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## TITLE XVII—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

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**2 TITLE XVII—INCENTIVES FOR**  
**3 INNOVATIVE TECHNOLOGIES****4 SEC. 1701. DEFINITIONS.**

5 In this title:

6 (1) COMMERCIAL TECHNOLOGY.—

7 (A) IN GENERAL.—The term “commercial  
8 technology” means a technology in general use  
9 in the commercial marketplace.10 (B) INCLUSIONS.—The term “commercial  
11 technology” does not include a technology solely  
12 by use of the technology in a demonstration  
13 project funded by the Department.14 (2) COST.—The term “cost” has the meaning  
15 given the term “cost of a loan guarantee” within the  
16 meaning of section 502(5)(C) of the Federal Credit  
17 Reform Act of 1990 (2 U.S.C. 661a(5)(C)).18 (3) ELIGIBLE PROJECT.—The term “eligible  
19 project” means a project described in section 1703.

20 (4) 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 (5) OBLIGATION.—The term “obligation”  
10 means the loan or other debt obligation that is guar-  
11 anteed under this section.

12 **SEC. 1702. 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  
22 made; or

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 Treasury.

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

6 (d) REPAYMENT.—

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

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

16 (3) SUBORDINATION.—The obligation shall be  
17 subject to the condition that the obligation is not  
18 subordinate to other financing.

19 (e) INTEREST RATE.—An obligation shall bear inter-  
20 est at a rate that does not exceed a level that the Secretary  
21 determines appropriate, taking into account the prevailing  
22 rate of interest in the private sector for similar loans and  
23 risks.

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

1 (1) 30 years; or

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

5 (g) DEFAULTS.—

6 (1) PAYMENT BY SECRETARY.—

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

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

22 (C) FORBEARANCE.—Nothing in this sub-  
23 section precludes any forbearance by the holder  
24 of the obligation for the benefit of the borrower

1           which may be agreed upon by the parties to the  
2           obligation and approved by the Secretary.

3           (2) SUBROGATION.—

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

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

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

20                   (B) SUPERIORITY OF RIGHTS.—The rights  
21           of the Secretary, with respect to any property  
22           acquired pursuant to a guarantee or related  
23           agreements, shall be superior to the rights of  
24           any other person with respect to the property.

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

5 (i) protect the interests of the United  
6 States in the case of default; and

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

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

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

22 (ii) it is in the public interest to permit the  
23 borrower to continue to pursue the purposes of  
24 the project; and

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

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

10 (C) the borrower agrees to reimburse the  
11 Secretary for the payment (including interest)  
12 on terms and conditions that are satisfactory to  
13 the Secretary.

14 (4) ACTION BY ATTORNEY GENERAL.—

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

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

22 (i) such assets of the defaulting bor-  
23 rower as are associated with the obligation;  
24 or

1                   (ii) any other security pledged to se-  
2                   cure the obligation.

3           (h) FEES.—

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

8               (2) AVAILABILITY.—Fees collected under this  
9               subsection shall—

10                   (A) be deposited by the Secretary into the  
11                   Treasury; and

12                   (B) remain available until expended, sub-  
13                   ject to such other conditions as are contained in  
14                   annual appropriations Acts.

15           (i) RECORDS; AUDITS.—

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

21               (2) ACCESS.—The Secretary and the Comp-  
22               troller General of the United States, or their duly  
23               authorized representatives, shall have access, for the  
24               purpose of audit, to the records and other pertinent  
25               documents.



1 (j) FULL FAITH AND CREDIT.—The full faith and  
2 credit of the United States is pledged to the payment of  
3 all guarantees issued under this section with respect to  
4 principal and interest.

5 **SEC. 1703. ELIGIBLE PROJECTS.**

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

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

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

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

16 (1) Renewable energy systems.

17 (2) Advanced fossil energy technology (includ-  
18 ing coal gasification meeting the criteria in sub-  
19 section (d)).

20 (3) Hydrogen fuel cell technology for residen-  
21 tial, industrial or —transportation applications.

22 (4) Advanced nuclear energy facilities.

23 (5) Carbon capture and sequestration practices  
24 and technologies, including agricultural and forestry  
25 practices that store and sequester carbon.

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

3           (7) Efficient end-use energy technologies.

4           (8) Notwithstanding subsection (a)(2), produc-  
5           tion facilities for fuel efficient vehicles, including hy-  
6           brid and advanced diesel vehicles.

7           (9) Pollution control equipment.

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

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

12           (1) INTEGRATED GASIFICATION COMBINED  
13           CYCLE PROJECTS.—Integrated gasification combined  
14           cycle plants meeting the emission levels under sub-  
15           section (d), including—

16                   (A) projects for the generation of elec-  
17                   tricity—

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

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

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

4 (ii) that have a design that is deter-  
5 mined by the Secretary to be capable of ac-  
6 commodating the equipment likely to be  
7 necessary to capture the carbon dioxide  
8 that would otherwise be emitted in flue gas  
9 from the plant;

10 (iii) that have an assured revenue  
11 stream that covers project capital and op-  
12 erating costs (including servicing all debt  
13 obligations covered by the guarantee) that  
14 is approved by the Secretary and the rel-  
15 evant State public utility commission; and

16 (iv) on which construction commences  
17 not later than the date that is 3 years  
18 after the date of the issuance of the guar-  
19 antee;

20 (B) a project to produce energy from coal  
21 (of not more than 13,000 Btu/lb and mined in  
22 the western United States) using appropriate  
23 advanced integrated gasification combined cycle  
24 technology that minimizes and offers the poten-

1            tial to sequester carbon dioxide emissions and  
2            that—

3                    (i) may include repowering of existing  
4            facilities;

5                    (ii) may be built in stages;

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

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

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

13            (C) a project located in a taconite-pro-  
14            ducing region of the United States that is enti-  
15            tled under the law of the State in which the  
16            plant is located to enter into a long-term con-  
17            tract approved by a State public utility commis-  
18            sion to sell at least 450 megawatts of output to  
19            a utility;

20            (D) facilities that—

21                    (i) generate 1 or more hydrogen-rich  
22            and carbon monoxide-rich product streams  
23            from the gasification of coal or coal waste;  
24            and

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

4 (E) a project to produce energy and clean  
5 fuels, using appropriate coal liquefaction tech-  
6 nology, from Western bituminous or subbitu-  
7 minous coal, that—

8 (i) is owned by a State government;  
9 and

10 (ii) may include tribal and private coal  
11 resources.

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

18 (3) PETROLEUM COKE GASIFICATION  
19 PROJECTS.—The Secretary is encouraged to make  
20 loan guarantees under this title available for petro-  
21 leum coke gasification projects.

22 (d) EMISSION LEVELS.—In addition to any other ap-  
23 plicable Federal or State emission limitation requirements,  
24 a project shall attain at least—

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

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

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

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

13          (e) **QUALIFICATION OF FACILITIES RECEIVING TAX**  
14 **CREDITS.**—A project that receives tax credits for clean  
15 coal technology shall not be disqualified from receiving a  
16 guarantee under this title.

17 **SEC. 1704. AUTHORIZATION OF APPROPRIATIONS.**

18          There are authorized to be appropriated such sums  
19 as are necessary to provide the cost of guarantees under  
20 this title.