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Amendment to H.R. 415, as Reported
Offered by Mr. Roskam of Illinois

At the end of the bill, insert the following:

SEC. 3 STANDBY LOANS FOR QUALIFYING COAL-TO-LIQUIDS PROJECTS.

Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following new subsection:

"(k) Standby Loans for Qualifying CTL Projects.—

"(1) Definitions.—For purposes of this subsection:

"(A) Cap price.—The term 'cap price' means a market price specified in the standby loan agreement above which the project is required to make payments to the United States.

"(B) Full term.—The term 'full term' means the full term of a standby loan agreement, as specified in the agreement, which shall not exceed the lesser of 30 years or 90 percent of the projected useful life of the project (as determined by the Secretary).

"(C) MARKET PRICE.—The term 'market price' means the average quarterly price of a petroleum price index specified in the standby loan agreement.

"(D) MINIMUM PRICE.—The term 'minimum price' means a market price specified in the standby loan agreement below which the United States is obligated to make disbursements to the project.

"(E) OUTPUT.—The term 'output' means some or all of the liquid or gaseous transportation fuels produced from the project, as specified in the loan agreement.

"(F) PRIMARY TERM.—The term 'primary term' means the initial term of a standby loan agreement, as specified in the agreement, which shall not exceed the lesser of 20 years or 75 percent of the projected useful life of the project (as determined by the Secretary).

"(G) QUALIFYING CTL PROJECT.—The term 'qualifying CTL project' means—

"(i) a commercial-scale project that converts coal to one or more liquid or gaseous transportation fuels; or "(ii) not more than one project at a facility that converts petroleum refinery waste products, including petroleum coke, into one or more liquids or gaseous transportation fuels,

that demonstrates the capture, and sequestration or disposal or use of, the carbon dioxide produced in the conversion process, and that, on the basis of a carbon dioxide sequestration plan prepared by the applicant, is certified by the Administrator of the Environmental Protection Agency, in consultation with the Secretary, as producing fuel with life cycle carbon dioxide emissions at or below the average life cycle carbon dioxide emissions for the same type of fuel produced at traditional petroleum based facilities with similar annual capacities.

"(H) STANDBY LOAN AGREEMENT.—The term 'standby loan agreement' means a loan agreement entered into under paragraph (2).

"(2) STANDBY LOANS.—

"(A) LOAN AUTHORITY.—The Secretary may enter into standby loan agreements with not more than six qualifying CTL projects, at least one of which shall be a project jointly or in part owned by two or more small coal producers. Such an agreement—

"(i) shall provide that the Secretary will make a direct loan (within the meaning of section 502(1) of the Federal Credit Reform Act of 1990) to the qualifying CTL project; and

"(ii) shall set a cap price and a minimum price for the primary term of the agreement.

"(B) LOAN DISBURSEMENTS.—Such a loan shall be disbursed during the primary term of such agreement whenever the market price falls below the minimum price. The amount of such disbursements in any calendar quarter shall be equal to the excess of the minimum price over the market price, times the output of the project (but not more than a total level of disbursements specified in the agreement).

"(C) LOAN REPAYMENTS.—The Secretary shall establish terms and conditions, including interest rates and amortization schedules, for the repayment of such loan within the full term of the agreement, subject to the following limitations:

"(i) If in any calendar quarter during the primary term of the agreement the market price is less than the cap price, the project may elect to defer some or all of its repayment obligations due in that quarter. Any unpaid obligations will continue to accrue interest.

"(ii) If in any calendar quarter during the primary term of the agreement the market price is greater than the cap price, the project shall meet its scheduled repayment obligation plus deferred repayment obligations, but shall not be required to pay in that quarter an amount that is more than the excess of the market price over the cap price, times the output of the project.

"(iii) At the end of the primary term of the agreement, the cumulative amount of any deferred repayment obligations, together with accrued interest, shall be amortized (with interest) over the remainder of the full term of the agreement.

"(3) PROFIT-SHARING.—The Secretary is authorized to enter into a profit-sharing agreement with the project at the time the standby loan agreement is executed. Under such an agreement, if the market price exceeds the cap price in a calendar quarter, a profit-sharing payment shall be made for that quarter, in an amount equal to—

"(A) the excess of the market price over the cap price, times the output of the project; less

"(B) any loan repayments made for the calendar quarter.

"(4) COMPLIANCE WITH FEDERAL CREDIT REFORM ACT.—

"(A) UPFRONT PAYMENT OF COST OF LOAN.—No standby loan agreement may be entered into under this subsection unless the project makes a payment to the United States that the Office of Management and Budget determines is equal to the cost of such loan (determined under 502(5)(B) of the Federal Credit Reform Act of 1990). Such payment shall be made at the time the standby loan agreement is executed.

"(B) MINIMIZATION OF RISK TO THE GOVERNMENT.—In making the determination of the cost of the loan for purposes of setting the payment for a standby loan under subparagraph (A), the Secretary and the Office of Management and Budget shall take into consideration the extent to which the minimum price and the cap price reflect historical patterns of volatility in actual oil prices relative to projections of future oil prices, based upon publicly available data from the Energy Information Administration, and employing statistical methods and analyses that are appropriate for the analysis of volatility in energy prices.

"(C) TREATMENT OF PAYMENTS.—The value to the United States of a payment under subparagraph (A) and any profit-sharing payments under paragraph (3) shall be taken into account for purposes of section 502(5)(B)(iii) of the Federal Credit Reform Act of 1990 in determining the cost to the Federal Government of a standby loan made under this subsection. If a standby loan has no cost to the Federal Government, the requirements of section 504(b) of such Act shall be deemed to be satisfied.

"(5) OTHER PROVISIONS.—

"(A) NO DOUBLE BENEFIT.—A project receiving a loan under this subsection may not, during the primary term of the loan agreement, receive a Federal loan guarantee under subsection (a) of this section, or under other laws.

"(B) SUBROGATION, ETC.—Subsections (g)(2) (relating to subrogation), (h) (relating to fees), and (j) (relating to full faith and credit) shall apply to standby loans under this subsection to the same extent they apply to loan guarantees.".

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