

(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 Development, 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.

(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 26,¹ 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.”

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 section¹ 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

¹ See References in Text note below.

¹ So in original. Probably should be “sections”.