

financing institutions may enter into partnerships with private entities, Tribal entities, and Alaska Native corporations.

(Pub. L. 109–58, title XVII, § 1702, Aug. 8, 2005, 119 Stat. 1117; Pub. L. 111–85, title III, § 310, Oct. 28, 2009, 123 Stat. 2873; Pub. L. 112–74, div. B, title III, § 305(1), Dec. 23, 2011, 125 Stat. 877; Pub. L. 116–260, div. Z, title IX, § 9010(a), Dec. 27, 2020, 134 Stat. 2603; Pub. L. 117–58, div. D, title IV, § 40401(a)(1), (3), (c)(2), Nov. 15, 2021, 135 Stat. 1033, 1034, 1037; Pub. L. 117–169, title V, §§ 50141(f), 50144(d), Aug. 16, 2022, 136 Stat. 2044, 2045; Pub. L. 117–328, div. D, title III, § 308, Dec. 29, 2022, 136 Stat. 4645.)

Editorial Notes

REFERENCES IN TEXT

Division C of Public Law 108–324, referred to in subsec. (a), is division C of Pub. L. 108–324, Oct. 13, 2004, 118 Stat. 1255, known as the Alaska Natural Gas Pipeline Act, which is classified principally to chapter 15D (§ 720 et seq.) of Title 15, Commerce and Trade. For complete classification of division C to the Code, see Short Title note set out under section 720 of Title 15 and Tables.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (k), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2022—Subsec. (b)(3). Pub. L. 117–169, § 50141(f), added par. (3).

Subsec. (o)(3). Pub. L. 117–169, § 50144(d), inserted “and projects described in section 16517(a) of this title” before period at end.

Subsec. (r)(3). Pub. L. 117–328 struck out par. (3). Text read as follows: “Amounts appropriated to the Department of Energy before November 15, 2021, shall not be available to be used for the cost of loan guarantees for projects receiving financing support or credit enhancements under this subsection.”

2021—Subsec. (a). Pub. L. 117–58, § 40401(c)(2)(A), inserted “, including projects receiving financial support or credit enhancements from a State energy financing institution,” after “for projects”.

Subsec. (d)(1). Pub. L. 117–58, § 40401(a)(1), substituted “Requirement” for “In general” in par. heading, designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (d)(1)(A). Pub. L. 117–58, § 40401(c)(2)(B), inserted “, including a guarantee for a project receiving financial support or credit enhancements from a State energy financing institution,” after “No guarantee”.

Subsec. (r). Pub. L. 117–58, § 40401(c)(2)(C), added subsec. (r) relating to State energy financing institutions.

Pub. L. 117–58, § 40401(a)(3), added subsec. (r) relating to conflicts of interest.

2020—Subsec. (b). Pub. L. 116–260, § 9010(a)(1), amended subsec. (b) generally. Prior to amendment, text read as follows: “No guarantee shall be made unless—

“(A) an appropriation for the cost of the guarantee has been made;

“(B) the Secretary has received from the borrower a payment in full for the cost of the guarantee and deposited the payment into the Treasury; or

“(C) a combination of one or more appropriations under subparagraph (A) and one or more payments from the borrower under subparagraph (B) has been made that is sufficient to cover the cost of the guarantee.”

Subsec. (d)(3). Pub. L. 116–260, § 9010(a)(2), substituted “, including any reorganization, restructuring, or termination thereof, shall not at any time be subordinate” for “is not subordinate”.

Subsec. (h)(1). Pub. L. 116–260, § 9010(a)(3)(A), amended par. (1) generally. Prior to amendment, text read as follows: “The Secretary shall charge and collect fees for

guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.”

Subsec. (h)(3). Pub. L. 116–260, § 9010(a)(3)(B), added par. (3).

Subsecs. (l) to (q). Pub. L. 116–260, § 9010(a)(4), added subsecs. (l) to (q).

2011—Subsec. (b). Pub. L. 112–74 added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “No guarantee shall be made unless—

“(1) an appropriation for the cost has been made; or

“(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.”

2009—Subsec. (k). Pub. L. 111–85 added subsec. (k).

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.

§ 16513. Eligible projects

(a) In general

The Secretary may make guarantees under this section only for projects that—

(1) avoid, reduce, utilize, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued, including projects that employ elements of commercial technologies in combination with new or significantly improved technologies.

(b) Categories

Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial, or transportation applications.

(4) Advanced nuclear energy facilities, including manufacturing of nuclear supply components for advanced nuclear reactors.

(5) Carbon capture, utilization, and sequestration practices and technologies, including—

(A) agricultural and forestry practices that store and sequester carbon; and

(B) synthetic technologies to remove carbon from the air and oceans.

(6) Efficient electrical generation, transmission, and distribution technologies.

(7) Efficient end-use energy technologies.

(8) Production facilities for the manufacture of fuel efficient vehicles or parts of those vehicles, including electric drive vehicles and advanced diesel vehicles.

(9) Pollution control equipment.

(10) Refineries, meaning facilities at which crude oil is refined into gasoline.

(11) Energy storage technologies for residential, industrial, transportation, and power generation applications.

(12) Technologies or processes for reducing greenhouse gas emissions from industrial applications, including iron, steel, cement, and ammonia production, hydrogen production, and the generation of high-temperature heat.

(13) Projects that increase the domestically produced supply of critical minerals (as defined in section 1606(a) of title 30), including through the production, processing, manufacturing, recycling, or fabrication of mineral alternatives.

(c) Gasification projects

The Secretary may make guarantees for the following gasification projects:

(1) Integrated gasification combined cycle projects

Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public

utility commission to sell at least 450 megawatts of output to a utility;

(D) facilities that—

(i) generate one or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

(ii) use those streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process; and

(E) a project to produce energy and clean fuels, using appropriate coal liquefaction technology, from Western bituminous or subbituminous coal, that—

(i) is owned by a State government; and

(ii) may include tribal and private coal resources.

(2) Industrial gasification projects

Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) Petroleum coke gasification projects

The Secretary is encouraged to make loan guarantees under this subchapter available for petroleum coke gasification projects.

(4) Liquefaction project

Notwithstanding any other provision of law, funds awarded under the Department of Energy's Clean Coal Power Initiative for Fischer-Tropsch coal-to-oil liquefaction projects may be used to finance the cost of loan guarantees for projects awarded such funds.

(d) Emission levels

In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/MMBtu;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/MMBtu; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/MMBtu.

(e) Qualification of facilities receiving tax credits

A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this subchapter.

(f) Regional variation

Notwithstanding subsection (a)(2), the Secretary may, if regional variation significantly affects the deployment of a technology, make guarantees under this subchapter for up to 6 projects that employ the same or similar technology as another project, provided no more than 2 projects that use the same or a similar technology are located in the same region of the United States.

(Pub. L. 109-58, title XVII, §1703, Aug. 8, 2005, 119 Stat. 1120; Pub. L. 109-168, §1(b)(1), Jan. 10, 2006,

119 Stat. 3580; Pub. L. 110-140, title I, §134(b), Dec. 19, 2007, 121 Stat. 1513; Pub. L. 116-260, div. Z, title IX, §9010(b), Dec. 27, 2020, 134 Stat. 2605; Pub. L. 117-58, div. D, title IV, §40401(a)(2)(A), Nov. 15, 2021, 135 Stat. 1034.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(13). Pub. L. 117-58 added par. (13).

2020—Subsec. (a)(1). Pub. L. 116-260, §9010(b)(1)(A), inserted “, utilize” after “reduce”.

Subsec. (a)(2). Pub. L. 116-260, §9010(b)(1)(B), inserted “, including projects that employ elements of commercial technologies in combination with new or significantly improved technologies” before period at end.

Subsec. (b)(4). Pub. L. 116-260, §9010(b)(2)(A), inserted “, including manufacturing of nuclear supply components for advanced nuclear reactors” after “facilities”.

Subsec. (b)(5). Pub. L. 116-260, §9010(b)(2)(B), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.”

Subsec. (b)(11), (12). Pub. L. 116-260, §9010(b)(2)(C), added pars. (11) and (12).

Subsec. (f). Pub. L. 116-260, §9010(b)(3), added subsec. (f).

2007—Subsec. (b)(8). Pub. L. 110-140 added par. (8) and struck out former par. (8) which read as follows: “Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles.”

2006—Subsec. (c)(4). Pub. L. 109-168 substituted “Department of Energy’s Clean Coal Power Initiative for Fischer-Tropsch” for “clean coal power initiative under part A of subchapter IV for”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

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.

§ 16514. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this subchapter.

(b) Use of other appropriated funds

The Department may use amounts awarded under the Clean Coal Power Initiative to carry out the project described in section 16513(c)(1)(C) of this title, on the request of the recipient of such award, for a loan guarantee, to the extent that the amounts have not yet been disbursed to, or have been repaid by, the recipient.

(c) Administrative and other expenses

There are authorized to be appropriated—

(1) \$32,000,000 for each of fiscal years 2021 through 2025 to carry out this subchapter; and

(2) for fiscal year 2021, in addition to amounts authorized under paragraph (1), \$25,000,000, to remain available until expended,

for administrative expenses described in section 16512(h)(1) of this title that are not covered by fees collected pursuant to section 16512(h) of this title.

(Pub. L. 109-58, title XVII, §1704, Aug. 8, 2005, 119 Stat. 1122; Pub. L. 109-168, §1(b)(2), Jan. 10, 2006, 119 Stat. 3580; Pub. L. 116-260, div. Z, title IX, §9010(c), Dec. 27, 2020, 134 Stat. 2606.)

Editorial Notes

AMENDMENTS

2020—Subsec. (c). Pub. L. 116-260 added subsec. (c).

2006—Subsec. (b). Pub. L. 109-168 substituted “Clean Coal Power Initiative” for “clean coal power initiative under part A of subchapter IV”.

§ 16515. Limitation on commitments to guarantee loans

(a) Notwithstanding section 101,¹ subject to the Federal Credit Reform Act of 1990, as amended [2 U.S.C. 661 et seq.], commitments to guarantee loans under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.] shall not exceed a total principal amount, any part of which is to be guaranteed, of \$4,000,000,000: *Provided*, That there are appropriated for the cost of the guaranteed loans such sums as are hereafter derived from amounts received from borrowers pursuant to section 16512(b)(2) of this title, to remain available until expended: *Provided further*, That the source of payments received from borrowers for the subsidy cost shall not be a loan or other debt obligation that is made or guaranteed by the Federal government.² In addition, fees collected pursuant to section 16512(h) of this title in fiscal year 2007 shall be credited as offsetting collections to the Departmental Administration account for administrative expenses of the Loan Guarantee Program: *Provided further*, That the sum appropriated for administrative expenses for the Loan Guarantee Program shall be reduced by the amount of fees received during fiscal year 2007: *Provided further*, That any fees collected under section 16512(h) of this title in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

(b) No loan guarantees may be awarded under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.] until final regulations are issued that include—

(1) programmatic, technical, and financial factors the Secretary will use to select projects for loan guarantees;

(2) policies and procedures for selecting and monitoring lenders and loan performance; and

(3) any other policies, procedures, or information necessary to implement title XVII of the Energy Policy Act of 2005.

(c) The Secretary of Energy shall enter into an arrangement with an independent auditor for annual evaluations of the program under title XVII of the Energy Policy Act of 2005 [42 U.S.C. 16501 et seq.]. In addition to the independent audit, the Comptroller General shall conduct a review every three years of the Department’s

¹ See References in Text note below.

² So in original. Probably should be capitalized.