

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

section if the Secretary determines that the project—

(A) represents a First-In-Class use of renewable energy; or

(B) otherwise establishes a new paradigm of building integrated renewable energy use or energy efficiency.

**(d) Application**

**(1) Initial applications**

No later than 120 days after August 8, 2005, and annually thereafter, the Secretary shall publish in the Federal Register an invitation and guidelines for submitting applications, consistent with this section.

**(2) Contents**

The application shall describe the project, or planned project, and the plans to meet the criteria established under subsection (c).

**(e) Certification**

**(1) In general**

Not later than 60 days after the application period described in subsection (d), and annually thereafter, the Secretary shall certify projects that are reasonably expected to meet the criteria established under subsection (c).

**(2) Certified projects**

The Secretary shall designate personnel of the Department to work with persons carrying out each certified project and ensure that the personnel—

(A) provide each certified project with guidance in meeting the criteria established under subsection (c);

(B) identify programs of the Department, including National Laboratories and Technology Centers, that will assist each project in meeting the criteria established under subsection (c); and

(C) ensure that knowledge and transfer of the most current technology between the applicable resources of the Federal Government (including the National Laboratories and Technology Centers, the Department, and the Environmental Protection Agency) and the certified projects is being facilitated to accelerate commercialization of work developed through those resources.

**(f) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

(Pub. L. 109-58, title XIV, §1405, Aug. 8, 2005, 119 Stat. 1062.)

**§ 16494. Oxygen-fuel**

**(a) Program**

The Secretary shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit.

**(b) Authorization of appropriations**

There are authorized to be appropriated to the Secretary for carrying out this section—

- (1) \$100,000,000 for fiscal year 2006;
- (2) \$100,000,000 for fiscal year 2007; and
- (3) \$100,000,000 for fiscal year 2008.

**(c) Definitions**

For purposes of this section—

(1) the term “large unit” means a unit with a generating capacity of 100 megawatts or more;

(2) the term “oxygen-fuel systems” means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units; and

(3) the term “small unit” means a unit with a generating capacity in the 10-50 megawatt range.

(Pub. L. 109-58, title XIV, §1407, Aug. 8, 2005, 119 Stat. 1064.)

SUBCHAPTER XIV—ETHANOL AND MOTOR FUELS

**§ 16501. Commercial byproducts from municipal solid waste and cellulosic biomass loan guarantee program**

**(a) Definition of municipal solid waste**

In this section, the term “municipal solid waste” has the meaning given the term “solid waste” in section 6903 of this title.

**(b) Establishment of program**

The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.

**(c) Requirements**

The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

**(d) Criteria**

In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;