

the Development Assistance Committee of the Organization for Economic Cooperation and Development.

**(h) Selection of projects**

(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes stated in section 13311(b)<sup>1</sup> of this title;

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will make greater use of indigenous renewable energy resources.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

**(i) United States-Asia Environmental Partnership**

Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

**(j) Buy America**

In carrying out this section, the Secretary, through the Agency for International Develop-

ment, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

**(k) Reports to Congress**

The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce renewable energy technologies into foreign countries.

**(l) Definitions**

For purposes of this section—

(1) the term “host country” means a foreign country which is—

(A) the participant in or the site of the proposed renewable energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country.

(2) the term “developing country” includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

**(m) Authorization of appropriations**

There are authorized to be appropriated to the Secretary to carry out the program required by this section, \$100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

(Pub. L. 102-486, title XII, § 1211, Oct. 24, 1992, 106 Stat. 2965.)

**§ 13317. Renewable energy production incentive**

**(a) Incentive payments**

(1) For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility.

(2) The amount of such payment made to any such owner or operator shall be as determined under subsection (e).

(3) Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment.

<sup>1</sup> So in original. Probably should be section “13316(b)”.

(4)(A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign—

(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, ocean (including tidal, wave, current, and thermal), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

(ii) 40 percent of appropriated funds for the fiscal year to other projects.

(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).

**(b) Qualified renewable energy facility**

For purposes of this section, a qualified renewable energy facility is a facility which is owned by a not-for-profit electric cooperative, a public utility described in section 115 of title 26, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 1602 of title 43), and which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal), or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

**(c) Eligibility window**

Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used before October 1, 2016.

**(d) Payment period**

A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments, or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility.

**(e) Amount of payment**

**(1) In general**

Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, landfill gas, livestock methane, ocean (including tidal,

wave, current, and thermal), or geothermal energy during the payment period referred to in subsection (d). For any facility, the amount of such payment shall be 1.5 cents per kilowatt hour, adjusted as provided in paragraph (2).

**(2) Adjustments**

The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of title 26,<sup>1</sup> except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

**(f) Sunset**

No payment may be made under this section to any facility after September 30, 2026, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

**(g) 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 2026, to remain available until expended.

(Pub. L. 102-486, title XII, §1212, Oct. 24, 1992, 106 Stat. 2969; Pub. L. 109-58, title II, §202, Aug. 8, 2005, 119 Stat. 651.)

REFERENCES IN TEXT

Section 29 of title 26, referred to in subsec. (e)(2), was renumbered section 45K of title 26 by Pub. L. 109-58, title XIII, §1322(a)(1), Aug. 8, 2005, 119 Stat. 1011.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-58, §202(a), designated first, second, and third sentences as pars. (1) to (3), respectively, in par. (3) struck out “and which satisfies such other requirements as the Secretary deems necessary” after “receive such payment”, struck out at end “Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.”, and added par. (4).

Subsec. (b). Pub. L. 109-58, §202(b), in introductory provisions, substituted “a not-for-profit electric cooperative, a public utility described in section 115 of title 26, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 1602 of title 43),” for “a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision), by any corporation or association which is wholly owned, directly or indirectly, by one or more of the foregoing, or by a nonprofit electrical cooperative” and inserted “landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal),” after “wind, biomass,”.

Subsec. (c). Pub. L. 109-58, §202(c), substituted “before October 1, 2016” for “during the 10-fiscal year period beginning with the first full fiscal year occurring after October 24, 1992”.

Subsec. (d). Pub. L. 109-58, §202(d), inserted “, or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility” after “eligible for such payments”.

Subsec. (e)(1). Pub. L. 109-58, §202(e), inserted “landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal),” after “wind, biomass,”.

<sup>1</sup> See References in Text note below.

Subsec. (f). Pub. L. 109-58, §202(f), substituted “September 30, 2026” for “the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after October 24, 1992”.

Subsec. (g). Pub. L. 109-58, §202(g), added subsec. (g) and struck out heading and text of former subsec. (g). Text read as follows: “There are authorized to be appropriated to the Secretary for fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.”

## SUBCHAPTER VI—COAL

### PART A—RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION

#### § 13331. Coal research, development, demonstration, and commercial application programs

##### (a) Establishment

The Secretary shall, in accordance with section<sup>1</sup> 13541 and 13542 of this title, conduct programs for research, development, demonstration, and commercial application on coal-based technologies. Such research, development, demonstration, and commercial application programs shall include the programs established under this part, and shall have the goals and objectives of—

(1) ensuring a reliable electricity supply;

(2) complying with applicable environmental requirements;

(3) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to applicable currently available commercial technology;

(4) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(5) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;

(6) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost sharing participation;

(7) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve—

(A) greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal; and

(B) the control of emissions from the utilization of coal; and

(8) ensuring the availability for commercial use of such technologies by the year 2010.

##### (b) Demonstration and commercial application programs

(1) In selecting either a demonstration project or a commercial application project for financial assistance under this part, the Secretary shall seek to ensure that, relative to otherwise comparable commercially available technologies or products, the selected project will meet one or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(2) In administering demonstration and commercial application programs authorized by this part, the Secretary shall establish accounting and project management controls that will be adequate to control costs.

(3)(A) Not later than 180 days after October 24, 1992, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of each cost shared demonstration and commercial application project authorized pursuant to this part. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(i) the commercial competitiveness of the entity carrying out the project;

(ii) the profitability of the project; and

(iii) the commercial viability of the coal-based technology utilized.

(B) The Secretary may at any time waive or defer all or some portion of the recoupment requirement as necessary for the commercial viability of the project.

(4) Projects selected by the Secretary under this part for demonstration or commercial application of a technology shall, in the judgment of the Secretary, be capable of enhancing the state of the art for such technology.

##### (c) Report

Within 240 days after October 24, 1992, the Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research, development, demonstration, and commercial application activities regarding coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this part.

(3) Recommendations regarding the manner in which any ongoing coal-based demonstration and commercial application program might be modified and extended in order to en-

<sup>1</sup> So in original. Probably should be “sections”.