

commission having jurisdiction over the public utility, the Commission, after the effective date of this part, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company.

**(c) Effect on Federal and State law**

Nothing in this section shall affect the authority of the Commission or a State commission under other applicable law.

**(d) Rules**

Not later than 4 months after August 8, 2005, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this part) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(Pub. L. 109–58, title XII, §1275, Aug. 8, 2005, 119 Stat. 977.)

REFERENCES IN TEXT

For the effective date of this part, referred to in subsecs. (b) and (d), see Effective Date note set out under section 16451 of this title.

**§ 16463. Authorization of appropriations**

There are authorized to be appropriated such funds as may be necessary to carry out this part.

(Pub. L. 109–58, title XII, §1276, Aug. 8, 2005, 119 Stat. 978.)

REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

PART E—MARKET TRANSPARENCY,  
ENFORCEMENT, AND CONSUMER PROTECTION

**§ 16471. Consumer privacy and unfair trade practices**

**(a) Privacy**

The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

**(b) Slamming**

The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

**(c) Cramming**

The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

**(d) Rulemaking**

The Federal Trade Commission shall proceed in accordance with section 553 of title 5 when prescribing a rule under this section.

**(e) State authority**

If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

**(f) Definitions**

For purposes of this section:

**(1) State regulatory authority**

The term “State regulatory authority” has the meaning given that term in section 796(21) of title 16.

**(2) Electric consumer and electric utility**

The terms “electric consumer” and “electric utility” have the meanings given those terms in section 2602 of title 16.

(Pub. L. 109–58, title XII, §1287, Aug. 8, 2005, 119 Stat. 981.)

PART F—DEFINITIONS

**§ 16481. Commission defined**

In this subchapter, the term “Commission” means the Federal Energy Regulatory Commission.

(Pub. L. 109–58, title XII, §1291(a), Aug. 8, 2005, 119 Stat. 984.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this title”, meaning title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 941, which enacted this subchapter and sections 824j–1 and 824o to 824w of Title 16, Conservation, amended sections 796, 824, 824a–3, 824b, 824e, 824j, 824m, 825e, 825f, 825l to 825o, 825o–1, 2621, 2622, 2625, 2634, and 2642 of Title 16, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and sections 824n and 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title and 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).