

(Pub. L. 117–58, div. D, title I, § 40126, Nov. 15, 2021, 135 Stat. 956.)

Editorial Notes

REFERENCES IN TEXT

This division, referred to in subsec. (a), is div. D of Pub. L. 117–58, Nov. 15, 2021, 135 Stat. 923, which enacted this chapter and enacted and amended numerous other sections and notes in the Code. For complete classification of div. D 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.

§ 18726. Savings provision

Nothing in this part affects the authority, existing on the day before November 15, 2021, of any other Federal department or agency, including the authority provided to the Secretary of Homeland Security and the Director of the Cybersecurity and Infrastructure Security Agency in title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.).

(Pub. L. 117–58, div. D, title I, § 40127, Nov. 15, 2021, 135 Stat. 957.)

Editorial Notes

REFERENCES IN TEXT

The Homeland Security Act of 2002, referred to in text, is Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135. Title XXII of the Act is classified generally to subchapter XVIII (§651 et seq.) of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and 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.

SUBCHAPTER II—SUPPLY CHAINS FOR CLEAN ENERGY TECHNOLOGIES

§ 18741. Battery processing and manufacturing

(a) Definitions

In this section:

(1) Advanced battery

The term “advanced battery” means a battery that consists of a battery cell that can be integrated into a module, pack, or system to be used in energy storage applications, including electric vehicles and the electric grid.

(2) Advanced battery component

(A) In general

The term “advanced battery component” means a component of an advanced battery.

(B) Inclusions

The term “advanced battery component” includes materials, enhancements, enclosures, anodes, cathodes, electrolytes, cells, and other associated technologies that comprise an advanced battery.

(3) Battery material

The term “battery material” means the raw and processed form of a mineral, metal, chemical, or other material used in an advanced battery component.

(4) Eligible entity

The term “eligible entity” means an entity described in any of paragraphs (1) through (5) of section 16353(b) of this title.

(5) Foreign entity of concern

The term “foreign entity of concern” means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 1189(a) of title 8;

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the “SDN list”);

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d)¹ of title 10);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18 (commonly known as the “Espionage Act”);

(ii) section 951 or 1030 of title 18;

(iii) chapter 90 of title 18 (commonly known as the “Economic Espionage Act of 1996”);

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and² 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

(6) Manufacturing

The term “manufacturing”, with respect to an advanced battery and an advanced battery component, means the industrial and chemical steps taken to produce that advanced battery or advanced battery component, respectively.

(7) Processing

The term “processing”, with respect to battery material, means the refining of materials,

¹ See References in Text note below.

² So in original. Probably should be “or”.

including the treating, baking, and coating processes used to convert raw products into constituent materials employed directly in advanced battery manufacturing.

(8) Recycling

The term “recycling” means the recovery of materials from advanced batteries to be re-used in similar applications, including the extracting, processing, and recoating of battery materials and advanced battery components.

(b) Battery material processing grants

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall establish within the Office of Fossil Energy a program, to be known as the “Battery Material Processing Grant Program” (referred to in this subsection as the “program”), under which the Secretary shall award grants in accordance with this subsection.

(2) Purposes

The purposes of the program are—

(A) to ensure that the United States has a viable battery materials processing industry to supply the North American battery supply chain;

(B) to expand the capabilities of the United States in advanced battery manufacturing;

(C) to enhance national security by reducing the reliance of the United States on foreign competitors for critical materials and technologies; and

(D) to enhance the domestic processing capacity of minerals necessary for battery materials and advanced batteries.

(3) Grants

(A) In general

Under the program, the Secretary shall award grants to eligible entities—

(i) to carry out 1 or more demonstration projects in the United States for the processing of battery materials;

(ii) to construct 1 or more new commercial-scale battery material processing facilities in the United States; and

(iii) to retool, retrofit, or expand 1 or more existing battery material processing facilities located in the United States and determined qualified by the Secretary.

(B) Amount limitation

The amount of a grant awarded under the program shall be not less than—

(i) \$50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(i);

(ii) \$100,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(ii); and

(iii) \$50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(iii).

(C) Priority; consideration

In awarding grants to eligible entities under the program, the Secretary shall—

(i) give priority to an eligible entity that—

(I) is located and operates in the United States;

(II) is owned by a United States entity;

(III) deploys North American-owned intellectual property and content;

(IV) represents consortia or industry partnerships; and

(V) will not use battery material supplied by or originating from a foreign entity of concern; and

(ii) take into consideration whether a project—

(I) provides workforce opportunities in low- and moderate-income communities;

(II) encourages partnership with universities and laboratories to spur innovation and drive down costs;

(III) partners with Indian Tribes; and

(IV) takes into account—

(aa) greenhouse gas emissions reductions and energy efficient battery material processing opportunities throughout the manufacturing process; and

(bb) supply chain logistics.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program \$3,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(c) Battery manufacturing and recycling grants

(1) In general

Not later than 180 days after November 15, 2021, the Secretary shall establish within the Office of Energy Efficiency and Renewable Energy a battery manufacturing and recycling grant program (referred to in this subsection as the “program”).

(2) Purpose

The purpose of the program is to ensure that the United States has a viable domestic manufacturing and recycling capability to support and sustain a North American battery supply chain.

(3) Grants

(A) In general

Under the program, the Secretary shall award grants to eligible entities—

(i) to carry out 1 or more demonstration projects for advanced battery component manufacturing, advanced battery manufacturing, and recycling;

(ii) to construct 1 or more new commercial-scale advanced battery component manufacturing, advanced battery manufacturing, or recycling facilities in the United States; and

(iii) to retool, retrofit, or expand 1 or more existing facilities located in the United States and determined qualified by the Secretary for advanced battery component manufacturing, advanced battery manufacturing, and recycling.

(B) Amount limitation

The amount of a grant awarded under the program shall be not less than—

(i) \$50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(i);

(ii) \$100,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(ii); and

(iii) \$50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(iii).

(C) Priority; consideration

In awarding grants to eligible entities under the program, the Secretary shall—

(i) give priority to an eligible entity that—

(I) is located and operates in the United States;

(II) is owned by a United States entity;

(III) deploys North American-owned intellectual property and content;

(IV) represents consortia or industry partnerships; and

(V)(aa) if the eligible entity will use the grant for advanced battery component manufacturing, will not use battery material supplied by or originating from a foreign entity of concern; or

(bb) if the eligible entity will use the grant for battery recycling, will not export recovered critical materials to a foreign entity of concern; and

(ii) take into consideration whether a project—

(I) provides workforce opportunities in low- and moderate-income or rural communities;

(II) provides workforce opportunities in communities that have lost jobs due to the displacements of fossil energy jobs;

(III) encourages partnership with universities and laboratories to spur innovation and drive down costs;

(IV) partners with Indian Tribes;

(V) takes into account—

(aa) greenhouse gas emissions reductions and energy efficient battery material processing opportunities throughout the manufacturing process; and

(bb) supply chain logistics; and

(VI) utilizes feedstock produced in the United States.

(4) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out the program \$3,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(d) Reporting requirements

Not later than 1 year after November 15, 2021, and annually thereafter, the Secretary shall submit to Congress a report on the grant programs established under subsections (b) and (c), including, with respect to each grant program, a description of—

(1) the number of grant applications received;

(2) the number of grants awarded and the amount of each award;

(3) the purpose and status of each project carried out using a grant; and

(4) any other information the Secretary determines necessary.

(e) Lithium-Ion Battery Recycling Prize Competition

(1) In general

The Secretary shall continue to carry out the Lithium-Ion Battery Recycling Prize Competition of the Department established pursuant to section 3719 of title 15 (referred to in this subsection as the “competition”).

(2) Authorization of appropriations for pilot projects

(A) In general

There is authorized to be appropriated to the Secretary to carry out Phase III of the competition, \$10,000,000 for fiscal year 2022, to remain available until expended.

(B) Use of funds

The Secretary may use amounts made available under subparagraph (A)—

(i) to increase the number of winners of Phase III of the competition;

(ii) to increase the amount awarded to each winner of Phase III of the competition; and

(iii) to carry out any other activity that is consistent with the goals of Phase III of the competition, as determined by the Secretary.

(f) Battery and critical mineral recycling

(1) Definitions

In this subsection:

(A) Administrator

The term “Administrator” means the Administrator of the Environmental Protection Agency.

(B) Battery

The term “battery” means a device that—

(i) consists of 1 or more electrochemical cells that are electrically connected; and

(ii) is designed to store and deliver electric energy.

(C) Battery producer

The term “battery producer” means, with respect to a covered battery or covered battery-containing product that is sold, offered for sale, or distributed for sale in the United States, including through retail, wholesale, business-to-business, and online sale, the following applicable entity:

(i) A person who—

(I) manufactures the covered battery or covered battery-containing product; and

(II) sells or offers for sale the covered battery or covered battery-containing product under the brand of that person.

(ii) If there is no person described in clause (i) with respect to the covered battery or covered battery-containing product, the owner or licensee of the brand under which the covered battery or covered battery-containing product is sold, of-

ferred for sale, or distributed, regardless of whether the trademark of the brand is registered.

(iii) If there is no person described in clause (i) or (ii) with respect to the covered battery or covered battery-containing product, a person that imports the covered battery or covered battery-containing product into the United States for sale or distribution.

(D) Covered battery

The term “covered battery” means a new or unused primary battery or rechargeable battery.

(E) Covered battery-containing product

The term “covered battery-containing product” means a new or unused product that contains or is packaged with a primary battery or rechargeable battery.

(F) Critical mineral

The term “critical mineral” has the meaning given the term in section 1606(a) of title 30.

(G) Primary battery

The term “primary battery” means a non-rechargeable battery that weighs not more than 4.4 pounds, including an alkaline, carbon-zinc, and lithium metal battery.

(H) Rechargeable battery

(i) In general

The term “rechargeable battery” means a battery that—

- (I) contains 1 or more voltaic or galvanic cells that are electrically connected to produce electric energy;
- (II) is designed to be recharged;
- (III) weighs not more than 11 pounds; and
- (IV) has a watt-hour rating of not more than 300 watt-hours.

(ii) Exclusions

The term “rechargeable battery” does not include a battery that—

- (I) contains electrolyte as a free liquid; or
- (II) employs lead-acid technology, unless that battery is sealed and does not contain electrolyte as a free liquid.

(I) Recycling

The term “recycling” means the series of activities—

- (i) during which recyclable materials are processed into specification-grade commodities, and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacturing of new products;
- (ii) that may include collection, processing, and brokering; and
- (iii) that result in subsequent consumption by a materials manufacturer, including for the manufacturing of new products.

(2) Battery recycling research, development, and demonstration grants

(A) In general

The Secretary, in coordination with the Administrator, shall award multiyear grants

to eligible entities for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of batteries, including by addressing—

- (i) recycling activities;
- (ii) the development of methods to promote the design and production of batteries that take into full account and facilitate the dismantling, reuse, recovery, and recycling of battery components and materials;
- (iii) strategies to increase consumer acceptance of, and participation in, the recycling of batteries;
- (iv) the extraction or recovery of critical minerals from batteries that are recycled;
- (v) the integration of increased quantities of recycled critical minerals in batteries and other products to develop markets for recycled battery materials and critical minerals;
- (vi) safe disposal of waste materials and components recovered during the recycling process;
- (vii) the protection of the health and safety of all persons involved in, or in proximity to, recycling and reprocessing activities, including communities located near recycling and materials reprocessing facilities;
- (viii) mitigation of environmental impacts that arise from recycling batteries, including disposal of toxic reagents and byproducts related to recycling processes;
- (ix) protection of data privacy associated with collected covered battery-containing products;
- (x) the optimization of the value of material derived from recycling batteries; and
- (xi) the cost-effectiveness and benefits of the reuse and recycling of batteries and critical minerals.

(B) Eligible entities

The Secretary, in coordination with the Administrator, may award a grant under subparagraph (A) to—

- (i) an institution of higher education;
- (ii) a National Laboratory;
- (iii) a Federal research agency;
- (iv) a State research agency;
- (v) a nonprofit organization;
- (vi) an industrial entity;
- (vii) a manufacturing entity;
- (viii) a private battery-collection entity;
- (ix) an entity operating 1 or more battery recycling activities;
- (x) a State or municipal government entity;
- (xi) a battery producer;
- (xii) a battery retailer; or
- (xiii) a consortium of 2 or more entities described in clauses (i) through (xii).

(C) Applications

(i) In general

To be eligible to receive a grant under subparagraph (A), an eligible entity described in subparagraph (B) shall submit

to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) Contents

An application submitted under clause (i) shall describe how the project will promote collaboration among—

- (I) battery producers and manufacturers;
- (II) battery material and equipment manufacturers;
- (III) battery recyclers, collectors, and refiners; and
- (IV) retailers.

(D) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this paragraph \$60,000,000 for the period of fiscal years 2022 through 2026.

(3) State and local programs

(A) In general

The Secretary, in coordination with the Administrator, shall establish a program under which the Secretary shall award grants, on a competitive basis, to States and units of local government to assist in the establishment or enhancement of State battery collection, recycling, and reprocessing programs.

(B) Non-Federal cost share

The non-Federal share of the cost of a project carried out using a grant under this paragraph shall be 50 percent of the cost of the project.

(C) Report

Not later than 2 years after November 15, 2021, and annually thereafter, the Secretary shall submit to Congress a report that describes the number of battery collection points established or enhanced, an estimate of jobs created, and the quantity of material collected as a result of the grants awarded under subparagraph (A).

(D) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this paragraph \$50,000,000 for the period of fiscal years 2022 through 2026.

(4) Retailers as collection points

(A) In general

The Secretary shall award grants, on a competitive basis, to retailers that sell covered batteries or covered battery-containing products to establish and implement a system for the acceptance and collection of covered batteries and covered battery-containing products, as applicable, for reuse, recycling, or proper disposal.

(B) Collection system

A system described in subparagraph (A) shall include take-back of covered batteries—

- (i) at no cost to the consumer; and
- (ii) on a regular, convenient, and accessible basis.

(C) Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this paragraph \$15,000,000 for the period of fiscal years 2022 through 2026.

(5) Task force on producer responsibilities

(A) In general

The Secretary, in coordination with the Administrator, shall convene a task force to develop an extended battery producer responsibility framework that—

- (i) addresses battery recycling goals, cost structures for mandatory recycling, reporting requirements, product design, collection models, and transportation of collected materials;
- (ii) provides sufficient flexibility to allow battery producers to determine cost-effective strategies for compliance with the framework; and
- (iii) outlines regulatory pathways for effective recycling.

(B) Task force members

Members of the task force convened under subparagraph (A) shall include—

- (i) battery producers, manufacturers, retailers, recyclers, and collectors or processors;
- (ii) States and municipalities; and
- (iii) other relevant stakeholders, such as environmental, energy, or consumer organizations, as determined by the Secretary.

(C) Report

Not later than 1 year after the date on which the Secretary, in coordination with Administrator, convenes the task force under subparagraph (A), the Secretary shall submit to Congress a report that—

- (i) describes the extended producer responsibility framework developed by the task force;
- (ii) includes the recommendations of the task force on how best to implement a mandatory pay-in or other enforcement mechanism to ensure that battery producers and sellers are contributing to the recycling of batteries; and
- (iii) suggests regulatory pathways for effective recycling.

(6) Effect on Mercury-Containing and Rechargeable Battery Management Act

Nothing in this subsection, or any regulation, guideline, framework, or policy adopted or promulgated pursuant to this subsection, shall modify or otherwise affect the provisions of the Mercury-Containing and Rechargeable Battery Management Act (42 U.S.C. 14301 et seq.).

(Pub. L. 117-58, div. D, title II, §40207, Nov. 15, 2021, 135 Stat. 963.)

Editorial Notes

REFERENCES IN TEXT

Section 2533c(d) of title 10, referred to subsec. (a)(5)(C), was renumbered section 4872(d) of title 10 by Pub. L. 116-283, div. A, title XVIII, §1870(d)(2), Jan. 1, 2021, 134 Stat. 4286, as amended by Pub. L. 117-81, div.

A, title XVII, §1701(t)(2)(B), (C), Dec. 27, 2021, 135 Stat. 2150.

The Arms Export Control Act, referred to in subsec. (a)(5)(D)(iv), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Export Control Reform Act of 2018, referred to in subsec. (a)(5)(D)(vi), is subtitle B (§§1741-1781) of title XVII of div. A of Pub. L. 115-232, Aug. 13, 2018, 132 Stat. 2208, which is classified principally to chapter 58 (§4801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 50 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (a)(5)(D)(vii), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Mercury-Containing and Rechargeable Battery Management Act, referred to in subsec. (f)(6), is Pub. L. 104-142, May 13, 1996, 110 Stat. 1329, which is classified generally to chapter 137 (§14301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 14301 of this title and 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.

§ 18742. Advanced energy manufacturing and recycling grant program

(a) Definitions

In this section:

(1) Advanced energy property

The term “advanced energy property” means—

(A) property designed to be used to produce energy from the sun, water, wind, geothermal or hydrothermal (as those terms are defined in section 17191 of this title) resources, enhanced geothermal systems (as defined in that section), or other renewable resources;

(B) fuel cells, microturbines, or energy storage systems and components;

(C) electric grid modernization equipment or components;

(D) property designed to capture, remove, use, or sequester carbon oxide emissions;

(E) equipment designed to refine, electrolyze, or blend any fuel, chemical, or product that is—

(i) renewable; or

(ii) low-carbon and low-emission;

(F) property designed to produce energy conservation technologies (including for residential, commercial, and industrial applications);

(G)(i) light-, medium-, or heavy-duty electric or fuel cell vehicles, electric or fuel cell

locomotives, electric or fuel cell maritime vessels, or electric or fuel cell planes;

(ii) technologies, components, and materials of those vehicles, locomotives, maritime vessels, or planes; and

(iii) charging or refueling infrastructure associated with those vehicles, locomotives, maritime vessels, or planes;

(H)(i) hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds; and

(ii) technologies, components, and materials for those vehicles; and

(I) other advanced energy property designed to reduce greenhouse gas emissions, as may be determined by the Secretary.

(2) Covered census tract

The term “covered census tract” means a census tract—

(A) in which, after December 31, 1999, a coal mine had closed;

(B) in which, after December 31, 2009, a coal-fired electricity generating unit had been retired; or

(C) that is immediately adjacent to a census tract described in subparagraph (A) or (B).

(3) Eligible entity

The term “eligible entity” means a manufacturing firm—

(A) the gross annual sales of which are less than \$100,000,000;

(B) that has fewer than 500 employees at the plant site of the manufacturing firm; and

(C) the annual energy bills of which total more than \$100,000 but less than \$2,500,000.

(4) Minority-owned

The term “minority-owned”, with respect to an eligible entity, means an eligible entity not less than 51 percent of which is owned by 1 or more individuals who are—

(A) citizens of the United States; and

(B) Asian American, Native Hawaiian, Pacific Islander, African American, Hispanic, Puerto Rican, Native American, or Alaska Native.

(5) Program

The term “Program” means the grant program established under subsection (b).

(6) Qualifying advanced energy project

The term “qualifying advanced energy project” means a project that—

(A)(i) re-equips, expands, or establishes a manufacturing or recycling facility for the production or recycling, as applicable, of advanced energy property; or

(ii) re-equips an industrial or manufacturing facility with equipment designed to reduce the greenhouse gas emissions of that facility substantially below the greenhouse gas emissions under current best practices, as determined by the Secretary, through the installation of—

(I) low- or zero-carbon process heat systems;

(II) carbon capture, transport, utilization, and storage systems;