Federal funds.

(b) EXCEPTION.—Subsection (a) shall not apply to the receipt of Federal funds by a person due to the membership of that person in a class specified by law for which

assistance is awarded to members of the class according to a formula provided by law.

(c) DEFINITION.—For purposes of this section, the term ''grant agreement'' means a legal instrument whose principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, and does not include the acquisition (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government. Such term does not include a cooperative agreement (as such term is used in section 6305 of title 31, United States Code) or a cooperative research and development agreement (as such term is defined in section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1))).

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