

109TH CONGRESS  
1ST SESSION

# S. 1153

To provide Federal financial incentives for deployment of advanced coal-based generation technologies.

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IN THE SENATE OF THE UNITED STATES

MAY 26, 2005

Mr. BUNNING (for himself and Mr. Thomas) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To provide Federal financial incentives for deployment of  
advanced coal-based generation technologies.

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.**

4       This Act may be cited as the “Coal-based Generation  
5       Improvement Act”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to provide Federal finan-  
8       cial assistance for projects that will use integrated gasifi-  
9       cation combined cycle or other advanced coal-based gen-  
10      eration technologies—

- 1 (1) in new electric generating units;
- 2 (2) to repower existing electric generation units;
- 3 or
- 4 (3) to retrofit existing natural gas combined
- 5 cycle units to operate on coal instead of natural gas.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) **ADVANCED COAL-BASED GENERATION**  
9 **TECHNOLOGY.**—The term “advanced coal-based gen-  
10 eration technology” means a technology that meets  
11 the requirements of section 8.

12 (2) **CERTIFIED PROJECT.**—The term “certified  
13 project” means a qualifying advanced coal project  
14 that the Secretary has certified under section 4 as  
15 eligible to receive Federal financial assistance under  
16 this Act.

17 (3) **ELECTRIC GENERATION UNIT.**—The term  
18 “electric generation unit” means any facility at least  
19 50 percent of the total annual net output of which  
20 is electrical power, including an otherwise eligible fa-  
21 cility that is used in an industrial application.

22 (4) **INTEGRATED GASIFICATION COMBINED**  
23 **CYCLE.**—The term “integrated gasification combined  
24 cycle” means an electric generation unit that pro-  
25 duces electricity by converting coal to synthesis gas

1       that is then used to fuel a combined-cycle plant that  
2       produces electricity from both a combustion turbine  
3       and a steam turbine.

4           (5) QUALIFYING ADVANCED COAL PROJECT.—

5       The term “qualifying advanced coal project” means  
6       a project that meets the requirements of section 6.

7           (6) SECRETARY.—The “Secretary” means the  
8       Secretary of Energy.

9   **SEC. 4. DEPLOYMENT INCENTIVE PROGRAM.**

10       (a) ESTABLISHMENT.—Not later than 180 days after  
11       the date of enactment of this Act, the Secretary shall  
12       begin carrying out a program to provide Federal financial  
13       incentives for deployment of advanced coal-based genera-  
14       tion technologies.

15       (b) CERTIFICATION.—

16           (1) IN GENERAL.—The Secretary may certify a  
17       qualifying advanced coal project as eligible to receive  
18       1 of the Federal financial incentives provided under  
19       section 5.

20           (2) PERIOD OF ISSUANCE.—A certificate of eli-  
21       gibility under this subsection may be issued only  
22       during the 10 fiscal year periods beginning on Octo-  
23       ber 1, 2005.

1           (3) CERTIFICATION COMMITMENTS.—The Sec-  
2       retary may issue certification commitments in ac-  
3       cordance with section 6(a)(4)(B).

4           (4) AGGREGATE GENERATING CAPACITY.—

5               (A) IN GENERAL.—The aggregate gener-  
6       ating capacity of projects certified by the Sec-  
7       retary under paragraph (1) may not exceed  
8       10,000 megawatts.

9               (B) PARTICULAR PROJECTS.—Of the total  
10      megawatts of capacity that the Secretary is au-  
11      thorized to certify—

12                   (i) 5,000 megawatts shall be available  
13                   only for use for integrated gasification  
14                   combined cycle projects; and

15                   (ii) 5,000 megawatts shall be available  
16                   only for use for projects that use other ad-  
17                   vanced coal-based generation technologies.

18           (C) DETERMINATION OF CAPACITY.—In  
19      determining capacity under this paragraph in  
20      the case of a retrofitted or repowered plant, ca-  
21      pacity shall be determined based on total design  
22      capacity after the retrofit or repowering of the  
23      existing facility is accomplished.

24           (D) REVIEW AND REDISTRIBUTION.—

1 (i) REVIEW.—Not later than 6 years  
2 after the date of enactment of this Act, the  
3 Secretary shall review the projects certified  
4 and the megawatts allocated under this  
5 section as of that date.

6 (ii) REDISTRIBUTION.—The Secretary  
7 may reallocate the remaining megawatts  
8 available under paragraph (4) if the Sec-  
9 retary determines that—

10 (I) capacity cannot be used be-  
11 cause there are no qualifying applica-  
12 tions for certification pending for any  
13 available capacity at the time of the  
14 review; or

15 (II) a certification commitment  
16 made in accordance with paragraph  
17 (3) has not been revoked because the  
18 project subject to the certification  
19 commitment has been delayed as a re-  
20 sult of third party opposition or litiga-  
21 tion with respect to the proposed  
22 project.

23 **SEC. 5. ELECTION OF FEDERAL FINANCIAL INCENTIVES.**

24 (a) ELECTION.—

1           (1) IN GENERAL.—The project sponsor of a  
 2           certified project may elect to receive the Federal fi-  
 3           nancial incentives described in either subsection (b)  
 4           or (c).

5           (2) LIMITATION.—A project sponsor may not  
 6           elect incentives from more than 1 subsection de-  
 7           scribed in paragraph (1).

8           (b) INVESTMENT TAX CREDIT AND SHORTENED RE-  
 9           COVERY PERIOD.—

10           (1) ELIGIBILITY.—The project sponsor of a cer-  
 11           tified project may elect to receive the 20 percent in-  
 12           vestment tax credit provided under section 48 of the  
 13           Internal Revenue Code of 1986 (as amended by  
 14           paragraph (2) of this subsection) and the 5-year re-  
 15           covery period provided under section 168  
 16           (e)(3)(B)(vi) of such Code.

17           (2) AMENDMENTS TO INTERNAL REVENUE  
 18           CODE OF 1986.—Section 48 of the Internal Revenue  
 19           Code of 1986 (relating to energy credit) is amend-  
 20           ed—

21                   (A) by striking “10 percent” in subsection  
 22                   (a)(2)(A) and inserting “10 percent for energy  
 23                   property other than certified coal property, and  
 24                   20 percent for certified coal property”;

1 (B) by striking “or” at the end of clause  
 2 (i) of subsection (a)(3)(A), by inserting “or” at  
 3 the end of clause (ii) of such subsection, and by  
 4 inserting after such clause the following:

5 “(iii) certified coal property.”; and

6 (C) by inserting at the end the following  
 7 new subsection:

8 “(c) CERTIFIED COAL PROPERTY.—For purposes of  
 9 this section:

10 “(1) DEFINITION.—The term ‘certified coal  
 11 property’ means any property that is part of a quali-  
 12 fying advanced coal project that the Secretary of  
 13 Energy has certified under section 4 of the Coal-  
 14 based Generation Improvement Act, if the project  
 15 sponsor has elected the application of this section for  
 16 the project under section 5(b)(1) of such Act.

17 “(2) INAPPLICABILITY OF CERTAIN PROVI-  
 18 SIONS.—The following provisions of this section are  
 19 inapplicable to certified coal property:

20 “(A) Subsection (a)(3)(D) (relating to per-  
 21 formance and quality standards).

22 “(B) The penultimate sentence of sub-  
 23 section (a)(3) (relating to public utility prop-  
 24 erty).”.

25 (c) TAX CREDIT BONDS.—

1           (1) ELECTION.—A project sponsor that is a  
 2           qualified issuer (as defined in section 54(i)(4) of the  
 3           Internal Revenue Code of 1986 (as added by para-  
 4           graph (2)) may elect to issue clean energy bonds  
 5           under such section 54 for the purpose of financing  
 6           a certified project.

7           (2) CREDIT TO HOLDERS OF CLEAN ENERGY  
 8           BONDS.—

9           (A) IN GENERAL.—Part IV of subchapter  
 10          A of chapter 1 of the Internal Revenue Code of  
 11          1986 (relating to credits against tax) is amend-  
 12          ed by adding at the end the following new sub-  
 13          part:

14          **“Subpart H—Nonrefundable Credit to Holders of**  
 15               **Clean Energy Bonds**

“Sec. 54. Credit to holders of clean energy bonds.

16       **“SEC. 54. CREDIT TO HOLDERS OF CLEAN ENERGY BONDS.**

17       “(a) ALLOWANCE OF CREDIT.—In the case of a tax-  
 18       payer who holds a clean energy bond on a credit allowance  
 19       date of such bond, which occurs during the taxable year,  
 20       there shall be allowed as a credit against the tax imposed  
 21       by this chapter for such taxable year an amount equal to  
 22       the sum of the credits determined under subsection (b)  
 23       with respect to credit allowance dates during such year  
 24       on which the taxpayer holds such bond.



1 “(b) AMOUNT OF CREDIT.—

2 “(1) IN GENERAL.—The amount of the credit  
3 determined under this subsection with respect to any  
4 credit allowance date for a clean energy bond is 25  
5 percent of the annual credit determined with respect  
6 to such bond.

7 “(2) ANNUAL CREDIT.—The annual credit de-  
8 termined with respect to any clean energy bond is  
9 the product of—

10 “(A) the credit rate determined by the Sec-  
11 retary under paragraph (3) for the day on  
12 which such bond was sold, multiplied by

13 “(B) the outstanding face amount of the  
14 bond.

15 “(3) DETERMINATION.—For purposes of para-  
16 graph (2), with respect to any clean energy bond,  
17 the Secretary shall determine daily or caused to be  
18 determined daily a credit rate which shall apply to  
19 the first day on which there is a binding, written  
20 contract for the sale or exchange of the bond. The  
21 credit rate for any day is the credit rate which the  
22 Secretary or the Secretary’s designee estimates will  
23 permit the issuance of clean energy bonds with a  
24 specified maturity or redemption date without dis-

1 count and without interest cost to the qualified  
2 issuer.

3 “(4) CREDIT ALLOWANCE DATE.—For purposes  
4 of this section, the term ‘credit allowance date’  
5 means—

6 “(A) March 15,

7 “(B) June 15,

8 “(C) September 15, and

9 “(D) December 15.

10 Such term also includes the last day on which the  
11 bond is outstanding.

12 “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
13 DEMPTION.—In the case of a bond which is issued  
14 during the 3-month period ending on a credit allow-  
15 ance date, the amount of the credit determined  
16 under this subsection with respect to such credit al-  
17 lowance date shall be a ratable portion of the credit  
18 otherwise determined based on the portion of the 3-  
19 month period during which the bond is outstanding.  
20 A similar rule shall apply when the bond is redeemed  
21 or matures.

22 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

23 “(1) IN GENERAL.—The credit allowed under  
24 subsection (a) for any taxable year shall not exceed  
25 the excess of—

1           “(A) the sum of the regular tax liability  
 2           (as defined in section 26(b)) plus the tax im-  
 3           posed by section 55, over

4           “(B) the sum of the credits allowable  
 5           under this part (other than subpart C thereof,  
 6           relating to refundable credits).

7           “(2) CARRYOVER OF UNUSED CREDIT.—If the  
 8           credit allowable under subsection (a) exceeds the  
 9           limitation imposed by paragraph (1) for such taxable  
 10          year, such excess shall be carried to the succeeding  
 11          taxable year and added to the credit allowable under  
 12          subsection (a) for such taxable year.

13          “(d) CLEAN ENERGY BOND.—For purposes of this  
 14          section—

15               “(1) IN GENERAL.—The term ‘clean energy  
 16          bond’ means any bond issued as part of an issue  
 17          if—

18               “(A) the bond is issued by a qualified  
 19          issuer,

20               “(B) 95 percent or more of the proceeds  
 21          from the sale of such issue are to be used for  
 22          capital expenditures incurred by qualified bor-  
 23          rowers for 1 or more qualified projects,

1           “(C) the qualified issuer designates such  
2           bond for purposes of this section and the bond  
3           is in registered form, and

4           “(D) the issue meets the requirements of  
5           subsections (e) and (g).

6           “(2) QUALIFIED PROJECT; SPECIAL USE  
7           RULES.—

8           “(A) IN GENERAL.—The term ‘qualified  
9           project’ means any certified coal property as de-  
10          termined under section 48(c)(1) owned by a  
11          qualified borrower.

12          “(B) REFINANCING RULES.—For purposes  
13          of paragraph (1)(B), a qualified project may be  
14          refinanced with proceeds of a clean energy bond  
15          only if the indebtedness being refinanced (in-  
16          cluding any obligation directly or indirectly refi-  
17          nanced by such indebtedness) was originally in-  
18          curred by a qualified borrower after the date of  
19          the enactment of this section.

20          “(C) REIMBURSEMENT.—For purposes of  
21          paragraph (1)(B), a clean energy bond may be  
22          issued to reimburse a qualified borrower for  
23          amounts paid after the date of the enactment  
24          of this section with respect to a qualified  
25          project, but only if prior to the payment of such

1 expenditure, the qualified borrower declared its  
 2 intent to reimburse such expenditure with the  
 3 proceeds of a clean energy bond.

4 “(D) TREATMENT OF CHANGES IN USE.—

5 For purposes of paragraph (1)(B), the proceeds  
 6 of an issue shall not be treated as used for a  
 7 qualified project to the extent that a qualified  
 8 borrower takes any action within its control  
 9 which causes such proceeds not to be used for  
 10 a qualified project. The Secretary shall pre-  
 11 scribe regulations specifying remedial actions  
 12 that may be taken (including conditions to tak-  
 13 ing such remedial actions) to prevent an action  
 14 described in the preceding sentence from caus-  
 15 ing a bond to fail to be a clean energy bond.

16 “(e) MATURITY LIMITATIONS.—

17 “(1) DURATION OF TERM.—A bond shall not be  
 18 treated as a clean energy bond if such bond is issued  
 19 as part of an issue and—

20 “(A) the average maturity of bonds issued  
 21 as a part of such issue, exceeds

22 “(B) 120 percent of the average reasonable  
 23 expected economic life of the facilities being fi-  
 24 nanced with the proceeds from the sale of such  
 25 issue.

1           “(2) DETERMINATION OF AVERAGES.—For pur-  
 2           poses of paragraph (1), the determination of aver-  
 3           ages of an issue and economic life of any facility  
 4           shall be determined in accordance with section  
 5           147(b).

6           “(3) RATABLE PRINCIPAL AMORTIZATION RE-  
 7           QUIRED.—A bond shall not be treated as a clean en-  
 8           ergy bond unless it is part of an issue which pro-  
 9           vides for an equal amount of principal to be paid by  
 10          the qualified issuer during each calendar year that  
 11          the issue is outstanding.

12          “(f) CREDIT INCLUDED IN GROSS INCOME.—Gross  
 13          income includes the amount of the credit allowed to the  
 14          taxpayer under this section (determined without regard to  
 15          subsection (c)) and the amount so included shall be treat-  
 16          ed as interest income.

17          “(g) SPECIAL RULES RELATING TO EXPENDI-  
 18          TURES.—

19                 “(1) IN GENERAL.—An issue shall be treated as  
 20          meeting the requirements of this subsection if—

21                         “(A) at least 95 percent of the proceeds  
 22                         from the sale of the issue are to be spent for  
 23                         1 or more qualified projects within the 5-year  
 24                         period beginning on the date of issuance of the  
 25                         clean energy bond,

1           “(B) a binding commitment with a third  
2           party to spend at least 10 percent of the pro-  
3           ceeds from the sale of the issue will be incurred  
4           within the 6-month period beginning on the  
5           date of issuance of the clean energy bond or, in  
6           the case of a clean energy bond, the proceeds  
7           of which are to be loaned to 2 or more qualified  
8           borrowers, such binding commitment will be in-  
9           curred within the 6-month period beginning on  
10          the date of the loan of such proceeds to a quali-  
11          fied borrower, and

12          “(C) such projects will be completed with  
13          due diligence and the proceeds from the sale of  
14          the issue will be spent with due diligence.

15          “(2) EXTENSION OF PERIOD.—Upon submis-  
16          sion of a request prior to the expiration of the period  
17          described in paragraph (1)(A), the Secretary may  
18          extend such period if the qualified issuer establishes  
19          that the failure to satisfy the 5-year requirement is  
20          due to reasonable cause and the related projects will  
21          continue to proceed with due diligence.

22          “(3) FAILURE TO SPEND REQUIRED AMOUNT  
23          OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
24          tent that less than 95 percent of the proceeds of  
25          such issue are expended within such 5-year period

1 (and no extension has been obtained under para-  
2 graph (2)), the qualified issuer shall redeem all of  
3 the nonqualified bonds on the earliest call date sub-  
4 sequent to the expiration of the 5-year period. If  
5 such earliest call date is more than 90 days subse-  
6 quent to the expiration of the 5-year period, the  
7 qualified issuer shall establish a yield-restricted de-  
8 feasance escrow within such 90 days to retire such  
9 nonqualified bonds on the earlier of the date which  
10 is 10 years after the issue date or the first call date.  
11 For purposes of this paragraph, the term ‘non-  
12 qualified bonds’ means the portion of the out-  
13 standing bonds in an amount that, if the remaining  
14 bonds were issued on the fifth anniversary of the  
15 date of the issuance of the issue, at least 95 percent  
16 of the proceeds of the remaining bonds would be  
17 used to provide qualified projects.

18 “(h) SPECIAL RULES RELATING TO ARBITRAGE.—

19 “(1) IN GENERAL.—A bond which is part of an  
20 issue shall not be treated as a clean energy bond un-  
21 less, with respect to the issue of which the bond is  
22 a part, the qualified issuer satisfies the arbitrage re-  
23 bate requirements of section 148 with respect to  
24 gross proceeds of the issue (other than any amounts  
25 applied in accordance with subsection (g)). For pur-



1 poses of such requirements, yield over the term of an  
 2 issue shall be determined under the principles of sec-  
 3 tion 148 based on the qualified issuer's payments of  
 4 principal, interest (if any), and fees for qualified  
 5 guarantees on such issue.

6 “(2) EXCEPTION.—Amounts on deposit in a  
 7 bona fide debt service fund with regard to any clean  
 8 energy bond are not subject to the arbitrage rebate  
 9 requirements of section 148.

10 “(i) COOPERATIVE ELECTRIC COMPANY; QUALIFIED  
 11 ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL  
 12 BODY; QUALIFIED BORROWER.—For purposes of this sec-  
 13 tion—

14 “(1) COOPERATIVE ELECTRIC COMPANY.—The  
 15 term ‘cooperative electric company’ means a mutual  
 16 or cooperative electric company described in section  
 17 501(c)(12) or section 1381(a)(2)(C), or a not-for-  
 18 profit electric utility which has received a loan or  
 19 loan guarantee under the Rural Electrification Act.

20 “(2) CLEAN ENERGY BOND LENDER.—The  
 21 term ‘clean energy bond lender’ means a lender  
 22 which is a cooperative which is owned by, or has out-  
 23 standing loans to, 100 or more cooperative electric  
 24 companies and is in existence on February 1, 2002,

1 and shall include any affiliated entity which is con-  
 2 trolled by such lender.

3 “(3) GOVERNMENTAL BODY.—The term ‘gov-  
 4 ernmental body’ means any State, territory, posses-  
 5 sion of the United States, the District of Columbia,  
 6 Indian tribal government, and any political subdivi-  
 7 sion thereof.

8 “(4) QUALIFIED ISSUER.—The term ‘qualified  
 9 issuer’ means—

- 10 “(A) a clean energy bond lender,
- 11 “(B) a cooperative electric company,
- 12 “(C) a governmental body, or
- 13 “(D) the Tennessee Valley Authority.

14 “(5) QUALIFIED BORROWER.—The term ‘quali-  
 15 fied borrower’ means—

- 16 “(A) a cooperative electric company,
- 17 “(B) a governmental body, or
- 18 “(C) the Tennessee Valley Authority.

19 “(j) SPECIAL RULES RELATING TO POOL BONDS.—  
 20 No portion of a pooled financing bond may be allocable  
 21 to loan unless the borrower has entered into a written loan  
 22 commitment for such portion prior to the issue date of  
 23 such issue.

24 “(k) OTHER DEFINITIONS AND SPECIAL RULES.—  
 25 For purposes of this section—

1           “(1) BOND.—The term ‘bond’ includes any ob-  
2           ligation.

3           “(2) POOLED FINANCING BOND.—The term  
4           ‘pooled financing bond’ shall have the meaning given  
5           such term by section 149(f)(4)(A).

6           “(3) PARTNERSHIP; S CORPORATION; AND  
7           OTHER PASS-THRU ENTITIES.—Under regulations  
8           prescribed by the Secretary, in the case of a partner-  
9           ship, trust, S corporation, or other pass-thru entity,  
10          rules similar to the rules of section 41(g) shall apply  
11          with respect to the credit allowable under subsection  
12          (a).

13          “(4) BONDS HELD BY REGULATED INVEST-  
14          MENT COMPANIES.—If any clean energy bond is held  
15          by a regulated investment company, the credit deter-  
16          mined under subsection (a) shall be allowed to  
17          shareholders of such company under procedures pre-  
18          scribed by the Secretary.

19          “(5) TREATMENT FOR ESTIMATED TAX PUR-  
20          POSES.—Solely for purposes of sections 6654 and  
21          6655, the credit allowed by this section to a tax-  
22          payer by reason of holding a clean energy bond on  
23          a credit allowance date shall be treated as if it were  
24          a payment of estimated tax made by the taxpayer on  
25          such date.

1           “(6) REPORTING.—Issuers of clean energy  
2       bonds shall submit reports similar to the reports re-  
3       quired under section 149(e).

4           “(1) TERMINATION.—This section shall not apply  
5       with respect to any bond issued after December 31,  
6       2008.”.

7                       (B) REPORTING.—Subsection (d) of sec-  
8       tion 6049 of such Code (relating to returns re-  
9       garding payments of interest) is amended by  
10      adding at the end the following new paragraph:

11           “(8) REPORTING OF CREDIT ON CLEAN ENERGY  
12      BONDS.—

13                   “(A) IN GENERAL.—For purposes of sub-  
14      section (a), the term ‘interest’ includes amounts  
15      includible in gross income under section 54(f)  
16      and such amounts shall be treated as paid on  
17      the credit allowance date (as defined in section  
18      54(b)(4)).

19                   “(B) REPORTING TO CORPORATIONS,  
20      ETC.—Except as otherwise provided in regula-  
21      tions, in the case of any interest described in  
22      subparagraph (A), subsection (b)(4) shall be  
23      applied without regard to subparagraphs (A),  
24      (H), (I), (J), (K), and (L)(i) of such subsection.

“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”.

(C) CLERICAL AMENDMENTS.—

(i) The table of subparts for part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN ENERGY BONDS.”.

(ii) Section 6401(b)(1) of such Code is amended by striking “and G” and inserting “G, and H”.

(D) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this paragraph) not later than 120 days after the date of the enactment of this Act.

(E) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to bonds issued after the date of the enactment of this Act.

1 **SEC. 6. QUALIFYING ADVANCED COAL PROJECTS.**

2 (a) REQUIREMENTS.—For the purpose of section  
3 4(b), a project shall be considered a qualifying advanced  
4 coal project that the Secretary may certify under section  
5 4(b) if the Secretary determines that, at a minimum—

6 (1) the project uses an advanced coal-based  
7 generation technology—

8 (A) in a new electric generation unit; or

9 (B) to retrofit or repower an existing elec-  
10 tric generation unit (including an existing nat-  
11 ural gas-fired combined cycle unit);

12 (2) the fuel input for the project, when com-  
13 pleted, is at least 75 percent coal;

14 (3) the applicant provides assurance satisfac-  
15 tory to the Secretary that—

16 (A) the project is technologically feasible;  
17 and

18 (B) with the Federal financial incentives,  
19 the project is economically feasible, taking into  
20 consideration—

21 (i) the regulatory approvals or power  
22 purchase contracts referred to in para-  
23 graph (4)(A);

24 (ii) arrangements for supply of fuel to  
25 the project;

1 (iii) contracts or other arrangements  
 2 for construction of the project facilities;

3 (iv) any performance guarantees to be  
 4 provided by contractors and equipment  
 5 vendors; and

6 (v) evidence of the availability of  
 7 funds to develop and construct the project;

8 (4) the applicant demonstrates that the appli-  
 9 cant has obtained—

10 (A) approval by the appropriate regulatory  
 11 commission of the recovery of the cost of the  
 12 project; or

13 (B) a power purchase agreement (or letter  
 14 of intent subject to subsection (b)) that has  
 15 been approved by the board of directors of, and  
 16 executed by, a creditworthy purchasing party;  
 17 and

18 (5) except as provided in subsection (c), the ap-  
 19 plicant demonstrates that the applicant has, or will,  
 20 obtain all project agreements and approvals.

21 (b) LETTER OF INTENT.—A letter of intent described  
 22 in subsection (a)(4)(B) shall be replaced by a binding con-  
 23 tract before a certificate may be issued.

24 (c) PROJECT AGREEMENTS AND APPROVALS.—

1           (1) DEFINITION OF PROJECT AGREEMENTS AND  
2       APPROVALS.—

3           (A) IN GENERAL.—In this section, the  
4       term “project agreements and approvals”  
5       means—

- 6                   (i) all necessary power purchase  
7                   agreements and all other contracts that the  
8                   Secretary determines are necessary to con-  
9                   struct, finance, and operate a project; and  
10                  (ii) all authorizations by Federal,  
11                  State, and local agencies that are required  
12                  in order to construct, operate, and recover  
13                  the cost of the project.

14          (B) INCLUSION.—The term “project agree-  
15       ments and approvals” includes any approvals or  
16       contracts required under subparagraph (A) or  
17       (B) of subsection (a)(4).

18       (2) CERTIFICATION COMMITMENT.—

19           (A) IN GENERAL.—If the applicant has not  
20       obtained all agreements and approvals prior to  
21       application, the Secretary may issue a certifi-  
22       cation commitment.

23           (B) REQUIREMENTS.—

24                   (i) IN GENERAL.—An applicant that  
25       receives a certification commitment shall



1           obtain any remaining project agreements  
2           and approvals not later than 4 years after  
3           the issuance of the certification commit-  
4           ment.

5           (ii) REVOCATION.—If all project  
6           agreements and approvals are not obtained  
7           during the 4-year period described in  
8           clause i), the certification commitment is  
9           terminated without any other action by the  
10          Secretary.

11          (iii) FINAL CERTIFICATE.—No certifi-  
12          cate may be issued until such project  
13          agreements and approvals are obtained.

14          (b) INCENTIVES.—An application for certification  
15          shall specify which of the incentives under section 5 the  
16          project sponsor will elect.

17      **SEC. 7. PROCESS FOR ACTING ON APPLICATIONS.**

18          (a) IN GENERAL.—The Secretary shall act on appli-  
19          cations for certification under section 3 as the applications  
20          are received.

21          (b) DETERMINATION.—In determining whether to  
22          certify a qualifying advanced coal project, the Secretary  
23          shall take into account any written statement from the  
24          Governor of the State in which the project is to be sited

1 that the construction and operation of the project is con-  
 2 sistent with State environmental and energy policy.

3 **SEC. 8. ADVANCED COAL-BASED GENERATION TECH-**  
 4 **NOLOGY.**

5 (a) IN GENERAL.—For the purposes of this Act, an  
 6 electric generation unit uses advanced coal-based genera-  
 7 tion technology if—

8 (1) the unit—

9 (A) uses integrated gasification combined  
 10 cycle technology; or

11 (B) has a design net heat rate of 8530  
 12 Btu/kWh (40 percent efficiency); and

13 (2) the vendor warrants that the unit is de-  
 14 signed to meet the performance requirements in the  
 15 following table:

<b>Performance characteristic</b>	<b>Design level for project:</b>
SO <sub>2</sub> (% removal) .....	99% of such amount
NO <sub>x</sub> (emissions) .....	0.07 lbs/MMBTU
PM* (emissions) .....	0.015 lbs/MMBTU
Hg (% removal) .....	90%.

16 (b) DESIGN NET HEAT RATE.—For purposes of this  
 17 section, design net heat rate with respect to an electric  
 18 generation unit shall—

19 (1) be measured in Btu per kilowatt hour (high-  
 20 er heating value);

21 (2) be based on the design annual heat input to  
 22 the design and the design annual net electrical

1 power, fuels, and chemicals output from the unit  
 2 (determined without regard to the cogeneration of  
 3 steam by the unit);

4 (3) be adjusted for the heat content of the de-  
 5 sign coal to be used by the unit—

6 (A) if the heat content is less than 13,500  
 7 Btu per pound but greater than 7,000 Btu per  
 8 pound, according to the following formula: unit  
 9 net heat rate  $\times [1 - \{((13,500 - \text{design coal heat}$   
 10  $\text{content, Btu per pound}) / 1,000\} \times 0.013]$ ; and

11 (B) if the heat content is less than or  
 12 equal to 7,000 Btu per pound, according to the  
 13 following formula: unit net heat rate  $\times [1 -$   
 14  $\{((13,500 - \text{design coal heat content, Btu per}$   
 15  $\text{pound}) / 1,000\} \times 0.018]$ ; and

16 (4) be corrected for the site reference conditions  
 17 of—

18 (A) elevation above sea level of 500 feet;

19 (B) air pressure of 14.4 pounds per square  
 20 inch absolute;

21 (C) temperature, dry bulb of 63°F;

22 (D) temperature, wet bulb of 54°F; and

23 (E) relative humidity of 55 percent.

1 **SEC. 9. FEDERAL PROJECT COORDINATOR.**

2       The Secretary shall designate a Federal project coor-  
3 dinator to facilitate any Federal agency approvals of eligi-  
4 ble advanced coal generation projects.

5 **SEC. 10. APPLICABILITY.**

6       No technology, or level of emission reduction, solely  
7 by reason of the use of the technology, or the achievement  
8 of the emission reduction, by 1 or more facilities receiving  
9 assistance under this Act, shall be considered to indicate  
10 that the technology or performance level is—

11           (1) adequately demonstrated for purposes of  
12       section 111 of the Clean Air Act (42 U.S.C. 7411);

13           (2) achievable for purposes of section 169 of  
14       that Act (42 U.S.C. 7479); or

15           (3) achievable in practice for purposes of sec-  
16       tion 171 of that Act (42 U.S.C. 7501).

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