

sections 824b, 824o, 824q, and 2642 of Title 16. For complete classification of title XII to the Code, see Short Title note set out under section 15801 of this title and Tables.

#### SUBCHAPTER XIII—MISCELLANEOUS

### § 16491. Energy production incentives

#### (a) In general

A State may provide to any entity—

- (1) a credit against any tax or fee owed to the State under a State law, or
- (2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

#### (b) Eligible entities

Subsection (a) shall apply with respect to the production in the State of electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology.

#### (c) Effect on interstate commerce

Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after August 8, 2005, shall—

- (1) be considered to be a reasonable regulation of commerce; and
- (2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

(Pub. L. 109-58, title XIV, §1402, Aug. 8, 2005, 119 Stat. 1061.)

### § 16492. Regulation of certain oil used in transformers

Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil identified under section 2720(a)(1)(B) of title 33.

(Pub. L. 109-58, title XIV, §1403, Aug. 8, 2005, 119 Stat. 1061.)

### § 16493. National Priority Project Designation

#### (a) Designation of National Priority Projects

##### (1) In general

There is established the National Priority Project Designation (referred to in this section as the “Designation”), which shall be evidenced by a medal bearing the inscription “National Priority Project”.

##### (2) Design and materials

The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.

#### (b) Making and presentation of Designation

##### (1) In general

The President, on the basis of recommendations made by the Secretary, shall annually designate organizations that have—

(A) advanced the field of renewable energy technology and contributed to North American energy independence; and

(B) been certified by the Secretary under subsection (e).

#### (2) Presentation

The President shall designate projects with such ceremonies as the President may prescribe.

#### (3) Use of Designation

An organization that receives a Designation under this section may publicize the Designation of the organization as a National Priority Project in advertising.

#### (4) Categories in which the Designation may be given

Separate Designations shall be made to qualifying projects in each of the following categories:

- (A) Wind and biomass energy generation projects.
- (B) Photovoltaic and fuel cell energy generation projects.
- (C) Energy efficient building and renewable energy projects.
- (D) First-in-Class projects.

#### (c) Selection criteria

##### (1) In general

Certification and selection of the projects to receive the Designation shall be based on criteria established under this subsection.

##### (2) Wind, biomass, and building projects

In the case of a wind, biomass, or building project, the project shall demonstrate that the project will install not less than 30 megawatts of renewable energy generation capacity.

##### (3) Solar photovoltaic and fuel cell projects

In the case of a solar photovoltaic or fuel cell project, the project shall demonstrate that the project will install not less than 3 megawatts of renewable energy generation capacity.

##### (4) Energy efficient building and renewable energy projects

In the case of an energy efficient building or renewable energy project, in addition to meeting the criteria established under paragraph (2), each building project shall demonstrate that the project will—

- (A) comply with third-party certification standards for high-performance, sustainable buildings;
- (B) use whole-building integration of energy efficiency and environmental performance design and technology, including advanced building controls;
- (C) use renewable energy for at least 50 percent of the energy consumption of the project;
- (D) comply with applicable Energy Star standards; and
- (E) include at least 5,000,000 square feet of enclosed space.

##### (5) First-in-Class use

Notwithstanding paragraphs (2) through (4), a new building project may qualify under this