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## EPAct 2005 Clean Coal Tax Incentives

CURC was a chief architect of the nearly \$7.0 billion in federal government incentives and clean coal technology program authorizations included in the National Energy Policy Act of 2005, including the \$1.65 billion in tax incentives designed to deploy commercially ready clean coal technologies. These tax incentives were originally proposed and drafted by CURC and then included in legislation that was incorporated into the energy bill. Section 1307 of EPAct authorized \$1.65 billion in tax credits for clean coal projects as follows:

**Section 48A (Electric Power Tax Credits):**

- \$800 million for IGCC, to be allocated in equal amounts for projects that use bituminous coal, sub bituminous coal, and lignite; and
- \$500 million for advanced combustion using any type of coal.

**Section 48B (Industrial Gasification Tax Credits):**

- \$350 million for non-electricity generation gasification projects.

As a measure of industry interest and as a gauge of the promise of advanced coal-based technologies, more than 50 projects, totaling nearly \$58.0 billion in total project costs, applied for the tax credits in 2006.

On November 30, 2006, the Secretary of Energy announced the recipients of the tax credits. \$1 billion of tax credits were allocated to a total of nine projects. Five of these projects will use advanced gasification or combustion technologies to convert coal to electricity. The other four projects will use gasification technologies for industrial applications. Because the information is treated as taxpayer confidential, two of the nine recipients requested to remain anonymous. The seven recipients that chose to publicly acknowledge their award are identified in the chart below.

The tax credit program requires that all three ranks of coal (bituminous, sub bituminous and lignite) be included among selected IGCC projects. During this last selection cycle, the IRS did not select IGCC projects that proposed to use sub bituminous coal as the primary fuel source. The Service announced that proposed sub bituminous coal projects were not able to achieve the very stringent sulfur removal standard (99%) that was successfully applied to other competing ranks of coal. Prior to the adjournment of Congress in December, CURC successfully assisted Congressional advocates in amending the sulfur requirements for sub bituminous IGCC projects by providing an alternative standard for SO<sub>2</sub> control. Sub bituminous projects will be able to propose IGCC projects in 2007.

For the industrial gasification credits, Treasury indicated that four gasification projects were selected receiving credits ranging from \$40.663 million to \$130 million.

<b>Recipient</b>	<b>Technology</b>	<b>Location</b>	<b>Output</b>	<b>Tax Credit</b>
Duke Energy	IGCC – Bituminous	Edwardsport Indiana	795 MW	<b>\$133.5 million</b>
Tampa Electric	IGCC – Bituminous	Polk County, Florida	789 MW	<b>\$133.5 million</b>
Mississippi Power Company	IGCC – Lignite	Kemper County, Mississippi	700 MW	<b>\$133 million</b>
Duke Energy Cliffside Modernization Projects	Advanced Coal	Cleveland and Rutherford Counties, North Carolina	1600 MW	<b>\$125 million</b>
E.ON U.S., Kentucky Utilities, and Louisville Gas & Electric	Advanced super critical PC	Bedford, Kentucky	1744 MW	<b>\$125 million</b>
Carson Hydrogen Power LLC	Gasification	Carson, California	hydrogen and 390 MW of electricity	<b>N/A</b>
TX Energy, LLC	Gasification	Longview, Texas	synthetic gas for chemical feedstock	<b>\$130 million</b>

According to the Treasury Department, \$650 million of tax credits are remaining that will be available for allocation in 2007. The remaining tax credits will be allocated as follows:

- \$267 million for sub bituminous IGCC projects (~ 2 projects)
- \$133 million for a lignite IGCC project (~ 1 project)
- \$250 million for advanced combustion projects (~ 2 projects)
- \$337,000 for an industrial gasification project

The application period for the 2007 credit allocation is now “open” and will remain open until October 1, 2007. The IRS notices that were used for the first round of applications, Notices 2006-24 and 2006-25, are still in effect and provide instructions for the 2007 applications.

#### Tax Credit Application Process

- Projects have until October 31, 2007 in order to make an application for DOE certification.
- By March 1, 2008, the DOE will provide the DOE certification (if the project is accepted) to the taxpayer and submit such certification to the Service (IRS) as well.
- Prior to or by March 1, 2008, the project must also make an application for certification to the Service.
- By April 30, 2008, the Service will accept or reject the taxpayer’s application for certification and will notify the taxpayer.
- If the taxpayer’s application is accepted, the amount of the credit allocated to the project will be set forth in the Service’s acceptance letter.

- The selected taxpayer will then be required to execute a closing agreement (with the Service) by June 30, 2008 and the Service, in turn, will execute the agreement by August 31, 2008.
- For Section 48A applicants, the taxpayer then has two years in which to provide evidence that a steam turbine is under contract (may be subject to the availability of the tax credit) and necessary permits to begin construction have been obtained. The taxpayer then has five years in which to place the project into service.
- Only the named taxpayer is granted the right to the allocated credit and the credit is fully forfeited if interest in the project changes at, before, or after the project is placed into service (subject to the recapture rules of section 50(a) or similar rules governing qualified progress expenditures).

Similar rules govern the allocation of credits remaining for calendar year 2008 if credits are available at that point in time. Thereafter, any remaining credits will be governed by guidance yet to be issued.

For more information about the technical project criteria necessary to receive a tax credit, please contact CURC at (202)298-1850.