

(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**

**(1)<sup>1</sup> In general**

No guarantee shall be made unless—

(A) an appropriation for the cost of the guarantee has been made;

(B) the Secretary has received from the borrower a payment in full for the cost of the guarantee and deposited the payment into the Treasury; or

(C) a combination of one or more appropriations under subparagraph (A) and one or more payments from the borrower under subparagraph (B) has been made that is sufficient to cover the cost of the guarantee.

**(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.

<sup>1</sup> So in original. No par. (2) has been enacted.