

116TH CONGRESS
2D SESSION

H. R. 9015

To direct the Administrator of the Environmental Protection Agency to establish an emissions avoidance program for certain nuclear reactors, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 17, 2020

Mr. KINZINGER (for himself and Mr. MICHAEL F. DOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Administrator of the Environmental Protection Agency to establish an emissions avoidance program for certain nuclear reactors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; DEFINITIONS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Preserving Existing Nuclear Energy Generation Act”.

6 (b) **DEFINITIONS.**—In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) APPROPRIATE COMMITTEES OF CON-
5 GRESS.—The term “appropriate committees of Con-
6 gress” means—

7 (A) the Committee on Environment and
8 Public Works of the Senate; and

9 (B) the Committee on Energy and Com-
10 merce of the House of Representatives.

11 (3) COMMISSION.—The term “Commission”
12 means the Nuclear Regulatory Commission.

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of Energy.

15 **SEC. 2. NUCLEAR REACTOR INCENTIVES.**

16 (a) DEFINITIONS.—In this section:

17 (1) CERTIFIED NUCLEAR REACTOR.—The term
18 “certified nuclear reactor” means a nuclear reactor
19 that—

20 (A) operates in a competitive electricity
21 market; and

22 (B) is certified under subsection
23 (c)(2)(A)(i) to submit a sealed bid in accord-
24 ance with subsection (d).

1 (2) CREDIT.—The term “credit” means a credit
2 allocated to a certified nuclear reactor under sub-
3 section (e)(2).

4 (b) ESTABLISHMENT OF PROGRAM.—Subject to the
5 availability of appropriations, the Administrator, in con-
6 sultation with the Secretary, shall establish an emissions
7 avoidance program—

8 (1) to evaluate nuclear reactors that are pro-
9 jected to cease operations due to economic factors;
10 and

11 (2) to allocate credits to certified nuclear reac-
12 tors that are selected under paragraph (1)(B) of
13 subsection (e) to receive credits under paragraph (2)
14 of that subsection.

15 (c) CERTIFICATION.—

16 (1) APPLICATION.—

17 (A) IN GENERAL.—In order to be certified
18 under paragraph (2)(A)(i), the owner or oper-
19 ator of a nuclear reactor that is projected to
20 cease operations due to economic factors shall
21 submit to the Administrator an application at
22 such time, in such manner, and containing such
23 information as the Administrator determines to
24 be appropriate, including—

1 (i) information on the operating costs
2 necessary to make the determination de-
3 scribed in paragraph (2)(A)(ii)(II), includ-
4 ing—

5 (I) the average annual operating
6 loss per megawatt-hour expected to be
7 incurred by the nuclear reactor over
8 the 4-year period for which credits
9 would be allocated;

10 (II) any private or publicly avail-
11 able data with respect to current or
12 projected bulk power market prices;

13 (III) out-of-market revenue
14 streams;

15 (IV) operations and maintenance
16 costs;

17 (V) capital costs, including fuel;
18 and

19 (VI) operational and market
20 risks;

21 (ii) an estimate of the potential incre-
22 mental emissions of carbon dioxide, nitro-
23 gen oxides, sulfur oxides, particulate mat-
24 ter, and hazardous air pollutants that

1 would result if the nuclear reactor were to
2 cease operations;

3 (iii) information on the source of re-
4 covered uranium and the location where
5 the uranium is converted, enriched, and
6 fabricated into fuel assemblies for the nu-
7 clear reactor for the 4-year period for
8 which credits would be allocated; and

9 (iv) a detailed plan to sustain oper-
10 ations at the conclusion of the applicable
11 4-year period for which credits would be
12 allocated—

13 (I) without receiving additional
14 credits; or

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

19 (B) TIMELINE.—The Administrator shall
20 accept applications described in subparagraph

21 (A)—

22 (i) until the date that is 120 days
23 after the date of enactment of this Act;
24 and

1 (ii) not less frequently than every year
2 thereafter.

3 (2) DETERMINATION TO CERTIFY.—

4 (A) DETERMINATION.—

5 (i) IN GENERAL.—Not later than 60
6 days after the applicable date under sub-
7 paragraph (B) of paragraph (1), the Ad-
8 ministrators, in consultation with the Sec-
9 retary, shall determine whether to certify,
10 in accordance with clauses (ii) and (iii) of
11 this subparagraph, each nuclear reactor for
12 which an application is submitted under
13 subparagraph (A) of paragraph (1).

14 (ii) MINIMUM REQUIREMENTS.—To
15 the maximum extent practicable, the Ad-
16 ministrators, in consultation with the Sec-
17 retary, shall only certify a nuclear reactor
18 under clause (i) if—

19 (I) the nuclear reactor has a
20 good safety record, as determined by
21 the Action Matrix of the Commission
22 or the Performance Indicators of the
23 Reactor Oversight Process, such that
24 the nuclear reactor falls under the “li-

1 censee response” column indicating no
2 current significant safety issues;

3 (II) after considering the infor-
4 mation submitted under paragraph
5 (1)(A)(i), the Administrator deter-
6 mines that the nuclear reactor is pro-
7 jected to cease operations due to eco-
8 nomic factors; and

9 (III) after considering the esti-
10 mate submitted under paragraph
11 (1)(A)(ii), the Administrator deter-
12 mines that emissions of carbon diox-
13 ide, nitrogen oxides, sulfur oxides,
14 particulate matter, and hazardous air
15 pollutants would increase if the nu-
16 clear reactor were to cease operations
17 and be replaced with other types of
18 power generation.

19 (iii) PRIORITY.—In determining
20 whether to certify a nuclear reactor under
21 clause (i), the Administrator, in consulta-
22 tion with the Secretary, shall give priority
23 to a nuclear reactor that uses uranium
24 that is recovered, converted, enriched, and

1 fabricated into fuel assemblies in the
2 United States.

3 (B) NOTICE.—For each application re-
4 ceived under paragraph (1)(A), the Adminis-
5 trator, in consultation with the Secretary, shall
6 provide to the applicable owner or operator, as
7 applicable—

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

10 (ii) a notice that describes the reasons
11 why the certification of the applicable nu-
12 clear reactor was denied.

13 (d) BIDDING PROCESS.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 the Administrator shall establish a deadline by which
16 each certified nuclear reactor shall submit to the Ad-
17 ministrators a sealed bid that—

18 (A) describes the price per megawatt-hour
19 required to maintain operations of the certified
20 nuclear reactor during the 4-year period for
21 which the certified nuclear reactor would receive
22 credits; and

23 (B) includes a commitment, subject to the
24 receipt of credits, to provide a specific number

1 of megawatt-hours of generation during the 4-
2 year period for which credits would be allocated.

3 (2) REQUIREMENT.—The deadline established
4 under paragraph (1) shall be not later than 30 days
5 after the first date on which the Administrator has
6 made the determination described in paragraph
7 (2)(A)(i) of subsection (c) with respect to each appli-
8 cation submitted under paragraph (1)(A) of that
9 subsection.

10 (e) ALLOCATION.—

11 (1) AUCTION.—The Administrator, in consulta-
12 tion with the Secretary, shall—

13 (A) in consultation with the heads of appli-
14 cable Federal agencies, establish a process for
15 evaluating bids submitted under subsection
16 (d)(1) through an auction process; and

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

19 (2) CREDITS.—Subject to subsection (f)(2), on
20 selection under paragraph (1), a certified nuclear re-
21 actor shall be allocated credits for a 4-year period
22 beginning on the date of the selection.

23 (3) REQUIREMENT.—To the maximum extent
24 practicable, the Administrator shall use the amounts
25 made available for credits under this section to allo-

1 cate credits to as many certified nuclear reactors as
2 possible.

3 (f) RENEWAL.—

4 (1) IN GENERAL.—The owner or operator of a
5 certified nuclear reactor may seek to recertify the
6 nuclear reactor in accordance with this section.

7 (2) LIMITATION.—Notwithstanding any other
8 provision of this section, the Administrator may not
9 allocate any credits after September 30, 2026.

10 (g) ADDITIONAL REQUIREMENTS.—

11 (1) AUDIT.—During the 4-year period begin-
12 ning on the date on which a certified nuclear reactor
13 first receives a credit, the Administrator, in con-
14 sultation with the Secretary, shall periodically audit
15 the certified nuclear reactor.

16 (2) RECAPTURE.—The Administrator shall, by
17 regulation, provide for the recapture of the alloca-
18 tion of any credit to a certified nuclear reactor that,
19 during the period described in paragraph (1)—

20 (A) terminates operations; or

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

24 (3) CONFIDENTIALITY.—The Administrator, in
25 consultation with the Secretary, shall establish pro-

1 cedures to ensure that any confidential, private, pro-
2 prietary, or privileged information that is included in
3 a sealed bid submitted under this section is not pub-
4 licly disclosed or otherwise improperly used.

5 (h) REPORT.—Not later than January 1, 2024, the
6 Comptroller General of the United States shall submit to
7 Congress a report with respect to the credits allocated to
8 certified nuclear reactors, which shall include—

9 (1) an evaluation of the effectiveness of the
10 credits in avoiding emissions of carbon dioxide, ni-
11 trogen oxides, sulfur oxides, particulate matter, and
12 hazardous air pollutants while ensuring grid reli-
13 ability;

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

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

18 **SEC. 3. NUCLEAR CLOSURE COMMUNITIES.**

19 (a) DEFINITIONS.—In this section:

20 (1) COMMUNITY ADVISORY BOARD.—The term
21 “community advisory board” means a community
22 committee or other advisory organization that aims
23 to foster communication and information exchange
24 between a licensee planning for and involved in de-

1 commissioning activities and members of the com-
2 munity that decommissioning activities may affect.

3 (2) DECOMMISSION.—The term “decommis-
4 sion” has the meaning given the term in section
5 50.2 of title 10, Code of Federal Regulations (or
6 successor regulations).

7 (3) ELIGIBLE RECIPIENT.—The term “eligible
8 recipient” has the meaning given the term in section
9 3 of the Public Works and Economic Development
10 Act of 1965 (42 U.S.C. 3122).

11 (4) LICENSEE.—The term “licensee” has the
12 meaning given the term in section 50.2 of title 10,
13 Code of Federal Regulations (or successor regula-
14 tions).

15 (5) NUCLEAR CLOSURE COMMUNITY.—The
16 term “nuclear closure community” means a unit of
17 local government, including a county, city, town, vil-
18 lage, school district, or special district that has been
19 impacted, or reasonably demonstrates to the satis-
20 faction of the Secretary of Commerce, that it will be
21 impacted, by a nuclear power plant licensed by the
22 Commission that has ceased operation or has pro-
23 vided a written notification to the Commission that
24 it will cease operations as of the date of enactment
25 of this Act.

1 (b) ESTABLISHMENT.—Not later than 180 days after
2 the date of enactment of this Act, the Secretary of Com-
3 merce shall establish a grant program to provide grants
4 to eligible recipients—

5 (1) to provide financial assistance to local gov-
6 ernments who have experienced, or are anticipating,
7 major revenue shortfalls due to the closure, or an-
8 nounced closure, of a nuclear power plant;

9 (2) to assist with economic development in nu-
10 clear closure communities; and

11 (3) to fund community advisory boards in nu-
12 clear closure communities.

13 (c) REQUIREMENT.—In carrying out this section, to
14 the maximum extent practicable, the Secretary of Com-
15 merce shall implement the recommendations described in
16 the report submitted to Congress under section 108 of the
17 Nuclear Energy Innovation and Modernization Act (Public
18 Law 115–439; 132 Stat. 5577) entitled “Best Practices
19 for Establishment and Operation of Local Community Ad-
20 visory Boards Associated with Decommissioning Activities
21 at Nuclear Power Plants”.

22 (d) DISTRIBUTION OF FUNDS.—The Secretary of
23 Commerce shall establish a formula to ensure, to the max-
24 imum extent practicable, geographic diversity among
25 grant recipients under this section.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
3 appropriated to the Secretary of Commerce—

4 (A) to carry out subsection (b)(1),
5 \$30,000,000 for each of fiscal years 2021
6 through 2026;

7 (B) to carry out subsection (b)(2),
8 \$30,000,000 for each of fiscal years 2021
9 through 2026; and

10 (C) to carry out subsection (b)(3),
11 \$5,000,000 for each of fiscal years 2021
12 through 2023.

13 (2) AVAILABILITY.—Amounts made available
14 under this section shall remain available for a period
15 of 5 years beginning on the date on which the
16 amounts are made available.

17 (3) NO OFFSET.—None of the funds made
18 available under this section may be used to offset
19 the funding for any other Federal program.

20 **SEC. 4. REPORT ON LESSONS LEARNED DURING THE**
21 **COVID-19 PUBLIC HEALTH EMERGENCY.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, the Commission shall sub-
24 mit to the appropriate committees of Congress and make
25 publicly available a report on actions taken by the Com-

1 mission during the public health emergency declared by
2 the Secretary of Health and Human Services under sec-
3 tion 319 of the Public Health Service Act (42 U.S.C.
4 247d) on January 31, 2020, with respect to COVID–19.

5 (b) CONTENTS.—The report under subsection (a)
6 shall include—

7 (1) an identification of the processes, proce-
8 dures, and other regulatory policies that were re-
9 vised or temporarily suspended during the public
10 health emergency described in subsection (a);

11 (2) a review of actions, if any, taken by the
12 Commission that examines how any revision or tem-
13 porary suspension of a process, procedure, or other
14 regulatory policy identified under paragraph (1) may
15 or may not have compromised the ability of the
16 Commission to license and regulate the civilian use
17 of radioactive materials in the United States to pro-
18 tect public health and safety, promote the common
19 defense and security, and protect the environment;

20 (3) a description of any process efficiencies or
21 challenges that resulted from the matters identified
22 under paragraph (1);

23 (4) a discussion of lessons learned from the
24 matters described in paragraphs (1), (2), and (3);

1 (5) a list of actions that the Commission may
2 take to incorporate into the licensing activities and
3 regulations of the Commission, without compro-
4 mising the mission of the Commission—

5 (A) the lessons described in paragraph (4);
6 and

7 (B) the information provided under para-
8 graphs (2) and (3); and

9 (6) a description of when the actions described
10 in paragraph (5) may be implemented.

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