

ment Accountability Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(Pub. L. 109–58, title IV, §401, Aug. 8, 2005, 119 Stat. 749.)

## § 15962. Project criteria

### (a) In general

To be eligible to receive assistance under this part, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of August 8, 2005.

### (b) Technical criteria for clean coal power initiative

#### (1) Gasification projects

##### (A) In general

In allocating the funds made available under section 15961(a) of this title, the Secretary shall ensure that at least 70 percent of the funds are used only to fund projects on coal-based gasification technologies, including—

- (i) gasification combined cycle;
- (ii) gasification fuel cells and turbine combined cycle;
- (iii) gasification coproduction;
- (iv) hybrid gasification and combustion; and
- (v) other advanced coal based technologies capable of producing a concentrated stream of carbon dioxide.

#### (B) Technical milestones

##### (i) Periodic determination

###### (I) In general

The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this part shall be designed, and reasonably expected, to achieve.

###### (II) Prescriptive milestones

The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

##### (ii) 2020 goals

The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

- (I)(aa) to remove at least 99 percent of sulfur dioxide; or
- (bb) to emit not more than 0.04 pound SO<sub>2</sub> per million Btu, based on a 30-day average;
- (II) to emit not more than .05 lbs of NO<sub>x</sub> per million Btu;
- (III) to achieve at least 95 percent reductions in mercury emissions; and
- (IV) to achieve a thermal efficiency of at least—
  - (aa) 50 percent for coal of more than 9,000 Btu;

(bb) 48 percent for coal of 7,000 to 9,000 Btu; and

(cc) 46 percent for coal of less than 7,000 Btu.

### (2) Other projects

#### (A) Allocation of funds

The Secretary shall ensure that up to 30 percent of the funds made available under section 15961(a) of this title are used to fund projects other than those described in paragraph (1).

#### (B) Technical milestones

##### (i) Periodic determination

###### (I) In general

The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

###### (II) Prescriptive milestones

The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

##### (ii) 2020 goals

The Secretary shall set the periodic milestones so as to achieve by the year 2020 projects able—

- (I) to remove at least 97 percent of sulfur dioxide;
- (II) to emit no more than .08 lbs of NO<sub>x</sub> per million Btu;
- (III) to achieve at least 90 percent reductions in mercury emissions; and
- (IV) to achieve a thermal efficiency of at least—
  - (aa) 43 percent for coal of more than 9,000 Btu;
  - (bb) 41 percent for coal of 7,000 to 9,000 Btu; and
  - (cc) 39 percent for coal of less than 7,000 Btu.

### (3) Consultation

Before setting the technical milestones under paragraphs (1)(B) and (2)(B), the Secretary shall consult with—

- (A) the Administrator of the Environmental Protection Agency; and
- (B) interested entities, including—
  - (i) coal producers;
  - (ii) industries using coal;
  - (iii) organizations that promote coal or advanced coal technologies;
  - (iv) environmental organizations;
  - (v) organizations representing workers; and
  - (vi) organizations representing consumers.

### (4) Existing units

In the case of projects at units in existence on August 8, 2005, in lieu of the thermal efficiency requirements described in paragraphs (1)(B)(ii)(IV) and (2)(B)(ii)(IV), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

- (A) 7 percent for coal of more than 9,000 Btu;
- (B) 6 percent for coal of 7,000 to 9,000 Btu; or
- (C) 4 percent for coal of less than 7,000 Btu.

**(5) Administration****(A) Elevation of site**

In evaluating project proposals to achieve thermal efficiency levels established under paragraphs (1)(B)(i) and (2)(B)(i) and in determining progress towards thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Secretary shall take into account and make adjustments for the elevation of the site at which a project is proposed to be constructed.

**(B) Applicability of milestones**

In applying the thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) to projects that separate and capture at least 50 percent of the potential emissions of carbon dioxide by a facility, the energy used for separation and capture of carbon dioxide shall not be counted in calculating the thermal efficiency.

**(C) Permitted uses**

In carrying out this section, the Secretary may give priority to projects that include, as part of the project—

- (i) the separation or capture of carbon dioxide; or
- (ii) the reduction of the demand for natural gas if deployed.

**(c) Financial criteria**

The Secretary shall not provide financial assistance under this part for a project unless the recipient documents to the satisfaction of the Secretary that—

- (1) the recipient is financially responsible;
- (2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the funds are spent efficiently and effectively; and
- (3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

**(d) Financial assistance**

The Secretary shall provide financial assistance to projects that, as determined by the Secretary—

- (1) meet the requirements of subsections (a), (b), and (c); and
- (2) are likely—
  - (A) to achieve overall cost reductions in the use of coal to generate useful forms of energy or chemical feedstocks;
  - (B) to improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and
  - (C) to demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of August 8, 2005.

**(e) Cost-sharing**

In carrying out this part, the Secretary shall require cost sharing in accordance with section 16352 of this title.

**(f) Scheduled completion of selected projects****(1) In general**

In selecting a project for financial assistance under this section, the Secretary shall establish a reasonable period of time during which the owner or operator of the project shall complete the construction or demonstration phase of the project, as the Secretary determines to be appropriate.

**(2) Condition of financial assistance**

The Secretary shall require as a condition of receipt of any financial assistance under this part that the recipient of the assistance enter into an agreement with the Secretary not to request an extension of the time period established for the project by the Secretary under paragraph (1).

**(3) Extension of time period****(A) In general**

Subject to subparagraph (B), the Secretary may extend the time period established under paragraph (1) if the Secretary determines, in the sole discretion of the Secretary, that the owner or operator of the project cannot complete the construction or demonstration phase of the project within the time period due to circumstances beyond the control of the owner or operator.

**(B) Limitation**

The Secretary shall not extend a time period under subparagraph (A) by more than 4 years.

**(g) Fee title**

The Secretary may vest fee title or other property interests acquired under cost-share clean coal power initiative agreements under this part in any entity, including the United States.

**(h) Data protection**

For a period not exceeding 5 years after completion of the operations phase of a cooperative agreement, the Secretary may provide appropriate protections (including exemptions from subchapter II of chapter 5 of title 5) against the dissemination of information that—

- (1) results from demonstration activities carried out under the clean coal power initiative program; and
- (2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a clean coal power initiative project.

**(i) Applicability**

No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be—

- (1) adequately demonstrated for purposes of section 7411 of this title;

(2) achievable for purposes of section 7479 of this title; or

(3) achievable in practice for purposes of section 7501 of this title.

(Pub. L. 109–58, title IV, §402, Aug. 8, 2005, 119 Stat. 750; Pub. L. 110–140, title VI, §653, Dec. 19, 2007, 121 Stat. 1695.)

#### Editorial Notes

##### REFERENCES IN TEXT

This Act, referred to in subsec. (i), is Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 594, known as the Energy Policy Act of 2005, which enacted this chapter and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 15801 of this title and Tables.

##### AMENDMENTS

2007—Subsec. (b)(1)(B)(ii)(I). Pub. L. 110–140 added subcl. (I) and struck out former subcl. (I) which read as follows: “to remove at least 99 percent of sulfur dioxide;”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### § 15963. Report

Not later than 1 year after August 8, 2005, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 15962 of this title and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 15962 of this title; and

(2) the status of projects funded under this part.

(Pub. L. 109–58, title IV, §403, Aug. 8, 2005, 119 Stat. 753.)

#### § 15964. Clean coal centers of excellence

##### (a) In general

As part of the clean coal power initiative, the Secretary shall award competitive, merit-based grants to institutions of higher education for the establishment of centers of excellence for energy systems of the future.

##### (b) Basis for grants

The Secretary shall award grants under this section to institutions of higher education that show the greatest potential for advancing new clean coal technologies.

(Pub. L. 109–58, title IV, §404, Aug. 8, 2005, 119 Stat. 753.)

#### § 15965. Time limit for award; extension

If a Clean Coal Power Initiative project selected after March 11, 2009, for negotiation under this or any other Act in any fiscal year, is not awarded within 2 years from the date the appli-

cation was selected, negotiations shall cease and the Federal funds committed to the application shall be retained by the Department for future coal-related research, development and demonstration projects, except that the time limit may be extended at the Secretary's discretion for matters outside the control of the applicant, or if the Secretary determines that extension of the time limit is in the public interest.

(Pub. L. 111–8, div. C, title III, Mar. 11, 2009, 123 Stat. 616.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Energy and Water Development and Related Agencies Appropriations Act, 2009, and also as part of the Omnibus Appropriations Act, 2009, and not as part of the Energy Policy Act of 2005 which comprises this chapter.

#### PART B—CLEAN POWER PROJECTS

#### § 15971. Integrated coal/renewable energy system

##### (a) In general

Subject to the availability of appropriations, the Secretary may provide loan guarantees for a project to produce energy from coal of less than 7,000 Btu/lb. using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that—

(1) is combined with wind and other renewable sources;

(2) minimizes and offers the potential to sequester carbon dioxide emissions; and

(3) provides a ready source of hydrogen for near-site fuel cell demonstrations.

##### (b) Requirements

The facility—

(1) may be built in stages;

(2) shall have a combined output of at least 200 megawatts at successively more competitive rates; and

(3) shall be located in the Upper Great Plains.

##### (c) Technical criteria

Technical criteria described in section 15962(b) of this title shall apply to the facility.

##### (d) Investment tax credits

##### (1) In general

The loan guarantees provided under this section do not preclude the facility from receiving an allocation for investment tax credits under section 48A of title 26.

##### (2) Other funding

Use of the investment tax credit described in paragraph (1) does not prohibit the use of other clean coal program funding.

(Pub. L. 109–58, title IV, §411, Aug. 8, 2005, 119 Stat. 754.)

#### § 15972. Loan to place Alaska clean coal technology facility in service

##### (a) Definitions

In this section:

##### (1) Borrower

The term “borrower” means the owner of the clean coal technology plant.