

TITLE XIV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

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1 **TITLE XIV—INCENTIVES FOR**
2 **INNOVATIVE TECHNOLOGIES**

3 **SEC. 1401. DEFINITIONS.**

4 In this title:

5 (1) **COMMERCIAL TECHNOLOGY.**—

6 (A) **IN GENERAL.**—The term “commercial
7 technology” means a technology in general use
8 in the commercial marketplace.

9 (B) **INCLUSIONS.**—The term “commercial
10 technology” does not include a technology solely
11 by use of the technology in a demonstration
12 project funded by the Department.

13 (2) **COST.**—The term “cost” has the meaning
14 given the term “cost of a loan guarantee” within the
15 meaning of section 502(5)(C) of the Federal Credit
16 Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

17 (3) **ELIGIBLE PROJECT.**—The term “eligible
18 project” means a project described in section 1403.

19 (4) **FUND.**—The term “Fund” means the En-
20 ergy Loan Guarantee Fund established under sec-
21 tion 1402(j).

22 (5) **GUARANTEE.**—

1 (A) IN GENERAL.—The term “guarantee”
2 has the meaning given the term “loan guar-
3 antee” in section 502 of the Federal Credit Re-
4 form Act of 1990 (2 U.S.C. 661a).

5 (B) INCLUSION.—The term “guarantee”
6 includes a loan guarantee commitment (as de-
7 fined in section 502 of the Federal Credit Re-
8 form Act of 1990 (2 U.S.C. 661a)).

9 (6) OBLIGATION.—The term “obligation”
10 means the loan or other debt obligation that is guar-
11 anteed under this section.

12 **SEC. 1402. TERMS AND CONDITIONS.**

13 (a) IN GENERAL.—Except for division C of Public
14 Law 108–324, the Secretary shall make guarantees under
15 this or any other Act for projects on such terms and condi-
16 tions as the Secretary determines, after consultation with
17 the Secretary of the Treasury, only in accordance with this
18 section.

19 (b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—
20 No guarantee shall be made unless—

21 (1) an appropriation for the cost has been made
22 to the Fund;

23 (2) the Secretary has received from the bor-
24 rower a payment in full for the cost of the obligation
25 and deposited the payment into the Fund; or

1 (3) the borrower has agreed to pay the Sec-
2 retary over the term of the guarantee, the cost of
3 the obligation in annual installments, as determined
4 by the Secretary.

5 (c) AMOUNT.—Unless otherwise provided by law, a
6 guarantee by the Secretary shall not exceed an amount
7 equal to 80 percent of the project cost of the facility that
8 is the subject of the guarantee, as estimated at the time
9 at which the guarantee is issued.

10 (d) REPAYMENT.—

11 (1) IN GENERAL.—No guarantee shall be made
12 unless the Secretary determines that there is reason-
13 able prospect of repayment of the principal and in-
14 terest on the obligation by the borrower.

15 (2) AMOUNT.—No guarantee shall be made un-
16 less the Secretary determines that the amount of the
17 obligation (when combined with amounts available to
18 the borrower from other sources) will be sufficient to
19 carry out the project.

20 (3) SUBORDINATION.—The obligation shall be
21 subject to the condition that the obligation is not
22 subordinate to other financing.

23 (e) INTEREST RATE.—An obligation shall bear inter-
24 est at a rate that does not exceed a level that the Secretary
25 determines appropriate, taking into account the prevailing

1 rate of interest in the private sector for similar loans and
2 risks.

3 (f) TERM.—The term of an obligation shall require
4 full repayment over a period not to exceed the lesser of—

5 (1) 30 years; or

6 (2) 90 percent of the projected useful life of the
7 physical asset to be financed by the obligation (as
8 determined by the Secretary).

9 (g) DEFAULTS.—

10 (1) PAYMENT BY SECRETARY.—

11 (A) IN GENERAL.—If a borrower defaults
12 on the obligation (as defined in regulations pro-
13 mulgated by the Secretary and specified in the
14 guarantee contract), the holder of the guarantee
15 shall have the right to demand payment of the
16 unpaid amount from the Secretary.

17 (B) PAYMENT REQUIRED.—Within such
18 period as may be specified in the guarantee or
19 related agreements, the Secretary shall pay to
20 the holder of the guarantee the unpaid interest
21 on, and unpaid principal of the obligation as to
22 which the borrower has defaulted, unless the
23 Secretary finds that there was no default by the
24 borrower in the payment of interest or principal
25 or that the default has been remedied.

1 (C) FORBEARANCE.—Nothing in this sub-
2 section precludes any forbearance by the holder
3 of the obligation for the benefit of the borrower
4 which may be agreed upon by the parties to the
5 obligation and approved by the Secretary.

6 (2) SUBROGATION.—

7 (A) IN GENERAL.—If the Secretary makes
8 a payment under paragraph (1), the Secretary
9 shall be subrogated to the rights of the recipi-
10 ent of the payment as specified in the guar-
11 antee or related agreements including, where
12 appropriate, the authority (notwithstanding any
13 other provision of law) to—

14 (i) complete, maintain, operate, lease,
15 or otherwise dispose of any property ac-
16 quired pursuant to such guarantee or re-
17 lated agreements; or

18 (ii) permit the borrower, pursuant to
19 an agreement with the Secretary, to con-
20 tinue to pursue the purposes of the project
21 if the Secretary determines this to be in
22 the public interest.

23 (B) SUPERIORITY OF RIGHTS.—The rights
24 of the Secretary, with respect to any property
25 acquired pursuant to a guarantee or related

1 agreements, shall be superior to the rights of
2 any other person with respect to the property.

3 (C) TERMS AND CONDITIONS.—A guar-
4 antee agreement shall include such detailed
5 terms and conditions as the Secretary deter-
6 mines appropriate to—

7 (i) protect the interests of the United
8 States in the case of default; and

9 (ii) have available all the patents and
10 technology necessary for any person se-
11 lected, including the Secretary, to complete
12 and operate the project.

13 (3) PAYMENT OF PRINCIPAL AND INTEREST BY
14 SECRETARY.—With respect to any obligation guar-
15 anteed under this section, the Secretary may enter
16 into a contract to pay, and pay, holders of the obli-
17 gation, for and on behalf of the borrower, from
18 funds appropriated for that purpose, the principal
19 and interest payments which become due and pay-
20 able on the unpaid balance of the obligation if the
21 Secretary finds that—

22 (A)(i) the borrower is unable to meet the
23 payments and is not in default;

1 (ii) it is in the public interest to permit the
2 borrower to continue to pursue the purposes of
3 the project; and

4 (iii) the probable net benefit to the Federal
5 Government in paying the principal and interest
6 will be greater than that which would result in
7 the event of a default;

8 (B) the amount of the payment that the
9 Secretary is authorized to pay shall be no great-
10 er than the amount of principal and interest
11 that the borrower is obligated to pay under the
12 agreement being guaranteed; and

13 (C) the borrower agrees to reimburse the
14 Secretary for the payment (including interest)
15 on terms and conditions that are satisfactory to
16 the Secretary.

17 (4) ACTION BY ATTORNEY GENERAL.—

18 (A) NOTIFICATION.—If the borrower de-
19 faults on an obligation, the Secretary shall no-
20 tify the Attorney General of the default.

21 (B) RECOVERY.—On notification, the At-
22 torney General shall take such action as is ap-
23 propriate to recover the unpaid principal and
24 interest due from—

1 (i) such assets of the defaulting bor-
2 rower as are associated with the obligation;

3 or

4 (ii) any other security pledged to se-
5 cure the obligation.

6 (h) FEES.—

7 (1) IN GENERAL.—The Secretary shall charge
8 and collect fees for guarantees in amounts the Sec-
9 retary determines are sufficient to cover applicable
10 administrative expenses.

11 (2) AVAILABILITY.—Fees collected under this
12 subsection shall—

13 (A) be deposited by the Secretary in the
14 Fund; and

15 (B) remain available until expended, sub-
16 ject to such other conditions as are contained in
17 annual appropriations Acts.

18 (i) RECORDS; AUDITS.—

19 (1) IN GENERAL.—A recipient of a guarantee
20 shall keep such records and other pertinent docu-
21 ments as the Secretary shall prescribe by regulation,
22 including such records as the Secretary may require
23 to facilitate an effective audit.

24 (2) ACCESS.—The Secretary and the Comp-
25 troller General of the United States, or their duly

1 authorized representatives, shall have access, for the
2 purpose of audit, to the records and other pertinent
3 documents.

4 (j) ENERGY LOAN GUARANTEE FUND.—

5 (1) ESTABLISHMENT.—There is established in
6 the Treasury of the United States a revolving fund,
7 to be known as the “Energy Loan Guarantee
8 Fund”, consisting of—

9 (A) such amounts as are appropriated to
10 the Fund, or paid to the Secretary, under sub-
11 section (d);

12 (B) such amounts as are reimbursed or re-
13 covered under subsection (h);

14 (C) such amounts as are collected under
15 subsection (i); and

16 (D) any interest earned on investment of
17 amounts in the Fund under paragraph (3).

18 (2) EXPENDITURES FROM FUND.—

19 (A) IN GENERAL.—Subject to subpara-
20 graph (B), on request by the Secretary, the
21 Secretary of the Treasury shall transfer from
22 the Fund to the Secretary such amounts as the
23 Secretary determines are necessary to carry out
24 the guarantee program under this section, to
25 remain available until expended.

1 (B) ADMINISTRATIVE EXPENSES.—An
2 amount not exceeding 10 percent of the
3 amounts in the Fund shall be available for each
4 fiscal year to pay the administrative expenses
5 necessary to carry out this section.

6 (3) INVESTMENT OF AMOUNTS.—

7 (A) IN GENERAL.—The Secretary of the
8 Treasury shall invest such portion of the Fund
9 as is not, in the judgment of the Secretary of
10 the Treasury, required to meet current with-
11 drawals.

12 (B) INTEREST-BEARING OBLIGATIONS.—
13 Investments may be made only in interest-bear-
14 ing obligations of the United States.

15 (C) ACQUISITION OF OBLIGATIONS.—For
16 the purpose of investments under subparagraph
17 (A), obligations may be acquired—

18 (i) on original issue at the issue price;

19 or

20 (ii) by purchase of outstanding obliga-
21 tions at the market price.

22 (D) SALE OF OBLIGATIONS.—Any obliga-
23 tion acquired by the Fund may be sold by the
24 Secretary of the Treasury at the market price.

1 (E) CREDITS TO FUND.—The interest on,
2 and the proceeds from the sale or redemption
3 of, any obligations held in the Fund shall be
4 credited to and form a part of the Fund.

5 (4) TRANSFERS OF AMOUNTS.—

6 (A) IN GENERAL.—The amounts required
7 to be transferred to the Fund under this sub-
8 section shall be transferred at least monthly
9 from the general fund of the Treasury to the
10 Fund on the basis of estimates made by the
11 Secretary of the Treasury.

12 (B) ADJUSTMENTS.—Proper adjustment
13 shall be made in amounts subsequently trans-
14 ferred to the extent prior estimates were in ex-
15 cess of or less than the amounts required to be
16 transferred.

17 (k) FULL FAITH AND CREDIT.—The full faith and
18 credit of the United States is pledged to the payment of
19 all guarantees issued under this section with respect to
20 principal and interest.

21 **SEC. 1403. ELIGIBLE PROJECTS.**

22 (a) IN GENERAL.—The Secretary may make guaran-
23 tees under this section only for projects that—

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

1 (2) employ new or significantly improved tech-
2 nologies as compared to commercial technologies in
3 service in the United States at the time the guar-
4 antee is issued.

5 (b) CATEGORIES.—Projects from the following cat-
6 egories shall be eligible for a guarantee under this section:

7 (1) Renewable energy systems.

8 (2) Advanced fossil energy technology (includ-
9 ing coal gasification).

10 (3) Hydrogen fuel cell technology for residen-
11 tial, industrial or transportation applications.

12 (4) Advanced nuclear energy facilities.

13 (5) Carbon capture and sequestration practices
14 and technologies, including agricultural and forestry
15 practices that store and sequester carbon.

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

18 (7) Efficient end-use energy technologies.

19 (8) Notwithstanding subsection (a)(2), produc-
20 tion facilities for fuel efficient vehicles.

21 (c) GASIFICATION PROJECTS.—The Secretary may
22 make guarantees for the following gasification projects:

23 (1) INTEGRATED GASIFICATION COMBINED
24 CYCLE PROJECTS.—Integrated gasification combined

1 cycle plants meeting the emission levels under sub-
2 section (d), including—

3 (A) for the purpose of refueling existing
4 natural gas combined cycle plants, integrated
5 gasification combined cycle plants—

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

8 (I) coal will account for at least
9 65 percent of annual heat input; and

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

13 (ii) that have a design that is deter-
14 mined by the Secretary to be capable of ac-
15 commodating the equipment likely to be
16 necessary to capture the carbon dioxide
17 that would otherwise be emitted in flue gas
18 from the plant;

19 (iii) that have an assured revenue
20 stream that covers project capital and op-
21 erating costs (including servicing all debt
22 obligations covered by the guarantee) that
23 is approved by the Secretary and the rel-
24 evant State public utility commission; and

1 (iv) on which construction commences
2 not later than the date that is 3 years
3 after the date of the issuance of the guar-
4 antee;

5 (B) a project to produce energy from coal
6 (of not more than 13,000 Btu/lb and mined in
7 the western United States) using appropriate
8 advanced integrated gasification combined cycle
9 technology that minimizes and offers the poten-
10 tial to sequester carbon dioxide emissions and
11 that—

12 (i) may include repowering of existing
13 facilities;

14 (ii) may be built in stages;

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

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

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

22 (C) a project located in a taconite-pro-
23 ducing region of the United States that is enti-
24 tled under the law of the State in which the
25 plant is located to enter into a long-term con-

1 tract approved by a State public utility commis-
2 sion to sell at least 450 megawatts of output to
3 a utility; and

4 (D) a facility that—

- 5 (i) generates separate hydrogen-rich
6 (at least 75 percent hydrogen by volume)
7 and carbon monoxide-rich (at least 75 per-
8 cent carbon monoxide by volume) product
9 streams from the gasification of coal; and
10 (ii) uses those separate streams to fa-
11 cilitate the production of ultra clean pre-
12 mium fuels through the Fischer-Tropsch
13 process.

14 (2) INDUSTRIAL GASIFICATION PROJECTS.—Fa-
15 cilities that gasify coal, biomass, or petroleum coke
16 in any combination to produce synthesis gas for use
17 as a fuel or feedstock and for which electricity ac-
18 counts for less than 65 percent of the useful energy
19 output of the facility.

20 (d) EMISSION LEVELS.—A project that meets the
21 emission levels of this subsection shall comply with en-
22 forceable emission limitation requirements, in addition to
23 any other applicable Federal or State emission limitation
24 requirements, that the project attain at least—

1 (1) a 99-percent removal rate (including any
2 fuel pretreatment) of sulfur from the coal-derived
3 gas, and any other fuel, combusted by the project;

4 (2) total sulfur dioxide emissions in flue gas
5 from the project that do not exceed 0.04 lb/
6 mmBTU;

7 (3) a 95-percent removal rate (including any
8 fuel pretreatment) of mercury from the coal-derived
9 gas, and any other fuel, combusted by the project;

10 (4) total nitrogen oxide emissions in the flue
11 gas from the project that do not exceed 0.025 lb/
12 mmBTU; and

13 (5) total particulate emissions in the flue gas
14 from the project that do not exceed 0.01 lb/
15 mmBTU.

16 (e) QUALIFICATION OF FACILITIES RECEIVING TAX
17 CREDITS.—A project that receives tax credits for clean
18 coal technology shall not be disqualified from receiving a
19 guarantee under this section.

20 **SEC. 1404. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) IN GENERAL.—There is authorized to be appro-
22 priated such sums as are necessary to provide the cost
23 of guarantees under this title.

24 (b) USE OF PREVIOUSLY APPROPRIATED FUNDS.—
25 The project described in section 1403(c)(1)(C) may use

1 amounts awarded by the Department under the Clean
2 Coal Power Initiative, on the request of the grantee of
3 such award, to the extent that the amounts have not yet
4 been obligated or have been repaid by recipient.