(C) any other project for which Federal funding is provided under the Advanced Reactor Demonstration Program of the Department; or

(D) a project—

(i) relating to advanced nuclear reactors; and

(ii) for which Federal funding is provided under a program focused on development and demonstration.

(4) Retroactive vesting

The vesting of fee title or any other property interest assigned under paragraph (2) shall be retroactive to the date on which the applicable project first received Federal funding as described in any of subparagraphs (A) through (D) of paragraph (3).

(Pub. L. 117–58, div. D, title III, § 40322(a), Nov. 15, 2021, 135 Stat. 1017.)

Editorial Notes

REFERENCES IN TEXT

The Further Consolidated Appropriations Act, 2020, referred to in subsec. (a)(3)(B), is Pub. L. 116–94, Dec. 20, 2019, 133 Stat. 2534. Title III of division C of the Act is title III of div. C of Pub. L. 116–94, Dec. 20, 2019, 133 Stat. 2669, which enacted section 825s–8 of Title 16, Conservation, and provisions set out as notes under section 6939f of this title and 838i of Title 16, and provisions set out in a table under sections 6241 and 7171 of this title. For complete classification of this Act to the Code, see Tables.

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.

§ 18753. Civil nuclear credit program

(a) Definitions

In this section:

(1) Certified nuclear reactor

The term ''certified nuclear reactor'' means a nuclear reactor that—

(A) competes in a competitive electricity market; and

(B) is certified under subsection (c)(2)(A)(i) to submit a sealed bid in accordance with subsection (d).

(2) Credit

The term ''credit'' means a credit allocated to a certified nuclear reactor under subsection (e)(2).

(b) Establishment of program

The Secretary shall establish a civil nuclear credit program—

(1) to evaluate nuclear reactors that are projected to cease operations due to economic factors; and

(2) to allocate credits to certified nuclear reactors that are selected under paragraph (1)(B) of subsection (e) to receive credits under paragraph (2) of that subsection.

(c) Certification

(1) Application

(A) In general

In order to be certified under paragraph (2)(A)(i), the owner or operator of a nuclear reactor that is projected to cease operations due to economic factors shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate, including—

(i) information on the operating costs necessary to make the determination described in paragraph (2)(A)(ii)(I), including—

(I) the average projected annual operating loss in dollars per megawatt-hour, inclusive of the cost of operational and market risks, expected to be incurred by the nuclear reactor over the 4-year period for which credits would be allocated;

(II) any private or publicly available data with respect to current or projected bulk power market prices;

(III) out-of-market revenue streams;

(IV) operations and maintenance costs;

(V) capital costs, including fuel; and

(VI) operational and market risks;

(ii) an estimate of the potential incremental air pollutants that would result if the nuclear reactor were to cease operations;

(iii) known information on the source of produced uranium and the location where the uranium is converted, enriched, and fabricated into fuel assemblies for the nuclear reactor for the 4-year period for which credits would be allocated; and

(iv) a detailed plan to sustain operations at the conclusion of the applicable 4-year period for which credits would be allocated—

(I) without receiving additional credits; or

(II) with the receipt of additional credits of a lower amount than the credits allocated during that 4-year credit period.

(B) Timeline

The Secretary shall accept applications described in subparagraph (A)—

(i) until the date that is 120 days after November 15, 2021; and

(ii) not less frequently than every year thereafter.

(C) Payments from State programs

(i) In general

The owner or operator of a nuclear reactor that receives a payment from a State zero-emission credit, a State clean energy contract, or any other State program with respect to that nuclear reactor shall be eligible to submit an application under subparagraph (A) with respect to that nuclear reactor during any application period beginning after the 120-day period beginning on November 15, 2021.

(ii) Requirement

An application submitted by an owner or operator described in clause (i) with re-

spect to a nuclear reactor described in that clause shall include all projected payments from State programs in determining the average projected annual operating loss described in subparagraph (A)(i)(I), unless the credits allocated to the nuclear reactor pursuant to that application will be used to reduce those payments.

(2) Determination to certify

(A) Determination

(i) In general

Not later than 60 days after the applicable date under subparagraph (B) of paragraph (1), the Secretary shall determine whether to certify, in accordance with clauses (ii) and (iii), each nuclear reactor for which an application is submitted under subparagraph (A) of that paragraph.

(ii) Minimum requirements

To the maximum extent practicable, the Secretary shall only certify a nuclear reactor under clause (i) if—

(I) after considering the information submitted under paragraph (1)(A)(i), the Secretary determines that the nuclear reactor is projected to cease operations due to economic factors;

(II) after considering the estimate submitted under paragraph (1)(A)(ii), the Secretary determines that pollutants would increase if the nuclear reactor were to cease operations and be replaced with other types of power generation; and

(III) the Nuclear Regulatory Commission has reasonable assurance that the nuclear reactor—

(aa) will continue to be operated in accordance with the current licensing basis (as defined in section 54.3 of title 10, Code of Federal Regulations (or successor regulations)[1] of the nuclear reactor; and

(bb) poses no significant safety hazards.

(iii) Priority

In determining whether to certify a nuclear reactor under clause (i), the Secretary shall give priority to a nuclear reactor that uses, to the maximum extent available, uranium that is produced, converted, enriched, and fabricated into fuel assemblies in the United States.

(B) Notice

For each application received under paragraph (1)(A), the Secretary shall provide to the applicable owner or operator, as applicable—

(i) a notice of the certification of the applicable nuclear reactor; or

(ii) a notice that describes the reasons why the certification of the applicable nuclear reactor was denied.

[1] So in original. Probably should be followed by a second closing parenthesis.

(d) Bidding process

(1) In general

Subject to paragraph (2), the Secretary shall establish a deadline by which each certified nuclear reactor shall submit to the Secretary a sealed bid that—

(A) describes the price per megawatt-hour of the credits desired by the certified nuclear reactor, which shall not exceed the average projected annual operating loss described in subsection (c)(1)(A)(i)(I); and

(B) includes a commitment, subject to the receipt of credits, to provide a specific number of megawatt-hours of generation during the 4-year period for which credits would be allocated.

(2) Requirement

The deadline established under paragraph (1) shall be not later than 30 days after the first date on which the Secretary has made the determination described in paragraph (2)(A)(i) of subsection (c) with respect to each application submitted under paragraph (1)(A) of that subsection.

(e) Allocation

(1) Auction

Notwithstanding section 2209 of this title, the Secretary shall—

(A) in consultation with the heads of applicable Federal agencies, establish a process for evaluating bids submitted under subsection (d)(1) through an auction process; and

(B) select certified nuclear reactors to be allocated credits.

(2) Credits

Subject to subsection (f)(2), on selection under paragraph (1), a certified nuclear reactor shall be allocated credits for a 4-year period beginning on the date of the selection.

(3) Requirement

To the maximum extent practicable, the Secretary shall use the amounts made available for credits under this section to allocate credits to as many certified nuclear reactors as possible.

(f) Renewal

(1) In general

The owner or operator of a certified nuclear reactor may seek to recertify the nuclear reactor in accordance with this section.

(2) Limitation

Notwithstanding any other provision of this section, the Secretary may not allocate any credits after September 30, 2031.

(g) Additional requirements

(1) Audit

During the 4-year period beginning on the date on which a certified nuclear reactor first receives a credit, the Secretary shall periodically audit the certified nuclear reactor.

(2) Recapture

The Secretary shall, by regulation, provide for the recapture of the allocation of any cred-

it to a certified nuclear reactor that, during the period described in paragraph (1)—

(A) terminates operations; or

(B) does not operate at an annual loss in the absence of an allocation of credits to the certified nuclear reactor.

(3) Confidentiality

The Secretary shall establish procedures to ensure that any confidential, private, proprietary, or privileged information that is included in a sealed bid submitted under this section is not publicly disclosed or otherwise improperly used.

(h) Report

Not later than January 1, 2024, the Comptroller General of the United States shall submit to Congress a report with respect to the credits allocated to certified nuclear reactors, which shall include—

(1) an evaluation of the effectiveness of the credits in avoiding air pollutants while ensuring grid reliability;

(2) a quantification of the ratepayer savings achieved under this section; and

(3) any recommendations to renew or expand the credits.

(i) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this section $6,000,000,000 for the period of fiscal years 2022 through 2026.

(Pub. L. 117–58, div. D, title III, § 40323, Nov. 15, 2021, 135 Stat. 1019.)

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.

PART B—MISCELLANEOUS

§ 18761. Clean energy demonstration program on current and former mine land

(a) Definitions

In this section:

(1) Clean energy project

The term ''clean energy project'' means a project that demonstrates 1 or more of the following technologies:

(A) Solar.

(B) Micro-grids.

(C) Geothermal.

(D) Direct air capture.

(E) Fossil-fueled electricity generation with carbon capture, utilization, and sequestration.

(F) Energy storage, including pumped storage hydropower and compressed air storage.

(G) Advanced nuclear technologies.

(2) Economically distressed area

The term ''economically distressed area'' means an area described in section 3161(a) of this title.

(3) Mine land

The term ''mine land'' means—

(A) land subject to titles IV and V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.; 30 U.S.C. 1251 et seq.); and

(B) land that has been claimed or patented subject to sections 2319 through 2344 of the Revised Statutes (commonly known as the ''Mining Law of 1872'') (30 U.S.C. 22 et seq.).

(4) Program

The term ''program'' means the demonstration program established under subsection (b).

(b) Establishment

The Secretary shall establish a program to demonstrate the technical and economic viability of carrying out clean energy projects on current and former mine land.

(c) Selection of demonstration projects

(1) In general

In carrying out the program, the Secretary shall select not more than 5 clean energy projects, to be carried out in geographically diverse regions, at least 2 of which shall be solar projects.

(2) Eligibility

To be eligible to be selected for participation in the program under paragraph (1), a clean energy project shall demonstrate, as determined by the Secretary, a technology on a current or former mine land site with a reasonable expectation of commercial viability.

(3) Priority

In selecting clean energy projects for participation in the program under paragraph (1), the Secretary shall prioritize clean energy projects that will—

(A) be carried out in a location where the greatest number of jobs can be created from the successful demonstration of the clean energy project;

(B) provide the greatest net impact in avoiding or reducing greenhouse gas emissions;

(C) provide the greatest domestic job creation (both directly and indirectly) during the implementation of the clean energy project;

(D) provide the greatest job creation and economic development in the vicinity of the clean energy project, particularly—

(i) in economically distressed areas; and

(ii) with respect to dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining;

(E) have the greatest potential for technological innovation and commercial deployment;

(F) have the lowest levelized cost of generated or stored energy;

(G) have the lowest rate of greenhouse gas emissions per unit of electricity generated or stored; and

(H) have the shortest project time from permitting to completion.

(4) Project selection

The Secretary shall solicit proposals for clean energy projects and select clean energy