

Editorial Notes

REFERENCES IN TEXT

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of this title and Tables.

§ 16361. Arctic Engineering Research Center**(a) In general**

The Secretary of Transportation, in consultation with the Secretary and the United States Arctic Research Commission, shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the “Arctic Engineering Research Center” (referred to in this section as the “Center”).

(b) Purpose

The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as practicable;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) Objectives

The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) Amount of grant

For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of \$3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2006 through 2011.

(Pub. L. 109-58, title IX, §997, Aug. 8, 2005, 119 Stat. 915.)

§ 16362. Barrow Geophysical Research Facility**(a) Establishment**

The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the “Barrow Geophysical Research Facility”, to support scientific research activities in the Arctic.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility, \$61,000,000.

(Pub. L. 109-58, title IX, §998, Aug. 8, 2005, 119 Stat. 916.)

PART J—CARBON DIOXIDE TRANSPORTATION
INFRASTRUCTURE FINANCE AND INNOVATION

Editorial Notes

PRIOR PROVISIONS

A prior part J related to ultra-deepwater and unconventional natural gas and other petroleum resources, prior to repeal by Pub. L. 113-67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

§ 16371. Definitions

In this part:

(1) CIFIA program

The term “CIFIA program” means the carbon dioxide transportation infrastructure finance and innovation program established under section 16372(a) of this title.

(2) Common carrier

The term “common carrier” means a transportation infrastructure operator or owner that—

(A) publishes a publicly available tariff containing the just and reasonable rates, terms, and conditions of nondiscriminatory service; and

(B) holds itself out to provide transportation services to the public for a fee.

(3) Contingent commitment

The term “contingent commitment” means a commitment to obligate funds from future available budget authority that is—

(A) contingent on those funds being made available in law at a future date; and

(B) not an obligation of the Federal Government.

(4) Eligible project costs

The term “eligible project costs” means amounts substantially all of which are paid

by, or for the account of, an obligor in connection with a project, including—

(A) the cost of—

(i) development-phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(ii) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition and installation of equipment (including labor); and

(iii) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction; and

(B) transaction costs associated with financing the project, including—

(i) the cost of legal counsel and technical consultants; and

(ii) any subsidy amount paid in accordance with section 16372(c)(3)(B)(ii) of this title or section 16373(b)(6)(B)(ii) of this title.

(5) Federal credit instrument

The term “Federal credit instrument” means a secured loan or loan guarantee authorized to be provided under the CIFIA program with respect to a project.

(6) Lender

The term “lender” means a qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or a successor regulation), commonly known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), that is not a Federal qualified institutional buyer.

(7) Letter of interest

The term “letter of interest” means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the CIFIA program that—

(A) describes the project and the location, purpose, and cost of the project;

(B) outlines the proposed financial plan, including the requested credit and grant assistance and the proposed obligor;

(C) provides a status of environmental review; and

(D) provides information regarding satisfaction of other eligibility requirements of the CIFIA program.

(8) Loan guarantee

The term “loan guarantee” means any guarantee or other pledge by the Secretary to pay all or part of the principal of, and interest on, a loan made to an obligor, or debt obligation issued by an obligor, in each case funded by a lender.

(9) Master credit agreement

The term “master credit agreement” means a conditional agreement that—

(A) is for the purpose of extending credit assistance for—

(i) a project of high priority under section 16372(c)(3)(A) of this title; or

(ii) a project covered under section 16372(c)(3)(B) of this title;

(B) does not provide for a current obligation of Federal funds; and

(C) would—

(i) make a contingent commitment of a Federal credit instrument or grant at a future date, subject to—

(I) the availability of future funds being made available to carry out the CIFIA program; and

(II) the satisfaction of all conditions for the provision of credit assistance under the CIFIA program, including section 16373(b) of this title;

(ii) establish the maximum amounts and general terms and conditions of the Federal credit instruments or grants;

(iii) identify the 1 or more revenue sources that will secure the repayment of the Federal credit instruments;

(iv) provide for the obligation of funds for the Federal credit instruments or grants after all requirements have been met for the projects subject to the agreement, including—

(I) compliance with all applicable requirements specified under the CIFIA program, including sections 16372(d) and 16373(b)(1) of this title; and

(II) the availability of funds to carry out the CIFIA program; and

(v) require that contingent commitments shall result in a financial close and obligation of credit or grant assistance by not later than 4 years after the date of entry into the agreement or release of the commitment, as applicable, unless otherwise extended by the Secretary.

(10) Obligor

The term “obligor” means a corporation, partnership, joint venture, trust, non-Federal governmental entity, agency, or instrumentality, or other entity that is liable for payment of the principal of, or interest on, a Federal credit instrument.

(11) Produced in the United States

The term “produced in the United States”, with respect to iron and steel, means that all manufacturing processes for the iron and steel, including the application of any coating, occurs within the United States.

(12) Project

The term “project” means a project for common carrier carbon dioxide transportation infrastructure or associated equipment, including pipeline, shipping, rail, or other transportation infrastructure and associated equipment, that will transport or handle carbon dioxide captured from anthropogenic sources or ambient air, as the Secretary determines to be appropriate.

(13) Project obligation

The term “project obligation” means any note, bond, debenture, or other debt obligation

issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(14) Secured loan

The term “secured loan” means a direct loan to an obligor or a debt obligation issued by an obligor and purchased by the Secretary, in each case funded by the Secretary in connection with the financing of a project under section 16373 of this title.

(15) Subsidy amount

The term “subsidy amount” means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

- (A) calculated on a net present value basis; and
- (B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(16) Substantial completion

The term “substantial completion”, with respect to a project, means the date—

- (A) on which the project commences transportation of carbon dioxide; or
- (B) of a comparable event to the event described in subparagraph (A), as determined by the Secretary and specified in the project credit agreement.

(Pub. L. 109-58, title IX, §999A, as added Pub. L. 117-58, div. D, title III, §40304(a), Nov. 15, 2021, 135 Stat. 988.)

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REFERENCES IN TEXT

The Securities Act of 1933, referred to in par. (6), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Federal Credit Reform Act of 1990, referred to in par. (15)(B), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 16371, Pub. L. 109-58, title IX, §999A, Aug. 8, 2005, 119 Stat. 916, authorized the Secretary of Energy to carry out a program of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resources, prior to repeal by Pub. L. 113-67, div. A, title III, §301(a), Dec. 26, 2013, 127 Stat. 1181.

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.

§ 16372. Determination of eligibility and project selection

(a) Establishment of program

The Secretary shall establish and carry out a carbon dioxide transportation infrastructure finance and innovation program, under which the Secretary shall provide for eligible projects in accordance with this part—

- (1) a Federal credit instrument under section 16373 of this title;
 - (2) a grant under section 16374 of this title;
- or
- (3) both a Federal credit instrument and a grant.

(b) Eligibility

(1) In general

A project shall be eligible to receive a Federal credit instrument or a grant under the CIFIA program if—

- (A) the entity proposing to carry out the project submits a letter of interest prior to submission of an application under paragraph (3) for the project; and
- (B) the project meets the criteria described in this subsection.

(2) Creditworthiness

(A) In general

Each project and obligor that receives a Federal credit instrument or a grant under the CIFIA program shall be creditworthy, such that there exists a reasonable prospect of repayment of the principal and interest on the Federal credit instrument, as determined by the Secretary under subparagraph (B).

(B) Reasonable prospect of repayment

The Secretary shall base a determination of whether there is a reasonable prospect of repayment under subparagraph (A) on a comprehensive evaluation of whether the obligor has a reasonable prospect of repaying the Federal credit instrument for the eligible project, including evaluation of—

- (i) the strength of the contractual terms of an eligible project (if available for the applicable market segment);
- (ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary, and cash sweeps or other structural enhancements;
- (iii) the projected financial strength of the obligor—
 - (I) at the time of loan close; and
 - (II) throughout the loan term, including after the project is completed;

- (iv) the financial strength of the investors and strategic partners of the obligor, if applicable; and

- (v) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary.

(3) Applications

To be eligible for assistance under the CIFIA program, an obligor shall submit to the Sec-