

[DISCUSSION DRAFT]

MAY 17, 2007

1 **SEC. ____ . STANDBY LOANS FOR QUALIFYING COAL-TO-LIQ-**
2 **UIDS PROJECTS.**

3 Section 1702 of the Energy Policy Act of 2005 (42
4 U.S.C. 16512) is amended by adding at the end the fol-
5 lowing new subsection:

6 “(k) STANDBY LOANS FOR QUALIFYING CTL
7 PROJECTS.—

8 “(1) DEFINITIONS.—For purposes of this sub-
9 section:

10 “(A) CAP PRICE.—The term ‘cap price’
11 means a market price specified in the standby
12 loan agreement above which the project is re-
13 quired to make payments to the United States.

14 “(B) FULL TERM.—The term ‘full term’
15 means the full term of a standby loan agree-
16 ment, as specified in the agreement, which shall
17 not exceed the lesser of 30 years or 90 percent
18 of the projected useful life of the project (as de-
19 termined by the Secretary).

20 “(C) MARKET PRICE.—The term ‘market
21 price’ means the average quarterly price of a

1 petroleum price index specified in the standby
2 loan agreement.

3 “(D) MINIMUM PRICE.—The term ‘min-
4 imum price’ means a market price specified in
5 the standby loan agreement below which the
6 United States is obligated to make disburse-
7 ments to the project.

8 “(E) OUTPUT.—The term ‘output’ means
9 some or all of the liquid or gaseous transpor-
10 tation fuels produced from the project, as speci-
11 fied in the loan agreement.

12 “(F) PRIMARY TERM.—The term ‘primary
13 term’ means the initial term of a standby loan
14 agreement, as specified in the agreement, which
15 shall not exceed the lesser of 20 years or 75
16 percent of the projected useful life of the
17 project (as determined by the Secretary).

18 “(G) QUALIFYING CTL PROJECT.—The
19 term ‘qualifying CTL project’ means—

20 “(i) a commercial-scale project that
21 converts coal to one or more liquid or gas-
22 eous transportation fuels; or

23 “(ii) not more than one project at a
24 facility that converts petroleum refinery
25 waste products, including petroleum coke,

1 into one or more liquids or gaseous trans-
2 portation fuels,
3 that demonstrates the capture, and sequestra-
4 tion or disposal or use of, the carbon dioxide
5 produced in the conversion process, and that,
6 on the basis of a carbon dioxide sequestration
7 plan prepared by the applicant, is certified by
8 the Administrator of the Environmental Protec-
9 tion Agency, in consultation with the Secretary,
10 as producing fuel with life cycle carbon dioxide
11 emissions at or below the average life cycle car-
12 bon dioxide emissions for the same type of fuel
13 produced at traditional petroleum based facili-
14 ties with similar annual capacities.

15 “(H) STANDBY LOAN AGREEMENT.—The
16 term ‘standby loan agreement’ means a loan
17 agreement entered into under paragraph (2).

18 “(2) STANDBY LOANS.—

19 “(A) LOAN AUTHORITY.—The Secretary
20 may enter into standby loan agreements with
21 not more than six qualifying CTL projects, at
22 least one of which shall be a project jointly or
23 in part owned by two or more small coal pro-
24 ducers. Such an agreement—

1 “(i) shall provide that the Secretary
2 will make a direct loan (within the mean-
3 ing of section 502(1) of the Federal Credit
4 Reform Act of 1990) to the qualifying
5 CTL project; and

6 “(ii) shall set a cap price and a min-
7 imum price for the primary term of the
8 agreement.

9 “(B) LOAN DISBURSEMENTS.—Such a loan
10 shall be disbursed during the primary term of
11 such agreement whenever the market price falls
12 below the minimum price. The amount of such
13 disbursements in any calendar quarter shall be
14 equal to the excess of the minimum price over
15 the market price, times the output of the
16 project (but not more than a total level of dis-
17 bursements specified in the agreement).

18 “(C) LOAN REPAYMENTS.—The Secretary
19 shall establish terms and conditions, including
20 interest rates and amortization schedules, for
21 the repayment of such loan within the full term
22 of the agreement, subject to the following limi-
23 tations:

24 “(i) If in any calendar quarter during
25 the primary term of the agreement the

1 market price is less than the cap price, the
2 project may elect to defer some or all of its
3 repayment obligations due in that quarter.
4 Any unpaid obligations will continue to ac-
5 crue interest.

6 “(ii) If in any calendar quarter during
7 the primary term of the agreement the
8 market price is greater than the cap price,
9 the project shall meet its scheduled repay-
10 ment obligation plus deferred repayment
11 obligations, but shall not be required to
12 pay in that quarter an amount that is
13 more than the excess of the market price
14 over the cap price, times the output of the
15 project.

16 “(iii) At the end of the primary term
17 of the agreement, the cumulative amount
18 of any deferred repayment obligations, to-
19 gether with accrued interest, shall be am-
20 ortized (with interest) over the remainder
21 of the full term of the agreement.

22 “(3) PROFIT-SHARING.—The Secretary is au-
23 thORIZED to enter into a profit-sharing agreement
24 with the project at the time the standby loan agree-
25 ment is executed. Under such an agreement, if the

1 market price exceeds the cap price in a calendar
2 quarter, a profit-sharing payment shall be made for
3 that quarter, in an amount equal to—

4 “(A) the excess of the market price over
5 the cap price, times the output of the project;
6 less

7 “(B) any loan repayments made for the
8 calendar quarter.

9 “(4) COMPLIANCE WITH FEDERAL CREDIT RE-
10 FORM ACT.—

11 “(A) UPFRONT PAYMENT OF COST OF
12 LOAN.—No standby loan agreement may be en-
13 tered into under this subsection unless the
14 project makes an payment to the United States
15 that the Office of Management and Budget de-
16 termines is equal to the cost of such loan (de-
17 termined under 502(5)(B) of the Federal Credit
18 Reform Act of 1990). Such payment shall be
19 made at the time the standby loan agreement is
20 executed.

21 “(B) MINIMIZATION OF RISK TO THE GOV-
22 ERNMENT.—In making the determination of the
23 cost of the loan for purposes of setting the pay-
24 ment for a standby loan under subparagraph
25 (A), the Secretary and the Office of Manage-

1 ment and Budget shall take into consideration
2 the extent to which the minimum price and the
3 cap price reflect historical patterns of volatility
4 in actual oil prices relative to projections of fu-
5 ture oil prices, based upon publicly available
6 data from the Energy Information Administra-
7 tion, and employing statistical methods and
8 analyses that are appropriate for the analysis of
9 volatility in energy prices.

10 “(C) TREATMENT OF PAYMENTS.—The
11 value to the United States of a payment under
12 subparagraph (A) and any profit-sharing pay-
13 ments under paragraph (3) shall be taken into
14 account for purposes of section 502(5)(B)(iii) of
15 the Federal Credit Reform Act of 1990 in de-
16 termining the cost to the Federal Government
17 of a standby loan made under this subsection.
18 If a standby loan has no cost to the Federal
19 Government, the requirements of section 504(b)
20 of such Act shall be deemed to be satisfied.

21 “(5) OTHER PROVISIONS.—

22 “(A) NO DOUBLE BENEFIT.—A project re-
23 ceiving a loan under this subsection may not,
24 during the primary term of the loan agreement,

1 receive a Federal loan guarantee under sub-
2 section (a) of this section, or under other laws.

3 “(B) SUBROGATION, ETC.—Subsections
4 (g)(2) (relating to subrogation), (h) (relating to
5 fees), and (j) (relating to full faith and credit)
6 shall apply to standby loans under this sub-
7 section to the same extent they apply to loan
8 guarantees.”.