

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) Administration

Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 16352 of this title.

(d) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$110,000,000 for each of fiscal years 2005 through 2009.

(Pub. L. 109–58, title XV, §1514, Aug. 8, 2005, 119 Stat. 1090.)

§ 16503. Sugar ethanol loan guarantee program

(a) In general

Funds may be provided for the cost (as defined in section 661a of title 2) of loan guarantees issued under title XIV¹ to carry out commercial demonstration projects for ethanol derived from sugarcane, bagasse, and other sugarcane byproducts.

(b) Demonstration projects

The Secretary may issue loan guarantees under this section to projects to demonstrate commercially the feasibility and viability of producing ethanol using sugarcane, sugarcane bagasse, and other sugarcane byproducts as a feedstock.

(c) Requirements

An applicant for a loan guarantee under this section may provide assurances, satisfactory to the Secretary, that—

(1) the project design has been validated through the operation of a continuous process facility;

(2) the project has been subject to a full technical review;

(3) the project, with the loan guarantee, is economically viable; and

(4) there is a reasonable assurance of repayment of the guaranteed loan.

(d) Limitations

(1) Maximum guarantee

Except as provided in paragraph (2), a loan guarantee under this section—

(A) may be issued for up to 80 percent of the estimated cost of a project; but

(B) shall not exceed \$50,000,000 for any 1 project.

(2) Additional guarantees

(A) In general

The Secretary may issue additional loan guarantees for a project to cover—

(i) up to 80 percent of the excess of actual project costs; but

(ii) not to exceed 15 percent of the amount of the original loan guarantee.

(B) Principal and interest

Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan guarantee made under subparagraph (A).

(Pub. L. 109–58, title XV, §1516, Aug. 8, 2005, 119 Stat. 1091.)

REFERENCES IN TEXT

Title XIV, referred to in subsec. (a), is title XIV of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 1061, which enacted subchapter XIII of this chapter and section 13557 of this title.

SUBCHAPTER XV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

§ 16511. Definitions

In this subchapter:

(1) Commercial technology

(A) In general

The term “commercial technology” means a technology in general use in the commercial marketplace.

(B) Inclusions

The term “commercial technology” does not include a technology solely by use of the technology in a demonstration project funded by the Department.

(2) Cost

The term “cost” has the meaning given the term “cost of a loan guarantee” within the meaning of section 661a(5)(C) of title 2.

(3) Eligible project

The term “eligible project” means a project described in section 16513 of this title.

(4) Guarantee

(A) In general

The term “guarantee” has the meaning given the term “loan guarantee” in section 661a of title 2.

(B) Inclusion

The term “guarantee” includes a loan guarantee commitment (as defined in section 661a of title 2).

(5) Obligation

The term “obligation” means the loan or other debt obligation that is guaranteed under this section.

(Pub. L. 109–58, title XVII, §1701, Aug. 8, 2005, 119 Stat. 1117.)

§ 16512. Terms and conditions

(a) In general

Except for division C of Public Law 108–324 [15 U.S.C. 720 et seq.], the Secretary shall make guarantees under this or any other Act for projects on such terms and conditions as the Secretary determines, after consultation with the Secretary of the Treasury, only in accordance with this section.

(b) Specific appropriation or contribution

No guarantee shall be made unless—

¹ See References in Text note below.

(1) an appropriation for the cost has been made; or

(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

(c) Amount

Unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.

(d) Repayment

(1) In general

No guarantee shall be made unless the Secretary determines that there is reasonable prospect of repayment of the principal and interest on the obligation by the borrower.

(2) Amount

No guarantee shall be made unless the Secretary determines that the amount of the obligation (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project.

(3) Subordination

The obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(e) Interest rate

An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(f) Term

The term of an obligation shall require full repayment over a period not to exceed the lesser of—

(1) 30 years; or

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

(g) Defaults

(1) Payment by Secretary

(A) In general

If a borrower defaults on the obligation (as defined in regulations promulgated by the Secretary and specified in the guarantee contract), the holder of the guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) Payment required

Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee the unpaid interest on, and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) Forbearance

Nothing in this subsection precludes any forbearance by the holder of the obligation

for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) Subrogation

(A) In general

If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to—

(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines this to be in the public interest.

(B) Superiority of rights

The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) Terms and conditions

A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

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

(ii) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

(3) Payment of principal and interest by Secretary

With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the borrower, from funds appropriated for that purpose, the principal and interest payments which become due and payable on the unpaid balance of the obligation if the Secretary finds that—

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

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

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

(B) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the agreement being guaranteed; and

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

(4) Action by Attorney General

(A) Notification

If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(B) Recovery

On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

- (i) such assets of the defaulting borrower as are associated with the obligation; or
- (ii) any other security pledged to secure the obligation.

(h) Fees**(1) In general**

The Secretary shall charge and collect fees for guaranteees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

(2) Availability

Fees collected under this subsection shall—

- (A) be deposited by the Secretary into the Treasury; and
- (B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(i) Records; audits**(1) In general**

A recipient of a guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) Access

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(j) Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

(Pub. L. 109-58, title XVII, § 1702, Aug. 8, 2005, 119 Stat. 1117.)

REFERENCES IN TEXT

Division C of Public Law 108-324, referred to in subsec. (a), is division C of Pub. L. 108-324, Oct. 13, 2004, 118 Stat. 1255, as amended, known as the Alaska Natural Gas Pipeline Act, which is classified principally to chapter 15D (§720 et seq.) of Title 15, Commerce and Trade. For complete classification of division C to the Code, see Short Title note set out under section 720 of Title 15 and Tables.

§ 16513. Eligible projects**(a) In general**

The Secretary may make guarantees under this section only for projects that—

- (1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and
- (2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) Categories

Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial, or transportation applications.

(4) Advanced nuclear energy facilities.

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

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

(7) Efficient end-use energy technologies.

(8) Production facilities for fuel efficient vehicles, including hybrid and advanced diesel vehicles.

(9) Pollution control equipment.

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

(c) Gasification projects

The Secretary may make guarantees for the following gasification projects:

(1) Integrated gasification combined cycle projects

Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

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

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

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

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

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

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

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

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commission to sell at least 450 megawatts of output to a utility;

(D) facilities that—

(i) generate one or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

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

(E) a project to produce energy and clean fuels, using appropriate coal liquefaction technology, from Western bituminous or subbituminous coal, that—

(i) is owned by a State government; and

(ii) may include tribal and private coal resources.

(2) Industrial gasification projects

Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) Petroleum coke gasification projects

The Secretary is encouraged to make loan guarantees under this subchapter available for petroleum coke gasification projects.

(4) Liquefaction project

Notwithstanding any other provision of law, funds awarded under the Department of Energy's Clean Coal Power Initiative for Fischer-Tropsch coal-to-oil liquefaction projects may be used to finance the cost of loan guarantees for projects awarded such funds.

(d) Emission levels

In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

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

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

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

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

(e) Qualification of facilities receiving tax credits

A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this subchapter.

(Pub. L. 109-58, title XVII, §1703, Aug. 8, 2005, 119 Stat. 1120; Pub. L. 109-168, §1(b)(1), Jan. 10, 2006, 119 Stat. 3580.)

AMENDMENTS

2006—Subsec. (c)(4). Pub. L. 109-168 substituted “Department of Energy’s Clean Coal Power Initiative for Fischer-Tropsch” for “clean coal power initiative under part A of subchapter IV for”.

§ 16514. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this subchapter.

(b) Use of other appropriated funds

The Department may use amounts awarded under the Clean Coal Power Initiative to carry out the project described in section 16513(c)(1)(C) of this title, on the request of the recipient of such award, for a loan guarantee, to the extent that the amounts have not yet been disbursed to, or have been repaid by, the recipient.

(Pub. L. 109-58, title XVII, §1704, Aug. 8, 2005, 119 Stat. 1122; Pub. L. 109-168, §1(b)(2), Jan. 10, 2006, 119 Stat. 3580.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-168 substituted “Clean Coal Power Initiative” for “clean coal power initiative under part A of subchapter IV”.

SUBCHAPTER XVI—STUDIES

§ 16521. Report on energy integration with Latin America

The Secretary shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation's energy capacity. In particular this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

(Pub. L. 109-58, title XVIII, §1807, Aug. 8, 2005, 119 Stat. 1124.)

§ 16522. Low-volume gas reservoir study

(a) Study

The Secretary shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) Contents

The studies under this section shall—

- (1) determine the status and location of marginal wells and gas reservoirs;
- (2) gather the production information of these marginal wells and reservoirs;
- (3) estimate the remaining producible reserves based on variable pipeline pressures;
- (4) locate low-pressure gathering facilities and pipelines;
- (5) recommend incentives which will enable the continued production of these resources;
- (6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and
- (7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

(c) Data analysis

Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, such organization shall contract with one or more entities with—

- (1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and
- (2) the ability to—
 - (A) process remotely sensed imagery with high spatial resolution;
 - (B) deploy global positioning systems;
 - (C) process and synthesize existing, variable-format gas well, pipeline, gathering facility, and reservoir data;
 - (D) create and query GIS databases with infrastructure location and attribute information;
 - (E) write computer programs to customize relevant GIS software;
 - (F) generate maps, charts, and graphs which summarize findings from data research for presentation to different audiences; and
 - (G) deliver data in a variety of formats, including Internet Map Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(d) Authorization of appropriations

There are authorized to be appropriated to the Secretary for carrying out this section—

- (1) \$1,500,000 for fiscal year 2006; and
- (2) \$450,000 for each of the fiscal years 2007 through 2010.

(e) Definitions

For purposes of this section, the term “GIS” means geographic information systems technology that facilitates the organization and management of data with a geographic component.

(Pub. L. 109-58, title XVIII, §1808, Aug. 8, 2005, 119 Stat. 1124.)

§ 16523. Alaska natural gas pipeline

Not later than 180 days after August 8, 2005, and every 180 days thereafter until the Alaska natural gas pipeline commences operation, the

Federal Energy Regulatory Commission shall submit to Congress a report describing—

- (1) the progress made in licensing and constructing the pipeline; and
- (2) any issue impeding that progress.

(Pub. L. 109-58, title XVIII, §1810, Aug. 8, 2005, 119 Stat. 1126.)

§ 16524. Study on the benefits of economic dispatch

(a) Study

The Secretary, in coordination and consultation with the States, shall conduct a study on—

- (1) the procedures currently used by electric utilities to perform economic dispatch;
- (2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and
- (3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state¹ if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) Definition

The term “economic dispatch” when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) Report to Congress and the States

Not later than 90 days after August 8, 2005, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

(Pub. L. 109-58, title XVIII, §1832, Aug. 8, 2005, 119 Stat. 1138.)

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16601. Definitions.

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- 16611. Responsibilities, policies, and plans.
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- 16616. Commercialization plan.
- 16617. Study on the feasibility of use of ground source heat pumps.
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SUBCHAPTER II—AUTHORIZATION OF APPROPRIATIONS

- 16631. Fiscal year 2007.
- 16632. Fiscal year 2008.
- 16633. ISS research.
- 16634. Test facilities.

¹ So in original. Probably should be capitalized.