

1           **TITLE XIII—ENERGY TAX**  
2                           **INCENTIVES**

3 **SEC. 1300. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4           (a) **SHORT TITLE.**—This title may be cited as the  
5 “Energy Tax Policy Act of 2003”.

6           (b) **AMENDMENT OF 1986 CODE.**—Except as other-  
7 wise expressly provided, whenever in this title an amend-  
8 ment or repeal is expressed in terms of an amendment  
9 to, or repeal of, a section or other provision, the reference  
10 shall be considered to be made to a section or other provi-  
11 sion of the Internal Revenue Code of 1986.

12                           **Subtitle A—Conservation**

13 **PART I—RESIDENTIAL AND BUSINESS PROPERTY**

14 **SEC. 1301. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
15 **PROPERTY.**

16           (a) **IN GENERAL.**—Subpart A of part IV of sub-  
17 chapter A of chapter 1 (relating to nonrefundable personal  
18 credits) is amended by inserting after section 25B the fol-  
19 lowing new section:

20 **“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

21           “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-  
22 dividual, there shall be allowed as a credit against the tax  
23 imposed by this chapter for the taxable year an amount  
24 equal to the sum of—

1           “(1) 15 percent of the qualified solar water  
2 heating property expenditures made by the taxpayer  
3 during such year,

4           “(2) 15 percent of the qualified photovoltaic  
5 property expenditures made by the taxpayer during  
6 such year,

7           “(3) 15 percent of the qualified wind energy  
8 property expenditures made by the taxpayer during  
9 such year, and

10           “(4) 20 percent of the qualified fuel cell prop-  
11 erty expenditures made by the taxpayer during such  
12 year.

13           “(b) LIMITATIONS.—

14           “(1) MAXIMUM CREDIT.—

15           “(A) IN GENERAL.—The credit allowed  
16 under subsection (a) shall not exceed—

17           “(i) \$2,000 for property described in  
18 paragraph (1), (2), or (3) of subsection  
19 (c), and

20           “(ii) \$500 for each 0.5 kilowatt of ca-  
21 pacity of property described in subsection  
22 (c)(4).

23           “(B) PRIOR EXPENDITURES BY TAXPAYER  
24 ON SAME RESIDENCE TAKEN INTO ACCOUNT.—

25           In determining the amount of the credit allowed

1 to a taxpayer with respect to any dwelling unit  
2 under this section, the dollar amount under  
3 subparagraph (A)(i) with respect to each type  
4 of property described in such subparagraph  
5 shall be reduced by the credit allowed to the  
6 taxpayer under this section with respect to such  
7 property for all preceding taxable years with re-  
8 spect to such dwelling unit.

9 “(2) PROPERTY STANDARDS.—No credit shall  
10 be allowed under this section for an item of property  
11 unless—

12 “(A) the original use of such property com-  
13 mences with the taxpayer,

14 “(B) such property reasonably can be ex-  
15 pected to remain in use for at least 5 years,

16 “(C) such property is installed on or in  
17 connection with a dwelling unit located in the  
18 United States and used as a residence by the  
19 taxpayer,

20 “(D) in the case of solar water heating  
21 property, such property is certified for perform-  
22 ance by the non-profit Solar Rating and Certifi-  
23 cation Corporation or a comparable entity en-  
24 dorsed by the government of the State in which  
25 such property is installed,

1           “(E) in the case of fuel cell property, such  
2           property meets the performance and quality  
3           standards (if any) which have been prescribed  
4           by the Secretary by regulations (after consulta-  
5           tion with the Secretary of Energy), and

6           “(F) in the case of any photovoltaic prop-  
7           erty, fuel cell property, or wind energy property,  
8           such property meets appropriate fire and elec-  
9           tric code requirements.

10          “(c) DEFINITIONS.—For purposes of this section—

11           “(1) QUALIFIED SOLAR WATER HEATING PROP-  
12           ERTY EXPENDITURE.—The term ‘qualified solar  
13           water heating property expenditure’ means an ex-  
14           penditure for property which uses solar energy to  
15           heat water for use in a dwelling unit.

16           “(2) QUALIFIED PHOTOVOLTAIC PROPERTY EX-  
17           PENDITURE.—The term ‘qualified photovoltaic prop-  
18           erty expenditure’ means an expenditure for property  
19           which uses solar energy to generate electricity for  
20           use in a dwelling unit and which is not described in  
21           paragraph (1).

22           “(3) QUALIFIED WIND ENERGY PROPERTY EX-  
23           PENDITURE.—The term ‘qualified wind energy prop-  
24           erty expenditure’ means an expenditure for property

1 which uses wind energy to generate electricity for  
2 use in a dwelling unit.

3 “(4) QUALIFIED FUEL CELL PROPERTY EX-  
4 PENDITURE.—The term ‘qualified fuel cell property  
5 expenditure’ means an expenditure for any qualified  
6 fuel cell property (as defined in section 48(c)(1)).

7 “(d) SPECIAL RULES.—For purposes of this  
8 section—

9 “(1) SOLAR PANELS.—No expenditure relating  
10 to a solar panel or other property installed as a roof  
11 (or portion thereof) shall fail to be treated as prop-  
12 erty described in paragraph (1) or (2) of subsection  
13 (c) solely because it constitutes a structural compo-  
14 nent of the structure on which it is installed.

15 “(2) SWIMMING POOLS, ETC., USED AS STOR-  
16 AGE MEDIUM.—Expenditures which are properly al-  
17 locable to a swimming pool, hot tub, or any other  
18 energy storage medium which has a function other  
19 than the function of such storage shall not be taken  
20 into account for purposes of this section.

21 “(3) DOLLAR AMOUNTS IN CASE OF JOINT OC-  
22 CUPANCY.—In the case of any dwelling unit which is  
23 jointly occupied and used during any calendar year  
24 as a residence by 2 or more individuals, the fol-  
25 lowing rules shall apply:

1           “(A) The amount of the credit allowable  
2           under subsection (a) by reason of expenditures  
3           made during such calendar year by any of such  
4           individuals with respect to such dwelling unit  
5           shall be determined by treating all of such indi-  
6           viduals as 1 taxpayer whose taxable year is  
7           such calendar year.

8           “(B) There shall be allowable, with respect  
9           to such expenditures to each of such individ-  
10          uals, a credit under subsection (a) for the tax-  
11          able year in which such calendar year ends in  
12          an amount which bears the same ratio to the  
13          amount determined under subparagraph (A) as  
14          the amount of such expenditures made by such  
15          individual during such calendar year bears to  
16          the aggregate of such expenditures made by all  
17          of such individuals during such calendar year.

18          “(C) Subparagraphs (A) and (B) shall be  
19          applied separately with respect to expenditures  
20          described in paragraphs (1), (2), (3), and (4) of  
21          subsection (c).

22          “(4) TENANT-STOCKHOLDER IN COOPERATIVE  
23          HOUSING CORPORATION.—In the case of an indi-  
24          vidual who is a tenant-stockholder (as defined in sec-  
25          tion 216) in a cooperative housing corporation (as

1 defined in such section), such individual shall be  
2 treated as having made the individual's tenant-stock-  
3 holder's proportionate share (as defined in section  
4 216(b)(3)) of any expenditures of such corporation.

5 “(5) CONDOMINIUMS.—

6 “(A) IN GENERAL.—In the case of an indi-  
7 vidual who is a member of a condominium man-  
8 agement association with respect to a condo-  
9 minium which the individual owns, such indi-  
10 vidual shall be treated as having made the indi-  
11 vidual's proportionate share of any expenditures  
12 of such association.

13 “(B) CONDOMINIUM MANAGEMENT ASSO-  
14 CIATION.—For purposes of this paragraph, the  
15 term ‘condominium management association’  
16 means an organization which meets the require-  
17 ments of paragraph (1) of section 528(c) (other  
18 than subparagraph (E) thereof) with respect to  
19 a condominium project substantially all of the  
20 units of which are used as residences.

21 “(6) ALLOCATION IN CERTAIN CASES.—Except  
22 in the case of qualified wind energy property expend-  
23 itures, if less than 80 percent of the use of an item  
24 is for nonbusiness purposes, only that portion of the  
25 expenditures for such item which is properly allo-

1 cable to use for nonbusiness purposes shall be taken  
2 into account.

3 “(7) WHEN EXPENDITURE MADE; AMOUNT OF  
4 EXPENDITURE.—

5 “(A) IN GENERAL.—Except as provided in  
6 subparagraph (B), an expenditure with respect  
7 to an item shall be treated as made when the  
8 original installation of the item is completed.

9 “(B) EXPENDITURES PART OF BUILDING  
10 CONSTRUCTION.—In the case of an expenditure  
11 in connection with the construction or recon-  
12 struction of a structure, such expenditure shall  
13 be treated as made when the original use of the  
14 constructed or reconstructed structure by the  
15 taxpayer begins.

16 “(C) AMOUNT.—The amount of any ex-  
17 penditure shall be the cost thereof.

18 “(8) PROPERTY FINANCED BY SUBSIDIZED EN-  
19 ERGY FINANCING.—For purposes of determining the  
20 amount of expenditures made by any individual with  
21 respect to any dwelling unit, there shall not be taken  
22 into account expenditures which are made from sub-  
23 sidized energy financing (as defined in section  
24 48(a)(4)(C)).





1           (2) The table of sections for subpart A of part  
2           IV of subchapter A of chapter 1 is amended by in-  
3           serting after the item relating to section 25B the fol-  
4           lowing new item:

                  “Sec. 25C. Residential energy efficient property.”.

5           (c) EFFECTIVE DATE.—The amendments made by  
6           this section shall apply to taxable years ending after De-  
7           cember 31, 2003.

8           **SEC. 1302. EXTENSION AND EXPANSION OF CREDIT FOR**  
9                           **ELECTRICITY PRODUCED FROM CERTAIN RE-**  
10                          **NEWABLE RESOURCES.**

11          (a) EXPANSION OF QUALIFIED ENERGY RE-  
12          SOURCES.—Subsection (c) of section 45 (relating to elec-  
13          tricity produced from certain renewable resources) is  
14          amended to read as follows:

15          “(c) QUALIFIED ENERGY RESOURCES.—For pur-  
16          poses of this section—

17                 “(1) IN GENERAL.—The term ‘qualified energy  
18          resources’ means—

19                         “(A) wind,

20                         “(B) closed-loop biomass,

21                         “(C) open-loop biomass,

22                         “(D) geothermal energy,

23                         “(E) solar energy,

24                         “(F) small irrigation power, and

25                         “(G) municipal solid waste.



1 but not including municipal solid  
2 waste, gas derived from the bio-  
3 degradation of solid waste, or paper  
4 which is commonly recycled, or

5 “(III) agriculture sources, includ-  
6 ing orchard tree crops, vineyard,  
7 grain, legumes, sugar, and other crop  
8 by-products or residues.

9 Such term shall not include closed-loop biomass.

10 “(B) AGRICULTURAL LIVESTOCK WASTE  
11 NUTRIENTS.—

12 “(i) IN GENERAL.—The term ‘agricul-  
13 tural livestock waste nutrients’ means agri-  
14 cultural livestock manure and litter, includ-  
15 ing wood shavings, straw, rice hulls, and  
16 other bedding material for the disposition  
17 of manure.

18 “(ii) AGRICULTURAL LIVESTOCK.—  
19 The term ‘agricultural livestock’ includes  
20 bovine, swine, poultry, and sheep.

21 “(4) GEOTHERMAL ENERGY.—The term ‘geo-  
22 thermal energy’ means energy derived from a geo-  
23 thermal deposit (within the meaning of section  
24 613(e)(2)).



1 “(2) CLOSED-LOOP BIOMASS FACILITY.—

2 “(A) IN GENERAL.—In the case of a facil-  
3 ity using closed-loop biomass to produce elec-  
4 tricity, the term ‘qualified facility’ means any  
5 facility—

6 “(i) owned by the taxpayer which is  
7 originally placed in service after December  
8 31, 1992, and before January 1, 2007, or

9 “(ii) owned by the taxpayer which be-  
10 fore January 1, 2007, is originally placed  
11 in service and modified to use closed-loop  
12 biomass to co-fire with coal, with other bio-  
13 mass, or with both, but only if the modi-  
14 fication is approved under the Biomass  
15 Power for Rural Development Programs or  
16 is part of a pilot project of the Commodity  
17 Credit Corporation as described in 65 Fed.  
18 Reg. 63052.

19 “(B) SPECIAL RULES.—In the case of a  
20 qualified facility described in subparagraph  
21 (A)(ii)—

22 “(i) the 10-year period referred to in  
23 subsection (a) shall be treated as beginning  
24 no earlier than the date of the enactment  
25 of the Energy Tax Policy Act of 2003,

1           “(ii) the amount of the credit deter-  
2           mined under subsection (a) with respect to  
3           the facility shall be an amount equal to the  
4           amount determined without regard to this  
5           clause multiplied by the ratio of the ther-  
6           mal content of the closed-loop biomass  
7           used in such facility to the thermal content  
8           of all fuels used in such facility, and

9           “(iii) if the owner of such facility is  
10          not the producer of the electricity, the per-  
11          son eligible for the credit allowable under  
12          subsection (a) shall be the lessee or the op-  
13          erator of such facility.

14          “(3) OPEN-LOOP BIOMASS FACILITIES.—

15          “(A) IN GENERAL.—In the case of a facil-  
16          ity using open-loop biomass to produce elec-  
17          tricity, the term ‘qualified facility’ means any  
18          facility owned by the taxpayer which—

19                 “(i) in the case of a facility using ag-  
20                 ricultural livestock waste nutrients—

21                         “(I) is originally placed in service  
22                         after the date of the enactment of the  
23                         Energy Tax Policy Act of 2003 and  
24                         before January 1, 2007, and

1                   “(II) the nameplate capacity rat-  
2                   ing of which is not less than 150 kilo-  
3                   watts, and

4                   “(ii) in the case of any other facility,  
5                   is originally placed in service before Janu-  
6                   ary 1, 2007.

7                   “(B) CREDIT ELIGIBILITY.—In the case of  
8                   any facility described in subparagraph (A), if  
9                   the owner of such facility is not the producer of  
10                  the electricity, the person eligible for the credit  
11                  allowable under subsection (a) shall be the les-  
12                  see or the operator of such facility.

13                  “(4) GEOTHERMAL OR SOLAR ENERGY FACIL-  
14                  ITY.—In the case of a facility using geothermal or  
15                  solar energy to produce electricity, the term ‘quali-  
16                  fied facility’ means any facility owned by the tax-  
17                  payer which is originally placed in service after the  
18                  date of the enactment of the Energy Tax Policy Act  
19                  of 2003 and before January 1, 2007. Such term  
20                  shall not include any property described in section  
21                  48(a)(3) the basis of which is taken into account by  
22                  the taxpayer for purposes of determining the energy  
23                  credit under section 48.

24                  “(5) SMALL IRRIGATION POWER FACILITY.—In  
25                  the case of a facility using small irrigation power to



1 produce electricity, the term ‘qualified facility’  
2 means any facility owned by the taxpayer which is  
3 originally placed in service after the date of the en-  
4 actment of the Energy Tax Policy Act of 2003 and  
5 before January 1, 2007.

6 “(6) LANDFILL GAS FACILITIES.—In the case  
7 of a facility producing electricity from gas derived  
8 from the biodegradation of municipal solid waste,  
9 the term ‘qualified facility’ means any facility owned  
10 by the taxpayer which is originally placed in service  
11 after the date of the enactment of the Energy Tax  
12 Policy Act of 2003 and before January 1, 2007.

13 “(7) TRASH COMBUSTION FACILITIES.—In the  
14 case of a facility which burns municipal solid waste  
15 to produce electricity, the term ‘qualified facility’  
16 means any facility owned by the taxpayer which is  
17 originally placed in service after the date of the en-  
18 actment of the Energy Tax Policy Act of 2003 and  
19 before January 1, 2007.”.

20 (2) CONFORMING AMENDMENT.—Section 45(e),  
21 as so redesignated, is amended by striking “sub-  
22 section (c)(3)(A)” in paragraph (7)(A)(i) and insert-  
23 ing “subsection (d)(1)”.

24 (c) SPECIAL CREDIT RATE AND PERIOD FOR ELEC-  
25 TRICITY PRODUCED AND SOLD AFTER ENACTMENT

1 DATE.—Section 45(b) is amended by adding at the end  
2 the following new paragraph:

3 “(4) CREDIT RATE AND PERIOD FOR ELEC-  
4 TRICITY PRODUCED AND SOLD FROM CERTAIN FA-  
5 CILITIES.—

6 “(A) CREDIT RATE.—In the case of elec-  
7 tricity produced and sold in any calendar year  
8 after 2003 at any qualified facility described in  
9 paragraph (3), (5), (6), or (7) of subsection (d),  
10 the amount in effect under subsection (a)(1) for  
11 such calendar year (determined before the ap-  
12 plication of the last sentence of paragraph (2)  
13 of this subsection) shall be reduced by one-  
14 third.

15 “(B) CREDIT PERIOD.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clause (ii), in the case of any facil-  
18 ity described in paragraph (3), (4), (5),  
19 (6), or (7) of subsection (d), the 5-year pe-  
20 riod beginning on the date the facility was  
21 originally placed in service shall be sub-  
22 stituted for the 10-year period in sub-  
23 section (a)(2)(A)(ii).

24 “(ii) CERTAIN OPEN-LOOP BIOMASS  
25 FACILITIES.—In the case of any facility de-

1           scribed in subsection (d)(3)(A)(ii) placed in  
2           service before the date of the enactment of  
3           this paragraph, the 5-year period begin-  
4           ning on January 1, 2004, shall be sub-  
5           stituted for the 10-year period in sub-  
6           section (a)(2)(A)(ii).”.

7           (d) COORDINATION WITH OTHER CREDITS.—Section  
8 45(e), as so redesignated, is amended by adding at the  
9 end the following new paragraph:

10           “(8) COORDINATION WITH OTHER CREDITS.—

11           The term ‘qualified facility’ shall not include—

12           “(A) any property with respect to which a  
13           credit is allowed under section 25C, and

14           “(B) any facility the production from  
15           which is allowed as a credit under section 45K,  
16           for the taxable year or any prior taxable year.”.

17           (e) COORDINATION WITH SECTION 48.—Section  
18 48(a)(3) (defining energy property) is amended by adding  
19 at the end the following new sentence: “Such term shall  
20 not include any property which is part of a facility the  
21 production from which is allowed as a credit under section  
22 45 for the taxable year or any prior taxable year.”.

23           (f) ELIMINATION OF CERTAIN CREDIT REDUC-  
24 TIONS.—Section 45(b)(3) (relating to credit reduced for

1 grants, tax-exempt bonds, subsidized energy financing,  
2 and other credits) is amended—

3 (1) by inserting “the lesser of  $\frac{1}{2}$  or” before “a  
4 fraction” in the matter preceding subparagraph (A),  
5 and

6 (2) by adding at the end the following new sen-  
7 tence: “This paragraph shall not apply with respect  
8 to any facility described in subsection (d)(2)(A)(ii).”.

9 (g) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as otherwise pro-  
11 vided in this subsection, the amendments made by  
12 this section shall apply to electricity produced and  
13 sold after the date of the enactment of this Act, in  
14 taxable years ending after such date.

15 (2) CERTAIN BIOMASS FACILITIES.—With re-  
16 spect to any facility described in section  
17 45(d)(3)(A)(ii) of the Internal Revenue Code of  
18 1986, as added by subsection (b)(1), which is placed  
19 in service before the date of the enactment of this  
20 Act, the amendments made by this section shall  
21 apply to electricity produced and sold after Decem-  
22 ber 31, 2003, in taxable years ending after such  
23 date.

24 (3) CREDIT RATE AND PERIOD FOR NEW FA-  
25 CILITIES.—The amendments made by subsection (c)

1 shall apply to electricity produced and sold after De-  
2 cember 31, 2003, in taxable years ending after such  
3 date.

4 (4) NONAPPLICATION OF AMENDMENTS TO  
5 PREEFFECTIVE DATE POULTRY WASTE FACILI-  
6 TIES.—The amendments made by this section shall  
7 not apply with respect to any poultry waste facility  
8 (within the meaning of section 45(c)(3)(C), as in ef-  
9 fect on the day before the date of the enactment of  
10 this Act) placed in service before January 1, 2004.

11 (h) GAO STUDY.—The Comptroller General of the  
12 United States shall conduct a study on the market viabil-  
13 ity of producing electricity from resources with respect to  
14 which credit is allowed under section 45 of the Internal  
15 Revenue Code of 1986 but without such credit. In the case  
16 of open-loop biomass and municipal solid waste resources,  
17 the study should take into account savings associated with  
18 not having to dispose of such resources. In conducting  
19 such study, the Comptroller shall estimate the dollar value  
20 of the environmental impact of producing electricity from  
21 such resources relative to producing electricity from fossil  
22 fuels using the latest generation of technology. Not later  
23 than June 30, 2006, the Comptroller shall report on such  
24 study to the Committee on Ways and Means of the House

1 of Representatives and the Committee on Finance of the  
2 Senate.

3 **SEC. 1303. CREDIT FOR BUSINESS INSTALLATION OF**  
4 **QUALIFIED FUEL CELLS.**

5 (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-  
6 ergy property) is amended by striking “or” at the end of  
7 clause (i), by adding “or” at the end of clause (ii), and  
8 by inserting after clause (ii) the following new clause:

9 “(iii) qualified fuel cell property,”.

10 (b) QUALIFIED FUEL CELL PROPERTY.—Section 48  
11 (relating to energy credit; reforestation credit) is amended  
12 by adding at the end the following new subsection:

13 “(c) QUALIFIED FUEL CELL PROPERTY.—For pur-  
14 poses of subsection (a)(3)(A)(iii)—

15 “(1) IN GENERAL.—The term ‘qualified fuel  
16 cell property’ means a fuel cell power plant which  
17 generates at least 0.5 kilowatt of electricity using an  
18 electrochemical process.

19 “(2) LIMITATION.—The energy credit with re-  
20 spect to any qualified fuel cell property shall not ex-  
21 ceed an amount equal to \$500 for each 0.5 kilowatt  
22 of capacity of such property.

23 “(3) FUEL CELL POWER PLANT.—The term  
24 ‘fuel cell power plant’ means an integrated system,  
25 comprised of a fuel cell stack assembly and associ-

1       ated balance of plant components, which converts a  
2       fuel into electricity using electrochemical means.

3           “(4) TERMINATION.—The term ‘qualified fuel  
4       cell property’ shall not include any property placed  
5       in service after December 31, 2006.”.

6       (c) ENERGY PERCENTAGE.—Subparagraph (A) of  
7       section 48(a)(2) (relating to energy percentage) is amend-  
8       ed to read as follows:

9           “(A) IN GENERAL.—The energy percent-  
10       age is—

11           “(i) in the case of qualified fuel cell  
12       property, 20 percent, and

13           “(ii) in the case of any other energy  
14       property, 10 percent.”.

15       (d) CONFORMING AMENDMENT.—Section 48(a)(1) is  
16       amended by inserting “except as provided in subsection  
17       (c)(2),” before “the energy”.

18       (e) EFFECTIVE DATE.—The amendments made by  
19       this section shall apply to periods after December 31,  
20       2003, under rules similar to the rules of section 48(m)  
21       of the Internal Revenue Code of 1986 (as in effect on the  
22       day before the date of the enactment of the Revenue Rec-  
23       onciliation Act of 1990).

1 **SEC. 1304. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**  
2 **MENTS TO EXISTING HOMES.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-  
4 chapter A of chapter 1 (relating to nonrefundable personal  
5 credits), as amended by this Act, is amended by inserting  
6 after section 25C the following new section:

7 **“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
8 **ING HOMES.**

9 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
10 dividual, there shall be allowed as a credit against the tax  
11 imposed by this chapter for the taxable year an amount  
12 equal to 20 percent of the amount paid or incurred by  
13 the taxpayer for qualified energy efficiency improvements  
14 installed during such taxable year.

15 “(b) LIMITATIONS.—

16 “(1) MAXIMUM CREDIT.—The credit allowed by  
17 this section with respect to a dwelling unit shall not  
18 exceed \$2,000.

19 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER  
20 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a  
21 credit was allowed to the taxpayer under subsection  
22 (a) with respect to a dwelling unit in 1 or more prior  
23 taxable years, the amount of the credit otherwise al-  
24 lowable for the taxable year with respect to that  
25 dwelling unit shall be reduced by the sum of the  
26 credits allowed under subsection (a) to the taxpayer



1 with respect to the dwelling unit for all prior taxable  
2 years.

3 “(c) QUALIFIED ENERGY EFFICIENCY IMPROVE-  
4 MENTS.—For purposes of this section, the term ‘qualified  
5 energy efficiency improvements’ means any energy effi-  
6 cient building envelope component which meets the pre-  
7 scriptive criteria for such component established by the  
8 2000 International Energy Conservation Code, as such  
9 Code (including supplements) is in effect on the date of  
10 the enactment of this section (or, in the case of a metal  
11 roof with appropriate pigmented coatings which meet the  
12 Energy Star program requirements), if—

13 “(1) such component is installed in or on a  
14 dwelling unit—

15 “(A) located in the United States,

16 “(B) owned and used by the taxpayer as  
17 the taxpayer’s principal residence (within the  
18 meaning of section 121), and

19 “(C) which has not been treated as a  
20 qualified new energy efficient home for pur-  
21 poses of any credit allowed under section 45G,

22 “(2) the original use of such component com-  
23 mences with the taxpayer, and

24 “(3) such component reasonably can be ex-  
25 pected to remain in use for at least 5 years.

1 If the aggregate cost of such components with respect to  
2 any dwelling unit exceeds \$1,000, such components shall  
3 be treated as qualified energy efficiency improvements  
4 only if such components are also certified in accordance  
5 with subsection (d) as meeting such prescriptive criteria.

6 “(d) CERTIFICATION.—The certification described in  
7 subsection (c) shall be—

8 “(1) determined on the basis of the technical  
9 specifications or applicable ratings (including prod-  
10 uct labeling requirements) for the measurement of  
11 energy efficiency (based upon energy use or building  
12 envelope component performance) for the energy ef-  
13 ficient building envelope component,

14 “(2) provided by a local building regulatory au-  
15 thority, a utility, a manufactured home production  
16 inspection primary inspection agency (IPIA), or an  
17 accredited home energy rating system provider who  
18 is accredited by or otherwise authorized to use ap-  
19 proved energy performance measurement methods by  
20 the Residential Energy Services Network  
21 (RESNET), and

22 “(3) made in writing in a manner which speci-  
23 fies in readily verifiable fashion the energy efficient  
24 building envelope components installed and their re-  
25 spective energy efficiency levels.

1           “(e) DEFINITIONS AND SPECIAL RULES.—For pur-  
2 poses of this section—

3           “(1) BUILDING ENVELOPE COMPONENT.—The  
4 term ‘building envelope component’ means—

5           “(A) any insulation material or system  
6 which is specifically and primarily designed to  
7 reduce the heat loss or gain of a dwelling unit  
8 when installed in or on such dwelling unit,

9           “(B) exterior windows (including sky-  
10 lights),

11           “(C) exterior doors, and

12           “(D) any metal roof installed on a dwelling  
13 unit, but only if such roof has appropriate pig-  
14 mented coatings which are specifically and pri-  
15 marily designed to reduce the heat gain of such  
16 dwelling unit.

17           “(2) MANUFACTURED HOMES INCLUDED.—The  
18 term ‘dwelling unit’ includes a manufactured home  
19 which conforms to Federal Manufactured Home  
20 Construction and Safety Standards (section 3280 of  
21 title 24, Code of Federal Regulations).

22           “(3) APPLICATION OF RULES.—Rules similar to  
23 the rules under paragraphs (3), (4), and (5) of sec-  
24 tion 25C(d) shall apply.

1           “(f) BASIS ADJUSTMENT.—For purposes of this sub-  
2 title, if a credit is allowed under this section for any ex-  
3 penditure with respect to any property, the increase in the  
4 basis of such property which would (but for this sub-  
5 section) result from such expenditure shall be reduced by  
6 the amount of the credit so allowed.

7           “(g) APPLICATION OF SECTION.—This section shall  
8 apply to qualified energy efficiency improvements installed  
9 after December 31, 2003, and before January 1, 2007.”.

10          (b) CONFORMING AMENDMENTS.—

11                 (1) Subsection (a) of section 1016, as amended  
12 by this Act, is amended by striking “and” at the end  
13 of paragraph (28), by striking the period at the end  
14 of paragraph (29) and inserting “, and”, and by  
15 adding at the end the following new paragraph:

16                         “(30) to the extent provided in section 25D(f),  
17 in the case of amounts with respect to which a credit  
18 has been allowed under section 25D.”.

19                 (2) The table of sections for subpart A of part  
20 IV of subchapter A of chapter 1, as amended by this  
21 Act, is amended by inserting after the item relating  
22 to section 25C the following new item:

                              “Sec. 25D. Energy efficiency improvements to existing homes.”.

23          (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years ending after De-  
25 cember 31, 2003.

1 **SEC. 1305. CREDIT FOR CONSTRUCTION OF NEW ENERGY**  
2 **EFFICIENT HOMES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-  
4 chapter A of chapter 1 (relating to business related cred-  
5 its) is amended by adding at the end the following new  
6 section:

7 **“SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.**

8 “(a) IN GENERAL.—For purposes of section 38, in  
9 the case of an eligible contractor with respect to a quali-  
10 fied new energy efficient home, the credit determined  
11 under this section for the taxable year with respect to such  
12 home is an amount equal to the aggregate adjusted bases  
13 of all energy efficient property installed in such home dur-  
14 ing construction of such home.

15 “(b) LIMITATIONS.—

16 “(1) MAXIMUM CREDIT.—

17 “(A) IN GENERAL.—The credit allowed by  
18 this section with respect to a dwelling unit shall  
19 not exceed—

20 “(i) in the case of a dwelling unit de-  
21 scribed in clause (i) or (iii) of subsection  
22 (c)(3)(D), \$1,000, and

23 “(ii) in the case of a dwelling unit de-  
24 scribed in subsection (c)(3)(D)(ii), \$2,000.

25 “(B) PRIOR CREDIT AMOUNTS ON SAME  
26 DWELLING UNIT TAKEN INTO ACCOUNT.—If a

1 credit was allowed under subsection (a) with re-  
2 spect to a dwelling unit in 1 or more prior tax-  
3 able years, the amount of the credit otherwise  
4 allowable for the taxable year with respect to  
5 such dwelling unit shall be reduced by the sum  
6 of the credits allowed under subsection (a) with  
7 respect to the dwelling unit for all prior taxable  
8 years.

9 “(2) COORDINATION WITH CERTAIN CREDITS.—  
10 For purposes of this section—

11 “(A) the basis of any property referred to  
12 in subsection (a) shall be reduced by that por-  
13 tion of the basis of any property which is attrib-  
14 utable to qualified rehabilitation expenditures  
15 (as defined in section 47(c)(2)) or to the energy  
16 percentage of energy property (as determined  
17 under section 48(a)), and

18 “(B) expenditures taken into account  
19 under section 47 or 48(a) shall not be taken  
20 into account under this section.

21 “(c) DEFINITIONS.—For purposes of this section—

22 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-  
23 ble contractor’ means—

24 “(A) the person who constructed the quali-  
25 fied new energy efficient home, or

1           “(B) in the case of a qualified new energy  
2           efficient home which is a manufactured home,  
3           the manufactured home producer of such home.  
4           If more than 1 person is described in subparagraph  
5           (A) or (B) with respect to any qualified new energy  
6           efficient home, such term means the person des-  
7           ignated as such by the owner of such home.

8           “(2) ENERGY EFFICIENT PROPERTY.—The  
9           term ‘energy efficient property’ means any energy  
10          efficient building envelope component, and any en-  
11          ergy efficient heating or cooling equipment or sys-  
12          tem, which can, individually or in combination with  
13          other components, result in a dwelling unit meeting  
14          the requirements of this section.

15          “(3) QUALIFIED NEW ENERGY EFFICIENT  
16          HOME.—The term ‘qualified new energy efficient  
17          home’ means a dwelling unit—

18                 “(A) located in the United States,

19                 “(B) the construction of which is substan-  
20                 tially completed after December 31, 2003,

21                 “(C) the original use of which, after such  
22                 construction, is reasonably expected to be as a  
23                 residence by the person who acquires such  
24                 dwelling unit from the eligible contractor,

25                 “(D) which is—

1                   “(i) certified to have a level of annual  
2                   heating and cooling energy consumption  
3                   which is at least 30 percent below the an-  
4                   nual level of heating and cooling energy  
5                   consumption of a comparable dwelling unit  
6                   constructed in accordance with the stand-  
7                   ards of chapter 4 of the 2000 International  
8                   Energy Conservation Code, as such Code  
9                   (including supplements) is in effect on the  
10                  date of the enactment of this section, and  
11                  to have building envelope component im-  
12                  provements account for at least  $\frac{1}{3}$  of such  
13                  30 percent,

14                  “(ii) certified to have a level of annual  
15                  heating and cooling energy consumption  
16                  which is at least 50 percent below such an-  
17                  nual level and to have building envelope  
18                  component improvements account for at  
19                  least  $\frac{1}{5}$  of such 50 percent, or

20                  “(iii) a manufactured home which—

21                          “(I) conforms to Federal Manu-  
22                          factured Home Construction and  
23                          Safety Standards (section 3280 of  
24                          title 24, Code of Federal Regulations),  
25                          and



1                   “(II) meets the applicable stand-  
2                   ards required by the Administrator of  
3                   the Environmental Protection Agency  
4                   under the Energy Star Labeled  
5                   Homes program.

6                   “(4) CONSTRUCTION.—The term ‘construction’  
7                   includes substantial reconstruction and rehabilita-  
8                   tion.

9                   “(5) ACQUIRE.—The term ‘acquire’ includes  
10                  purchase and, in the case of reconstruction and re-  
11                  habilitation, such term includes a binding written  
12                  contract for such reconstruction or rehabilitation.

13                  “(6) BUILDING ENVELOPE COMPONENT.—The  
14                  term ‘building envelope component’ means—

15                         “(A) any insulation material or system  
16                         which is specifically and primarily designed to  
17                         reduce the heat loss or gain of a dwelling unit  
18                         when installed in or on such dwelling unit,

19                         “(B) exterior windows (including sky-  
20                         lights),

21                         “(C) exterior doors, and

22                         “(D) any metal roof installed on a dwelling  
23                         unit, but only if such roof has appropriate pig-  
24                         mented coatings which—

1                   “(i) are specifically and primarily de-  
2                   signed to reduce the heat gain of such  
3                   dwelling unit, and

4                   “(ii) meet the Energy Star program  
5                   requirements.

6                   “(d) CERTIFICATION.—

7                   “(1) METHOD OF CERTIFICATION.—A certifi-  
8                   cation described in subsection (c)(3)(D) shall be de-  
9                   termined in accordance with guidance prescribed by  
10                  the Secretary. Such guidance shall specify proce-  
11                  dures and methods for calculating energy and cost  
12                  savings.

13                  “(2) FORM.—A certification described in sub-  
14                  section (c)(3)(D) shall be made in writing—

15                  “(A) in a manner which specifies in readily  
16                  verifiable fashion the energy efficient building  
17                  envelope components and energy efficient heat-  
18                  ing or cooling equipment installed and their re-  
19                  spective rated energy efficiency performance,  
20                  and

21                  “(B) in the case of a qualified new energy  
22                  efficient home which is a manufactured home,  
23                  accompanied by such documentation as required  
24                  by the Administrator of the Environmental Pro-

1           tection Agency under the Energy Star Labeled  
2           Homes program.

3           “(e) BASIS ADJUSTMENT.—For purposes of this sub-  
4 title, if a credit is determined under this section for any  
5 expenditure with respect to any property, the increase in  
6 the basis of such property which would (but for this sub-  
7 section) result from such expenditure shall be reduced by  
8 the amount of the credit so determined.

9           “(f) APPLICATION OF SECTION.—Subsection (a) shall  
10 apply to qualified new energy efficient homes acquired  
11 during the period beginning on January 1, 2004, and end-  
12 ing on December 31, 2006.”.

13           (b) CREDIT MADE PART OF GENERAL BUSINESS  
14 CREDIT.—Section 38(b) (relating to current year business  
15 credit) is amended by striking “plus” at the end of para-  
16 graph (14), by striking the period at the end of paragraph  
17 (15) and inserting “, plus”, and by adding at the end the  
18 following new paragraph:

19           “(16) the new energy efficient home credit de-  
20 termined under section 45G(a).”.

21           (c) BASIS ADJUSTMENT.—Subsection (a) of section  
22 1016, as amended by this Act, is amended by striking  
23 “and” at the end of paragraph (29), by striking the period  
24 at the end of paragraph (30) and inserting “, and”, and  
25 by adding at the end the following new paragraph:

1           “(31) to the extent provided in section 45G(e),  
2           in the case of amounts with respect to which a credit  
3           has been allowed under section 45G.”.

4           (d) LIMITATION ON CARRYBACK.—

5           (1) IN GENERAL.—Subsection (d) of section 39  
6           is amended to read as follows:

7           “(d) TRANSITIONAL RULE.—No portion of the un-  
8           used business credit for any taxable year which is attrib-  
9           utable to a credit specified in section 38(b) or any portion  
10          thereof may be carried back to any taxable year before  
11          the first taxable year for which such specified credit or  
12          such portion is allowable (without regard to subsection  
13          (a)).”.

14          (2) EFFECTIVE DATE.—The amendment made  
15          by paragraph (1) shall apply with respect to taxable  
16          years ending after December 31, 2002.

17          (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
18          CREDITS.—Section 196(c) (defining qualified business  
19          credits) is amended by striking “and” at the end of para-  
20          graph (10), by striking the period at the end of paragraph  
21          (11) and inserting “, and”, and by adding after paragraph  
22          (11) the following new paragraph:

23                 “(12) the new energy efficient home credit de-  
24                 termined under section 45G(a).”.

1 (f) CLERICAL AMENDMENT.—The table of sections  
2 for subpart D of part IV of subchapter A of chapter 1  
3 is amended by adding at the end the following new item:

“Sec. 45G. New energy efficient home credit.”.

4 (g) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years ending after De-  
6 cember 31, 2003.

7 **SEC. 1306. ENERGY CREDIT FOR COMBINED HEAT AND**  
8 **POWER SYSTEM PROPERTY.**

9 (a) IN GENERAL.—Section 48(a)(3)(A) (defining en-  
10 ergy property), as amended by this Act, is amended by  
11 striking “or” at the end of clause (ii), by adding “or” at  
12 the end of clause (iii), and by inserting after clause (iii)  
13 the following new clause:

14 “(iv) combined heat and power system  
15 property,”.

16 (b) COMBINED HEAT AND POWER SYSTEM PROP-  
17 erty.—Section 48 (relating to energy credit; reforestation  
18 credit), as amended by this Act, is amended by adding  
19 at the end the following new subsection:

20 “(d) COMBINED HEAT AND POWER SYSTEM PROP-  
21 erty.—For purposes of subsection (a)(3)(A)(iv)—

22 “(1) COMBINED HEAT AND POWER SYSTEM  
23 PROPERTY.—The term ‘combined heat and power  
24 system property’ means property comprising a  
25 system—

1           “(A) which uses the same energy source  
2           for the simultaneous or sequential generation of  
3           electrical power, mechanical shaft power, or  
4           both, in combination with the generation of  
5           steam or other forms of useful thermal energy  
6           (including heating and cooling applications),

7           “(B) which has an electrical capacity of  
8           not more than 15 megawatts or a mechanical  
9           energy capacity of not more than 2,000 horse-  
10          power or an equivalent combination of electrical  
11          and mechanical energy capacities,

12          “(C) which produces—

13               “(i) at least 20 percent of its total  
14               useful energy in the form of thermal en-  
15               ergy which is not used to produce electrical  
16               or mechanical power (or combination  
17               thereof), and

18               “(ii) at least 20 percent of its total  
19               useful energy in the form of electrical or  
20               mechanical power (or combination thereof),

21          “(D) the energy efficiency percentage of  
22          which exceeds 60 percent, and

23          “(E) which is placed in service before Jan-  
24          uary 1, 2007.

25          “(2) SPECIAL RULES.—

1           “(A) ENERGY EFFICIENCY PERCENT-  
2           AGE.—For purposes of this subsection, the en-  
3           ergy efficiency percentage of a system is the  
4           fraction—

5                   “(i) the numerator of which is the  
6                   total useful electrical, thermal, and me-  
7                   chanical power produced by the system at  
8                   normal operating rates, and expected to be  
9                   consumed in its normal application, and

10                   “(ii) the denominator of which is the  
11                   lower heating value of the fuel sources for  
12                   the system.

13           “(B) DETERMINATIONS MADE ON BTU  
14           BASIS.—The energy efficiency percentage and  
15           the percentages under paragraph (1)(C) shall  
16           be determined on a Btu basis.

17           “(C) INPUT AND OUTPUT PROPERTY NOT  
18           INCLUDED.—The term ‘combined heat and  
19           power system property’ does not include prop-  
20           erty used to transport the energy source to the  
21           facility or to distribute energy produced by the  
22           facility.

23           “(D) PUBLIC UTILITY PROPERTY.—

24                   “(i) ACCOUNTING RULE FOR PUBLIC  
25                   UTILITY PROPERTY.—If the combined heat

1 and power system property is public utility  
2 property (as defined in section 168(i)(10)),  
3 the taxpayer may only claim the credit  
4 under subsection (a) if, with respect to  
5 such property, the taxpayer uses a normal-  
6 ization method of accounting.

7 “(ii) CERTAIN EXCEPTION NOT TO  
8 APPLY.—The matter in subsection (a)(3)  
9 which follows subparagraph (D) thereof  
10 shall not apply to combined heat and  
11 power system property.

12 “(3) SYSTEMS USING BAGASSE.—If a system is  
13 designed to use bagasse for at least 90 percent of  
14 the energy source—

15 “(A) paragraph (1)(D) shall not apply, but

16 “(B) the amount of credit determined  
17 under subsection (a) with respect to such sys-  
18 tem shall not exceed the amount which bears  
19 the same ratio to such amount of credit (deter-  
20 mined without regard to this paragraph) as the  
21 energy efficiency percentage of such system  
22 bears to 60 percent.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this subsection shall apply to periods after December 31,  
25 2003, in taxable years ending after such date, under rules



1 similar to the rules of section 48(m) of the Internal Rev-  
2 enue Code of 1986 (as in effect on the day before the date  
3 of the enactment of the Revenue Reconciliation Act of  
4 1990).

5 **SEC. 1307. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-  
7 chapter A of chapter 1 (relating to business-related cred-  
8 its), as amended by this Act, is amended by adding at  
9 the end the following new section:

10 **“SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.**

11 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
12 tion 38, the energy efficient appliance credit determined  
13 under this section for the taxable year is an amount equal  
14 to the sum of—

15 “(1) the tier I appliance amount, and

16 “(2) the tier II appliance amount,

17 with respect to qualified energy efficient appliances pro-  
18 duced by the taxpayer during the calendar year ending  
19 with or within the taxable year.

20 “(b) APPLIANCE AMOUNTS.—For purposes of sub-  
21 section (a)—

22 “(1) TIER I APPLIANCE AMOUNT.—The tier I  
23 appliance amount is equal to—

24 “(A) \$100, multiplied by

1           “(B) an amount (rounded to the nearest  
2           whole number) equal to the applicable percent-  
3           age of the eligible production.

4           “(2) TIER II APPLIANCE AMOUNT.—The tier II  
5           appliance amount is equal to \$150, multiplied by an  
6           amount equal to the eligible production reduced by  
7           the amount determined under paragraph (1)(B).

8           “(3) APPLICABLE PERCENTAGE.—The applica-  
9           ble percentage is the percentage determined by di-  
10          viding the tier I appliances produced by the taxpayer  
11          during the calendar year by the sum of the tier I  
12          and tier II appliances so produced.

13          “(4) ELIGIBLE PRODUCTION.—The eligible pro-  
14          duction of qualified energy efficient appliances by  
15          the taxpayer for any calendar year is the excess of—

16               “(A) the number of such appliances which  
17               are produced by the taxpayer during such cal-  
18               endar year, over

19               “(B) 110 percent of the average annual  
20               number of such appliances which were produced  
21               by the taxpayer (or any predecessor) during the  
22               preceding 3-calendar year period.

23          “(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—  
24          For purposes of this section—

1           “(1) IN GENERAL.—The term ‘qualified energy  
2 efficient appliance’ means any tier I appliance or tier  
3 II appliance which is produced in the United States.

4           “(2) TIER I APPLIANCE.—The term ‘tier I ap-  
5 pliance’ means—

6                 “(A) a clothes washer which is produced  
7 with at least a 1.50 MEF, and

8                 “(B) a refrigerator which consumes at  
9 least 15 percent (20 percent in the case of a re-  
10 frigerator produced after 2006) less kilowatt  
11 hours per year than the energy conservation  
12 standards for refrigerators promulgated by the  
13 Department of Energy and effective on July 1,  
14 2001.

15           “(3) TIER II APPLIANCE.—The term ‘tier II ap-  
16 pliance’ means a refrigerator produced before 2007  
17 which consumes at least 20 percent less kilowatt  
18 hours per year than the energy conservation stand-  
19 ards described in paragraph (2)(B).

20           “(4) CLOTHES WASHER.—The term ‘clothes  
21 washer’ means a residential clothes washer, includ-  
22 ing a residential style coin operated washer.

23           “(5) REFRIGERATOR.—The term ‘refrigerator’  
24 means an automatic defrost refrigerator-freezer

1 which has an internal volume of at least 16.5 cubic  
2 feet.

3 “(6) MEF.—The term ‘MEF’ means Modified  
4 Energy Factor (as determined by the Secretary of  
5 Energy).

6 “(7) PRODUCED.—The term ‘produced’ in-  
7 cludes manufactured.

8 “(d) LIMITATION ON MAXIMUM CREDIT.—

9 “(1) IN GENERAL.—The amount of credit al-  
10 lowed under subsection (a) with respect to a tax-  
11 payer for any taxable year shall not exceed  
12 \$60,000,000, reduced by the amount of the credit  
13 allowed under subsection (a) to the taxpayer (or any  
14 predecessor) for any prior taxable year.

15 “(2) LIMITATION BASED ON GROSS RE-  
16 CEIPTS.—The credit allowed under subsection (a)  
17 with respect to a taxpayer for the taxable year shall  
18 not exceed an amount equal to 2 percent of the aver-  
19 age annual gross receipts of the taxpayer for the 3  
20 taxable years preceding the taxable year for which  
21 the credit is determined.

22 “(3) GROSS RECEIPTS.—For purposes of this  
23 subsection, the rules of paragraphs (2) and (3) of  
24 section 448(c) shall apply.

1       “(e) SPECIAL RULES.—For purposes of this  
2 section—

3           “(1) IN GENERAL.—Rules similar to the rules  
4 of subsections (c), (d), and (e) of section 52 shall  
5 apply.

6           “(2) CONTROLLED GROUPS.—

7           “(A) IN GENERAL.—All persons treated as  
8 a single employer under subsection (a) or (b) of  
9 section 52 or subsection (m) or (o) of section  
10 414 shall be treated as a single manufacturer.

11           “(B) INCLUSION OF FOREIGN CORPORA-  
12 TIONS.—For purposes of subparagraph (A), in  
13 applying subsections (a) and (b) of section 52  
14 to this section, section 1563 shall be applied  
15 without regard to subsection (b)(2)(C) thereof.

16       “(f) VERIFICATION.—The taxpayer shall submit such  
17 information or certification as the Secretary, after con-  
18 sultation with the Secretary of Energy, determines nec-  
19 essary to claim the credit amount under subsection (a).

20       “(g) TERMINATION.—This section shall not apply  
21 with respect to appliances produced after December 31,  
22 2007.”.

23       (b) CREDIT MADE PART OF GENERAL BUSINESS  
24 CREDIT.—Section 38(b) (relating to current year business  
25 credit), as amended by this Act, is amended by striking

1 “plus” at the end of paragraph (15), by striking the period  
2 at the end of paragraph (16) and inserting “, plus”, and  
3 by adding at the end the following new paragraph:

4 “(17) the energy efficient appliance credit de-  
5 termined under section 45H(a).”.

6 (c) CLERICAL AMENDMENT.—The table of sections  
7 for subpart D of part IV of subchapter A of chapter 1,  
8 as amended by this Act, is amended by adding at the end  
9 the following new item:

“Sec. 45H. Energy efficient appliance credit.”.

10 (d) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to appliances produced after De-  
12 cember 31, 2003, in taxable years ending after such date.

13 **SEC. 1308. ENERGY EFFICIENT COMMERCIAL BUILDINGS**  
14 **DEDUCTION.**

15 (a) IN GENERAL.—Part VI of subchapter B of chap-  
16 ter 1 (relating to itemized deductions for individuals and  
17 corporations) is amended by inserting after section 179A  
18 the following new section:

19 **“SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS**  
20 **DEDUCTION.**

21 “(a) IN GENERAL.—There shall be allowed as a de-  
22 duction an amount equal to the cost of energy efficient  
23 commercial building property placed in service during the  
24 taxable year.

1           “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-  
2           duction under subsection (a) with respect to any building  
3           for the taxable year and all prior taxable years shall not  
4           exceed an amount equal to the product of—

5                   “(1) \$1.50, and

6                   “(2) the square footage of the building.

7           “(c) DEFINITIONS.—For purposes of this section—

8                   “(1) ENERGY EFFICIENT COMMERCIAL BUILD-  
9           ING PROPERTY.—The term ‘energy efficient commer-  
10          cial building property’ means property—

11                   “(A) which is installed on or in a  
12          building—

13                   “(i) which is located in the United  
14          States, and

15                   “(ii) which is the type of structure to  
16          which the Standard 90.1–2001 is applica-  
17          ble,

18                   “(B) which is installed as part of—

19                   “(i) the lighting systems,

20                   “(ii) the heating, cooling, ventilation,  
21          and hot water systems, or

22                   “(iii) the building envelope, and

23                   “(C) which is certified in accordance with  
24          subsection (d)(4) as being installed as part of  
25          a plan designed to reduce the total annual en-





1           lished by the Secretary under subpara-  
2           graph (B) with respect to such system,  
3           then the requirement of subsection (c)(1)(C)  
4           shall be treated as met with respect to such sys-  
5           tem, and the deduction under subsection (a)  
6           shall be allowed with respect to energy efficient  
7           commercial building property installed as part  
8           of such system and as part of a plan to meet  
9           such targets, except that subsection (b) shall be  
10          applied to such property by substituting ‘\$.50’  
11          for ‘\$1.50’.

12           “(B) REGULATIONS.—The Secretary, after  
13          consultation with the Secretary of Energy, shall  
14          establish a target for each system described in  
15          subsection (c)(1)(B) which, if such targets were  
16          met for all such systems, the building would  
17          meet the requirements of subsection (c)(1)(C).

18           “(2) METHODS OF CALCULATION.—The Sec-  
19          retary, after consultation with the Secretary of En-  
20          ergy, shall promulgate regulations which describe in  
21          detail methods for calculating and verifying energy  
22          and power cost for purposes of this section.

23           “(3) NOTICE TO OWNER.—Each certification  
24          required under this section shall include an expla-  
25          nation to the building owner regarding the energy

1 efficiency features of the building and its projected  
2 annual energy costs.

3 “(4) CERTIFICATION.—

4 “(A) IN GENERAL.—The Secretary shall  
5 prescribe the manner and method for the mak-  
6 ing of certifications under this section.

7 “(B) PROCEDURES.—The Secretary shall  
8 include as part of the certification process pro-  
9 cedures for inspection and testing by qualified  
10 individuals described in subparagraph (C) to  
11 ensure compliance of buildings with energy-sav-  
12 ings plans and targets. Such procedures shall  
13 be—

14 “(i) comparable, given the difference  
15 between commercial and residential build-  
16 ings, to the requirements in the Mortgage  
17 Industry National Accreditation Proce-  
18 dures for Home Energy Rating Systems,  
19 and

20 “(ii) fuel neutral such that the same  
21 energy efficiency measures allow a building  
22 to be eligible for the deduction under this  
23 section regardless of whether such building  
24 uses a gas or oil furnace or boiler, an elec-  
25 tric heat pump, or other fuel source.

1           “(C) QUALIFIED INDIVIDUALS.—Individ-  
2           uals qualified to determine compliance shall be  
3           only those individuals who are recognized by an  
4           organization certified by the Secretary for such  
5           purposes.

6           “(e) BASIS REDUCTION.—For purposes of this sub-  
7           title, if a deduction is allowed under this section with re-  
8           spect to any energy efficient commercial building property,  
9           the basis of such property shall be reduced by the amount  
10          of the deduction so allowed.

11          “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—  
12          Until such time as the Secretary issues final regulations  
13          under subsection (d)(1)(B) with respect to property which  
14          is part of a lighting system—

15               “(1) IN GENERAL.—The lighting system target  
16               under subsection (d)(1)(A)(ii) shall be a reduction in  
17               lighting power density of 25 percent (50 percent in  
18               the case of a warehouse) of the minimum require-  
19               ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-  
20               ing additional interior lighting power allowances) of  
21               Standard 90.1–2001.

22               “(2) REDUCTION IN DEDUCTION IF REDUCTION  
23               LESS THAN 40 PERCENT.—

24                       “(A) IN GENERAL.—If, with respect to the  
25                       lighting system of any building other than a

1 warehouse, the reduction in lighting power den-  
2 sity of the lighting system is not at least 40  
3 percent, only the applicable percentage of the  
4 amount of deduction otherwise allowable under  
5 this section with respect to such property shall  
6 be allowed.

7 “(B) APPLICABLE PERCENTAGE.—For  
8 purposes of subparagraph (A), the applicable  
9 percentage is the number of percentage points  
10 (not greater than 100) equal to the sum of—

11 “(i) 50, and

12 “(ii) the amount which bears the same  
13 ratio to 50 as the excess of the reduction  
14 of lighting power density of the lighting  
15 system over 25 percentage points bears to  
16 15.

17 “(C) EXCEPTIONS.—This subsection shall  
18 not apply to any system—

19 “(i) the controls and circuiting of  
20 which do not comply fully with the manda-  
21 tory and prescriptive requirements of  
22 Standard 90.1–2001 and which do not in-  
23 clude provision for bilevel switching in all  
24 occupancies except hotel and motel guest

1 rooms, store rooms, restrooms, and public  
2 lobbies, or

3 “(ii) which does not meet the min-  
4 imum requirements for calculated lighting  
5 levels as set forth in the Illuminating Engi-  
6 neering Society of North America Lighting  
7 Handbook, Performance and Application,  
8 Ninth Edition, 2000.

9 “(g) REGULATIONS.—The Secretary shall promul-  
10 gate such regulations as necessary—

11 “(1) to take into account new technologies re-  
12 garding energy efficiency and renewable energy for  
13 purposes of determining energy efficiency and sav-  
14 ings under this section, and

15 “(2) to provide for a recapture of the deduction  
16 allowed under this section if the plan described in  
17 subsection (e)(1)(C) or (d)(1)(A) is not fully imple-  
18 mented.

19 “(h) TERMINATION.—This section shall not apply  
20 with respect to property placed in service after December  
21 31, 2007.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Section 1016(a), as amended by this sec-  
24 tion, is amended by striking “and” at the end of  
25 paragraph (30), by striking the period at the end of

1 paragraph (31) and inserting “, and”, and by add-  
2 ing at the end the following new paragraph:

3 “(32) to the extent provided in section  
4 179B(e).”.

5 (2) Section 1245(a) is amended by inserting  
6 “179B,” after “179A,” both places it appears in  
7 paragraphs (2)(C) and (3)(C).

8 (3) Section 1250(b)(3) is amended by inserting  
9 before the period at the end of the first sentence “or  
10 by section 179B”.

11 (4) Section 263(a)(1) is amended by striking  
12 “or” at the end of subparagraph (G), by striking the  
13 period at the end of subparagraph (H) and inserting  
14 “, or”, and by inserting after subparagraph (H) the  
15 following new subparagraph:

16 “(I) expenditures for which a deduction is  
17 allowed under section 179B.”.

18 (5) Section 312(k)(3)(B) is amended by strik-  
19 ing “or 179A” each place it appears in the heading  
20 and text and inserting “, 179A, or 179B”.

21 (c) CLERICAL AMENDMENT.—The table of sections  
22 for part VI of subchapter B of chapter 1 is amended by  
23 inserting after section 179A the following new item:

“Sec. 179B. Energy efficient commercial buildings deduction.”.

24 (d) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to property placed in service after

1 the date of the enactment of this Act in taxable years end-  
2 ing after such date.

3 **SEC. 1309. THREE-YEAR APPLICABLE RECOVERY PERIOD**  
4 **FOR DEPRECIATION OF QUALIFIED ENERGY**  
5 **MANAGEMENT DEVICES.**

6 (a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-  
7 year property) is amended by striking “and” at the end  
8 of clause (ii), by striking the period at the end of clause  
9 (iii) and inserting “, and”, and by adding at the end the  
10 following new clause:

11 “(iv) any qualified energy manage-  
12 ment device.”.

13 (b) DEFINITION OF QUALIFIED ENERGY MANAGE-  
14 MENT DEVICE.—Section 168(i) (relating to definitions  
15 and special rules) is amended by inserting at the end the  
16 following new paragraph:

17 “(15) QUALIFIED ENERGY MANAGEMENT DE-  
18 VICE.—

19 “(A) IN GENERAL.—The term ‘qualified  
20 energy management device’ means any energy  
21 management device which is placed in service  
22 before January 1, 2008, by a taxpayer who is  
23 a supplier of electric energy or a provider of  
24 electric energy services.

1                   “(B) ENERGY MANAGEMENT DEVICE.—  
 2                   For purposes of subparagraph (A), the term  
 3                   ‘energy management device’ means any meter  
 4                   or metering device which is used by the  
 5                   taxpayer—

6                               “(i) to measure and record electricity  
 7                               usage data on a time-differentiated basis  
 8                               in at least 4 separate time segments per  
 9                               day, and

10                              “(ii) to provide such data on at least  
 11                              a monthly basis to both consumers and the  
 12                              taxpayer.”.

13           (c) ALTERNATIVE SYSTEM.—The table contained in  
 14 section 168(g)(3)(B) is amended by inserting after the  
 15 item relating to subparagraph (A)(iii) the following:

          “(A)(iv) ..... 20”.

16           (d) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to property placed in service after  
 18 the date of the enactment of this Act, in taxable years  
 19 ending after such date.

20 **SEC. 1310. CREDIT FOR PRODUCTION FROM ADVANCED NU-**  
 21 **CLEAR POWER FACILITIES.**

22           (a) IN GENERAL.—Subpart D of part IV of sub-  
 23 chapter A of chapter 1 (relating to business related cred-  
 24 its), as amended by this Act, is amended by adding after  
 25 section 45K the following new section:



1 **“SEC. 45L. CREDIT FOR PRODUCTION FROM ADVANCED NU-**  
2 **CLEAR POWER FACILITIES.**

3 “(a) GENERAL RULE.—For purposes of section 38,  
4 the advanced nuclear power facility production credit of  
5 any taxpayer for any taxable year is equal to the product  
6 of—

7 “(1) 1.8 cents, multiplied by

8 “(2) the kilowatt hours of electricity—

9 “(A) produced by the taxpayer at an ad-  
10 vanced nuclear power facility during the 8-year  
11 period beginning on the date the facility was  
12 originally placed in service, and

13 “(B) sold by the taxpayer to an unrelated  
14 person during the taxable year.

15 “(b) NATIONAL LIMITATION.—

16 “(1) IN GENERAL.—The amount of credit  
17 which would (but for this subsection and subsection  
18 (c)) be allowed with respect to any facility for any  
19 taxable year shall not exceed the amount which  
20 bears the same ratio to such amount of credit as—

21 “(A) the national megawatt capacity limi-  
22 tation allocated to the facility, bears to

23 “(B) the total megawatt nameplate capac-  
24 ity of such facility.

1           “(2) AMOUNT OF NATIONAL LIMITATION.—The  
2 national megawatt capacity limitation shall be 6,000  
3 megawatts.

4           “(3) ALLOCATION OF LIMITATION.—The Sec-  
5 retary shall allocate the national megawatt capacity  
6 limitation in such manner as the Secretary may pre-  
7 scribe.

8           “(4) REGULATIONS.—Not later than 6 months  
9 after the date of the enactment of this section, the  
10 Secretary shall prescribe such regulations as may be  
11 necessary or appropriate to carry out the purposes  
12 of this subsection. Such regulations shall provide a  
13 certification process under which the Secretary, after  
14 consultation with the Secretary of Energy, shall ap-  
15 prove and allocate the national megawatt capacity  
16 limitation.

17           “(c) OTHER LIMITATIONS.—

18           “(1) ANNUAL LIMITATION.—The amount of the  
19 credit allowable under subsection (a) (after the ap-  
20 plication of subsection (b)) for any taxable year with  
21 respect to any facility shall not exceed an amount  
22 which bears the same ratio to \$125,000,000 as—

23                   “(A) the national megawatt capacity limi-  
24 tation allocated under subsection (b) to the fa-  
25 cility, bears to

1                   “(B) 1,000.

2                   “(2) OTHER LIMITATIONS.—Rules similar to  
3 the rules of section 45(b) shall apply for purposes of  
4 this section, except that paragraph (2) thereof shall  
5 not apply to the 1.8 cents under subsection (a)(1).

6                   “(d) ADVANCED NUCLEAR POWER FACILITY.—For  
7 purposes of this section—

8                   “(1) IN GENERAL.—The term ‘advanced nu-  
9 clear power facility’ means any advanced nuclear  
10 facility—

11                   “(A) which is owned by the taxpayer and  
12 which uses nuclear energy to produce elec-  
13 tricity, and

14                   “(B) which is placed in service after the  
15 date of the enactment of this paragraph and be-  
16 fore January 1, 2021.

17                   “(2) ADVANCED NUCLEAR FACILITY.—For pur-  
18 poses of paragraph (1), the term ‘advanced nuclear  
19 facility’ means any nuclear facility the reactor design  
20 for which is approved after the date of the enact-  
21 ment of this paragraph by the Nuclear Regulatory  
22 Commission (and such design or a substantially  
23 similar design of comparable capacity was not ap-  
24 proved on or before such date).

1 “(e) OTHER RULES TO APPLY.—Rules similar to the  
2 rules of paragraphs (1), (2), (3), (4), and (5) of section  
3 45(e) shall apply for purposes of this section.”

4 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
5 tion 38(b), as amended by this Act, is amended by striking  
6 “plus” at the end of paragraph (20), by striking the period  
7 at the end of paragraph (21) and inserting “, plus”, and  
8 by adding at the end the following:

9 “(22) the advanced nuclear power facility pro-  
10 duction credit determined under section 45L(a).”.

11 (c) CLERICAL AMENDMENT.—The table of sections  
12 for subpart D of part IV of subchapter A of chapter 1,  
13 as amended by this Act, is amended by adding at the end  
14 the following:

“Sec. 45L. Credit for production from advanced nuclear power fa-  
cilities.”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to production in taxable years be-  
17 ginning after December 31, 2003.

18 **PART II—FUELS AND ALTERNATIVE MOTOR**  
19 **VEHICLES**

20 **SEC. 1311. REPEAL OF 4.3-CENT MOTOR FUEL EXCISE**  
21 **TAXES ON RAILROADS AND INLAND WATER-**  
22 **WAY TRANSPORTATION WHICH REMAIN IN**  
23 **GENERAL FUND.**

24 (a) TAXES ON TRAINS.—

1           (1) IN GENERAL.—Subparagraph (A) of section  
2           4041(a)(1) is amended by striking “or a diesel-pow-  
3           ered train” each place it appears and by striking “or  
4           train”.

5           (2) CONFORMING AMENDMENTS.—

6           (A) Subparagraph (C) of section  
7           4041(a)(1) is amended by striking clause (ii)  
8           and by redesignating clause (iii) as clause (ii).

9           (B) Subparagraph (C) of section  
10          4041(b)(1) is amended by striking all that fol-  
11          lows “section 6421(e)(2)” and inserting a pe-  
12          riod.

13          (C) Subsection (d) of section 4041 is  
14          amended by redesignating paragraph (3) as  
15          paragraph (4) and by inserting after paragraph  
16          (2) the following new paragraph:

17          “(3) DIESEL FUEL USED IN TRAINS.—There is  
18          hereby imposed a tax of 0.1 cent per gallon on any  
19          liquid other than gasoline (as defined in section  
20          4083)—

21                 “(A) sold by any person to an owner, les-  
22                 see, or other operator of a diesel-powered train  
23                 for use as a fuel in such train, or

1           “(B) used by any person as a fuel in a die-  
2           sel-powered train unless there was a taxable  
3           sale of such fuel under subparagraph (A).

4           No tax shall be imposed by this paragraph on the  
5           sale or use of any liquid if tax was imposed on such  
6           liquid under section 4081.”.

7           (D) Subsection (f) of section 4082 is  
8           amended by striking “section 4041(a)(1)” and  
9           inserting “subsections (d)(3) and (a)(1) of sec-  
10          tion 4041, respectively”.

11          (E) Paragraph (3) of section 4083(a) is  
12          amended by striking “or a diesel-powered  
13          train”.

14          (F) Paragraph (3) of section 6421(f) is  
15          amended to read as follows:

16          “(3) GASOLINE USED IN TRAINS.—In the case  
17          of gasoline used as a fuel in a train, this section  
18          shall not apply with respect to the Leaking Under-  
19          ground Storage Tank Trust Fund financing rate  
20          under section 4081.”.

21          (G) Paragraph (3) of section 6427(l) is  
22          amended to read as follows:

23          “(3) REFUND OF CERTAIN TAXES ON FUEL  
24          USED IN DIESEL-POWERED TRAINS.—For purposes  
25          of this subsection, the term ‘nontaxable use’ includes

1 fuel used in a diesel-powered train. The preceding  
2 sentence shall not apply to the tax imposed by sec-  
3 tion 4041(d) and the Leaking Underground Storage  
4 Tank Trust Fund financing rate under section 4081  
5 except with respect to fuel sold for exclusive use by  
6 a State or any political subdivision thereof.”.

7 (b) FUEL USED ON INLAND WATERWAYS.—

8 (1) IN GENERAL.—Paragraph (1) of section  
9 4042(b) is amended by adding “and” at the end of  
10 subparagraph (A), by striking “, and” at the end of  
11 subparagraph (B) and inserting a period, and by  
12 striking subparagraph (C).

13 (2) CONFORMING AMENDMENT.—Paragraph (2)  
14 of section 4042(b) is amended by striking subpara-  
15 graph (C).

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on January 1, 2004.

18 **SEC. 1312. REDUCED MOTOR FUEL EXCISE TAX ON CER-**  
19 **TAIN MIXTURES OF DIESEL FUEL.**

20 (a) IN GENERAL.—Paragraph (2) of section 4081(a)  
21 is amended by adding at the end the following:

22 “(C) DIESEL-WATER FUEL EMULSION.—In  
23 the case of diesel-water fuel emulsion at least  
24 14 percent of which is water and with respect  
25 to which the emulsion additive is registered by

1 a United States manufacturer with the Envi-  
2 ronmental Protection Agency pursuant to sec-  
3 tion 211 of the Clean Air Act (as in effect on  
4 March 31, 2003), subparagraph (A)(iii) shall be  
5 applied by substituting ‘19.7 cents’ for ‘24.3  
6 cents’.”.

7 (b) SPECIAL RULES FOR DIESEL-WATER FUEL  
8 EMULSIONS.—

9 (1) REFUNDS FOR TAX-PAID PURCHASES.—Sec-  
10 tion 6427 is amended by redesignating subsections  
11 (m) through (p) as subsections (n) through (q), re-  
12 spectively, and by inserting after subsection (l) the  
13 following new subsection:

14 “(m) DIESEL FUEL USED TO PRODUCE EMUL-  
15 SION.—

16 “(1) IN GENERAL.—Except as provided in sub-  
17 section (k), if any diesel fuel on which tax was im-  
18 posed by section 4081 at the regular tax rate is used  
19 by any person in producing an emulsion described in  
20 section 4081(a)(2)(C) which is sold or used in such  
21 person’s trade or business, the Secretary shall pay  
22 (without interest) to such person an amount equal to  
23 the excess of the regular tax rate over the incentive  
24 tax rate with respect to such fuel.



1           “(2) DEFINITIONS.—For purposes of paragraph  
2           (1)—

3                   “(A) REGULAR TAX RATE.—The term ‘reg-  
4                   ular tax rate’ means the aggregate rate of tax  
5                   imposed by section 4081 determined without re-  
6                   gard to section 4081(a)(2)(C).

7                   “(B) INCENTIVE TAX RATE.—The term  
8                   ‘incentive tax rate’ means the aggregate rate of  
9                   tax imposed by section 4081 determined with  
10                  regard to section 4081(a)(2)(C).”.

11           (2) LATER SEPARATION OF FUEL.—

12                   (A) IN GENERAL.—Section 4081 (relating  
13                   to imposition of tax) is amended by redesign-  
14                   nating subsections (d) and (e) as subsections  
15                   (e) and (f), respectively, and by inserting after  
16                   subsection (c) the following new subsection:

17           “(d) LATER SEPARATION OF FUEL FROM DIESEL-  
18           WATER FUEL EMULSION.—If any person separates the  
19           taxable fuel from a diesel-water fuel emulsion on which  
20           tax was imposed under subsection (a) at a rate determined  
21           under subsection (a)(2)(C) (or with respect to which a  
22           credit or payment was allowed or made by reason of sec-  
23           tion 6427), such person shall be treated as the refiner of  
24           such taxable fuel. The amount of tax imposed on any re-  
25           moval of such fuel by such person shall be reduced by the

1 amount of tax imposed (and not credited or refunded) on  
2 any prior removal or entry of such fuel.”.

3 (B) CONFORMING AMENDMENT.—Sub-  
4 section (d) of section 6416 is amended by strik-  
5 ing “section 4081(e)” and inserting “section  
6 4081(f)”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on January 1, 2004.

9 **SEC. 1313. SMALL ETHANOL PRODUCER CREDIT.**

10 (a) ALLOCATION OF ALCOHOL FUELS CREDIT TO  
11 PATRONS OF A COOPERATIVE.—Section 40(g) (relating to  
12 definitions and special rules for eligible small ethanol pro-  
13 ducer credit) is amended by adding at the end the fol-  
14 lowing new paragraph:

15 “(6) ALLOCATION OF SMALL ETHANOL PRO-  
16 DUCER CREDIT TO PATRONS OF COOPERATIVE.—

17 “(A) ELECTION TO ALLOCATE.—

18 “(i) IN GENERAL.—In the case of a  
19 cooperative organization described in sec-  
20 tion 1381(a), any portion of the credit de-  
21 termined under subsection (a)(3) for the  
22 taxable year may, at the election of the or-  
23 ganization, be apportioned pro rata among  
24 patrons of the organization on the basis of

1 the quantity or value of business done with  
2 or for such patrons for the taxable year.

3 “(ii) FORM AND EFFECT OF ELEC-  
4 TION.—An election under clause (i) for any  
5 taxable year shall be made on a timely  
6 filed return for such year. Such election,  
7 once made, shall be irrevocable for such  
8 taxable year.

9 “(B) TREATMENT OF ORGANIZATIONS AND  
10 PATRONS.—The amount of the credit appor-  
11 tioned to patrons under subparagraph (A)—

12 “(i) shall not be included in the  
13 amount determined under subsection (a)  
14 with respect to the organization for the  
15 taxable year, and

16 “(ii) shall be included in the amount  
17 determined under subsection (a) for the  
18 taxable year of each patron for which the  
19 patronage dividends for the taxable year  
20 described in subparagraph (A) are included  
21 in gross income.

22 “(C) SPECIAL RULE.—If the amount of a  
23 credit which has been apportioned to any pa-  
24 tron under this paragraph is decreased for any  
25 reason—

1                   “(i) such amount shall not increase  
2                   the tax imposed on such patron, and

3                   “(ii) the tax imposed by this chapter  
4                   on such organization shall be increased by  
5                   such amount.

6                   The increase under clause (ii) shall not be  
7                   treated as tax imposed by this chapter for pur-  
8                   poses of determining the amount of any credit  
9                   under this chapter or for purposes of section  
10                  55.”.

11               (b) DEFINITION OF SMALL ETHANOL PRODUCER.—  
12               Section 40(g) (relating to definitions and special rules for  
13               eligible small ethanol producer credit) is amended by strik-  
14               ing “30,000,000” each place it appears and inserting  
15               “60,000,000”.

16               (c) CONFORMING AMENDMENT.—Section 1388 (re-  
17               lating to definitions and special rules for cooperative orga-  
18               nizations) is amended by adding at the end the following  
19               new subsection:

20               “(k) CROSS REFERENCE.—

**“For provisions relating to the apportionment of  
the alcohol fuels credit between cooperative organi-  
zations and their patrons, see section 40(g)(6).”.**

21               (d) EFFECTIVE DATE.—The amendments made by  
22               this section shall apply to taxable years beginning after  
23               December 31, 2003.

1 **SEC. 1314. INCENTIVES FOR BIODIESEL.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-  
3 chapter A of chapter 1 (relating to business related cred-  
4 its) is amended by inserting after section 40 the following  
5 new section:

6 **“SEC. 40A. BIODIESEL USED AS FUEL.**

7 “(a) GENERAL RULE.—For purposes of section 38,  
8 the biodiesel fuels credit determined under this section for  
9 the taxable year is an amount equal to the sum of—

10 “(1) the biodiesel mixture credit, plus

11 “(2) the biodiesel credit.

12 “(b) DEFINITION OF BIODIESEL MIXTURE CREDIT  
13 AND BIODIESEL CREDIT.—For purposes of this section—

14 “(1) BIODIESEL MIXTURE CREDIT.—

15 “(A) IN GENERAL.—The biodiesel mixture  
16 credit of any taxpayer for any taxable year is  
17 50 cents for each gallon of biodiesel used by the  
18 taxpayer in the production of a qualified bio-  
19 diesel mixture.

20 “(B) QUALIFIED BIODIESEL MIXTURE.—

21 The term ‘qualified biodiesel mixture’ means a  
22 mixture of biodiesel and a taxable fuel (within  
23 the meaning of section 4083(a)(1)) which—

24 “(i) is sold by the taxpayer producing  
25 such mixture to any person for use as a  
26 fuel, or

1                   “(ii) is used as a fuel by the taxpayer  
2                   producing such mixture.

3                   “(C) SALE OR USE MUST BE IN TRADE OR  
4                   BUSINESS, ETC.—Biodiesel used in the produc-  
5                   tion of a qualified biodiesel mixture shall be  
6                   taken into account—

7                   “(i) only if the sale or use described  
8                   in subparagraph (B) is in a trade or busi-  
9                   ness of the taxpayer, and

10                   “(ii) for the taxable year in which  
11                   such sale or use occurs.

12                   “(D) CASUAL OFF-FARM PRODUCTION NOT  
13                   ELIGIBLE.—No credit shall be allowed under  
14                   this section with respect to any casual off-farm  
15                   production of a qualified biodiesel mixture.

16                   “(2) BIODIESEL CREDIT.—

17                   “(A) IN GENERAL.—The biodiesel credit of  
18                   any taxpayer for any taxable year is 50 cents  
19                   for each gallon of biodiesel which is not in a  
20                   mixture and which during the taxable year—

21                   “(i) is used by the taxpayer as a fuel  
22                   in a trade or business, or

23                   “(ii) is sold by the taxpayer at retail  
24                   to a person and placed in the fuel tank of  
25                   such person’s vehicle.

1                   “(B) USER CREDIT NOT TO APPLY TO BIO-  
2                   DIESEL SOLD AT RETAIL.—No credit shall be  
3                   allowed under subparagraph (A)(i) with respect  
4                   to any biodiesel which was sold in a retail sale  
5                   described in subparagraph (A)(ii).

6                   “(3) CREDIT FOR AGRI-BIODIESEL.—In the  
7                   case of any biodiesel which is agri-biodiesel, para-  
8                   graphs (1)(A) and (2)(A) shall be applied by sub-  
9                   stituting ‘\$1.00’ for ‘50 cents’.

10                  “(4) CERTIFICATION FOR BIODIESEL.—No  
11                  credit shall be allowed under this section unless the  
12                  taxpayer obtains a certification (in such form and  
13                  manner as prescribed by the Secretary) from the  
14                  producer of the biodiesel which identifies the product  
15                  produced and the percentage of biodiesel and agri-  
16                  biodiesel in the product.

17                  “(c) COORDINATION WITH CREDIT AGAINST EXCISE  
18                  TAX.—The amount of the credit determined under this  
19                  section with respect to any biodiesel shall be properly re-  
20                  duced to take into account any benefit provided with re-  
21                  spect to such biodiesel solely by reason of the application  
22                  of section 6426.

23                  “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
24                  poses of this section—

1           “(1) BIODIESEL.—The term ‘biodiesel’ means  
2 the monoalkyl esters of long chain fatty acids de-  
3 rived from plant or animal matter which meet—

4           “(A) the registration requirements for  
5 fuels and fuel additives established by the Envi-  
6 ronmental Protection Agency under section 211  
7 of the Clean Air Act (42 U.S.C. 7545), and

8           “(B) the requirements of the American So-  
9 ciety of Testing and Materials D6751.

10          “(2) AGRI-BIODIESEL.—The term ‘agri-bio-  
11 diesel’ means biodiesel derived solely from virgin oils,  
12 including esters derived from virgin vegetable oils  
13 from corn, soybeans, sunflower seeds, cottonseeds,  
14 canola, crambe, rapeseeds, safflowers, flaxseeds, rice  
15 bran, and mustard seeds, and from animal fats.

16          “(3) MIXTURE OR BIODIESEL NOT USED AS A  
17 FUEL, ETC.—

18           “(A) MIXTURES.—If—

19           “(i) any credit was determined under  
20 this section with respect to biodiesel used  
21 in the production of any qualified biodiesel  
22 mixture, and

23           “(ii) any person—

24           “(I) separates the biodiesel from  
25 the mixture, or



1                                   “(II) without separation, uses the  
2                                   mixture other than as a fuel,  
3                                   then there is hereby imposed on such person a  
4                                   tax equal to the product of the rate applicable  
5                                   under subsection (b)(1)(A) and the number of  
6                                   gallons of such biodiesel in such mixture.

7                                   “(B) BIODIESEL.—If—

8                                   “(i) any credit was determined under  
9                                   this section with respect to the retail sale  
10                                  of any biodiesel, and

11                                  “(ii) any person mixes such biodiesel  
12                                  or uses such biodiesel other than as a fuel,  
13                                  then there is hereby imposed on such person a  
14                                  tax equal to the product of the rate applicable  
15                                  under subsection (b)(2)(A) and the number of  
16                                  gallons of such biodiesel.

17                                  “(C) APPLICABLE LAWS.—All provisions of  
18                                  law, including penalties, shall, insofar as appli-  
19                                  cable and not inconsistent with this section,  
20                                  apply in respect of any tax imposed under sub-  
21                                  paragraph (A) or (B) as if such tax were im-  
22                                  posed by section 4081 and not by this chapter.

23                                  “(4) PASS-THRU IN THE CASE OF ESTATES AND  
24                                  TRUSTS.—Under regulations prescribed by the Sec-

1       retary, rules similar to the rules of subsection (d) of  
2       section 52 shall apply.

3       “(e) TERMINATION.—This section shall not apply to  
4       any sale or use after December 31, 2005.”.

5       (b) CREDIT TREATED AS PART OF GENERAL BUSI-  
6       NESS CREDIT.—Section 38(b) (relating to current year  
7       business credit) is amended by striking “plus” at the end  
8       of paragraph (16), by striking the period at the end of  
9       paragraph (17) and inserting “, plus”, and by adding at  
10      the end the following new paragraph:

11             “(18) the biodiesel fuels credit determined  
12             under section 40A(a).”.

13      (c) CONFORMING AMENDMENTS.—

14             (1)(A) Section 87 is amended to read as fol-  
15      lows:

16      **“SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.**

17             “Gross income includes—

18             “(1) the amount of the alcohol fuels credit de-  
19             termined with respect to the taxpayer for the taxable  
20             year under section 40(a), and

21             “(2) the biodiesel fuels credit determined with  
22             respect to the taxpayer for the taxable year under  
23             section 40A(a).”.

24             (B) The item relating to section 87 in the table  
25      of sections for part II of subchapter B of chapter 1

1 is amended by striking “fuel credit” and inserting  
2 “and biodiesel fuels credits”.

3 (2) Section 196(c), as amended by this Act, is  
4 amended by striking “and” at the end of paragraph  
5 (11), by striking the period at the end of paragraph  
6 (12) and inserting “, and”, and by adding at the  
7 end the following new paragraph:

8 “(13) the biodiesel fuels credit determined  
9 under section 40A(a).”.

10 (3) The table of sections for subpart D of part  
11 IV of subchapter A of chapter 1 is amended by add-  
12 ing after the item relating to section 40 the fol-  
13 lowing new item:

“Sec. 40A. Biodiesel used as fuel.”.

14 (d) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to fuel produced, and sold or used,  
16 after December 31, 2003, in taxable years ending after  
17 such date.

18 **SEC. 1315. ALCOHOL FUEL AND BIODIESEL MIXTURES EX-**  
19 **CISE TAX CREDIT.**

20 (a) IN GENERAL.—Subchapter B of chapter 65 (re-  
21 lating to rules of special application) is amended by insert-  
22 ing after section 6425 the following new section:

1 **“SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL**  
2 **MIXTURES.**

3 “(a) ALLOWANCE OF CREDITS.—There shall be al-  
4 lowed as a credit against the tax imposed by section 4081  
5 an amount equal to the sum of—

6 “(1) the alcohol fuel mixture credit, plus

7 “(2) the biodiesel mixture credit.

8 “(b) ALCOHOL FUEL MIXTURE CREDIT.—

9 “(1) IN GENERAL.—For purposes of this sec-  
10 tion, the alcohol fuel mixture credit is the product  
11 of the applicable amount and the number of gallons  
12 of alcohol used by the taxpayer in producing any al-  
13 cohol fuel mixture for sale or use in a trade or busi-  
14 ness of the taxpayer.

15 “(2) APPLICABLE AMOUNT.—For purposes of  
16 this subsection—

17 “(A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the applicable amount is 52  
19 cents (51 cents in the case of any sale or use  
20 after 2004).

21 “(B) MIXTURES NOT CONTAINING ETH-  
22 ANOL.—In the case of an alcohol fuel mixture  
23 in which none of the alcohol consists of ethanol,  
24 the applicable amount is 60 cents.

25 “(3) ALCOHOL FUEL MIXTURE.—For purposes  
26 of this subsection, the term ‘alcohol fuel mixture’

1 means a mixture of alcohol and a taxable fuel  
2 which—

3 “(A) is sold by the taxpayer producing  
4 such mixture to any person for use as a fuel,

5 “(B) is used as a fuel by the taxpayer pro-  
6 ducing such mixture, or

7 “(C) is removed from the refinery by a  
8 person producing such mixture.

9 “(4) OTHER DEFINITIONS.—For purposes of  
10 this subsection—

11 “(A) ALCOHOL.—The term ‘alcohol’ in-  
12 cludes methanol and ethanol but does not  
13 include—

14 “(i) alcohol produced from petroleum,  
15 natural gas, or coal (including peat), or

16 “(ii) alcohol with a proof of less than  
17 190 (determined without regard to any  
18 added denaturants).

19 Such term also includes an alcohol gallon equiv-  
20 alent of ethyl tertiary butyl ether or other  
21 ethers produced from such alcohol.

22 “(B) TAXABLE FUEL.—The term ‘taxable  
23 fuel’ has the meaning given such term by sec-  
24 tion 4083(a)(1).

1           “(5) TERMINATION.—This subsection shall not  
2 apply to any sale, use, or removal for any period  
3 after December 31, 2010.

4           “(c) BIODIESEL MIXTURE CREDIT.—

5           “(1) IN GENERAL.—For purposes of this sec-  
6 tion, the biodiesel mixture credit is the product of  
7 the applicable amount and the number of gallons of  
8 biodiesel used by the taxpayer in producing any bio-  
9 diesel mixture for sale or use in a trade or business  
10 of the taxpayer.

11           “(2) APPLICABLE AMOUNT.—For purposes of  
12 this subsection—

13           “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), the applicable amount is 50  
15 cents.

16           “(B) AMOUNT FOR AGRI-BIODIESEL.—In  
17 the case of any biodiesel which is agri-biodiesel,  
18 the applicable amount is \$1.00.

19           “(3) BIODIESEL MIXTURE.—For purposes of  
20 this section, the term ‘biodiesel mixture’ means a  
21 mixture of biodiesel and a taxable fuel which—

22           “(A) is sold by the taxpayer producing  
23 such mixture to any person for use as a fuel,

24           “(B) is used as a fuel by the taxpayer pro-  
25 ducing such mixture, or



1                   “(ii) without separation, uses the mix-  
2                   ture other than as a fuel,  
3                   then there is hereby imposed on such person a  
4                   tax equal to the product of the applicable  
5                   amount and the number of gallons of such alco-  
6                   hol or biodiesel.

7                   “(2) APPLICABLE LAWS.—All provisions of law,  
8                   including penalties, shall, insofar as applicable and  
9                   not inconsistent with this section, apply in respect of  
10                  any tax imposed under paragraph (1) as if such tax  
11                  were imposed by section 4081 and not by this sec-  
12                  tion.

13                  “(e) COORDINATION WITH EXEMPTION FROM EX-  
14                  CISE TAX.—Rules similar to the rules under section 40(c)  
15                  shall apply for purposes of this section.”.

16                  (b) REGISTRATION REQUIREMENT.—Section 4101(a)  
17                  (relating to registration) is amended by inserting “and  
18                  every person producing biodiesel (as defined in section  
19                  40A(d)(1)) or alcohol (as defined in section  
20                  6426(b)(4)(A))” after “4091”.

21                  (c) ADDITIONAL AMENDMENTS.—

22                   (1) Section 40(c) is amended by striking “or  
23                   section 4091(c)” and inserting “section 4091(c), or  
24                   section 6426”.

25                   (2) Section 40(e)(1) is amended—



1 (A) by striking “2007” in subparagraph

2 (A) and inserting “2010”, and

3 (B) by striking “2008” in subparagraph

4 (B) and inserting “2011”.

5 (3) Section 40(h) is amended—

6 (A) by striking “2007” in paragraph (1)

7 and inserting “2010”, and

8 (B) by striking “, 2006, or 2007” in the

9 table contained in paragraph (2) and inserting

10 “through 2010”.

11 (4)(A) Subpart C of part III of subchapter A

12 of chapter 32 is amended by adding at the end the

13 following new section:

14 **“SEC. 4104. INFORMATION REPORTING FOR PERSONS**

15 **CLAIMING CERTAIN TAX BENEFITS.**

16 “(a) IN GENERAL.—The Secretary shall require any

17 person claiming tax benefits under the provisions of sec-

18 tion 34, 40, 40A, 4041(b)(2), 4041(k), 4081(c), 6426, or

19 6427(f) to file a quarterly return (in such manner as the

20 Secretary may prescribe) providing such information relat-

21 ing to such benefits and the coordination of such benefits

22 as the Secretary may require to ensure the proper admin-

23 istration and use of such benefits.

24 “(b) ENFORCEMENT.—With respect to any person

25 described in subsection (a) and subject to registration re-

1 requirements under this title, rules similar to rules of section  
2 4222(c) shall apply with respect to any requirement under  
3 this section.”.

4 (B) The table of sections for subpart C of part  
5 III of subchapter A of chapter 32 is amended by  
6 adding at the end the following new item:

“Sec. 4104. Information reporting for persons claiming certain tax benefits.”.

7 (5) Section 6427(i)(3) is amended—

8 (A) by adding at the end of subparagraph  
9 (A) the following new flush sentence:

10 “In the case of an electronic claim, this sub-  
11 paragraph shall be applied without regard to  
12 clause (i).”, and

13 (B) by striking “20 days of the date of the  
14 filing of such claim” in subparagraph (B) and  
15 inserting “45 days of the date of the filing of  
16 such claim (20 days in the case of an electronic  
17 claim)”.

18 (6) Section 9503(b)(1) is amended by adding at  
19 the end the following new flush sentence:

20 “For purposes of this paragraph, taxes received  
21 under sections 4041 and 4081 shall be determined  
22 without reduction for credits under section 6426.”.

23 (d) CLERICAL AMENDMENT.—The table of sections  
24 for subchapter B of chapter 65 is amended by inserting

1 after the item relating to section 6425 the following new  
2 item:

“Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.”.

3 (e) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-  
5 graphs (2) and (3), the amendments made by this  
6 section shall apply to fuel sold, used, or removed  
7 after December 31, 2003.

8 (2) SUBSECTION (c)(4).—The amendments  
9 made by subsection (c)(4) shall take effect on Janu-  
10 ary 1, 2004.

11 (3) SUBSECTION (c)(5).—The amendments  
12 made by subsection (c)(5) shall apply to claims filed  
13 after December 31, 2004.

14 (f) FORMAT FOR FILING.—The Secretary of the  
15 Treasury shall prescribe the electronic format for filing  
16 claims described in section 6427(i)(3)(B) of the Internal  
17 Revenue Code of 1986 (as amended by subsection  
18 (c)(5)(A)) not later than December 31, 2004.

19 **SEC. 1316. NONAPPLICATION OF EXPORT EXEMPTION TO**  
20 **DELIVERY OF FUEL TO MOTOR VEHICLES RE-**  
21 **MOVED FROM UNITED STATES.**

22 (a) IN GENERAL.—Section 4221(d)(2) (defining ex-  
23 port) is amended by adding at the end the following new  
24 sentence: “Such term does not include the delivery of a  
25 taxable fuel (as defined in section 4083(a)(1)) into a fuel

1 tank of a motor vehicle which is shipped or driven out  
2 of the United States.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 4041(g) (relating to other exemp-  
5 tions) is amended by adding at the end the following  
6 new sentence: “Paragraph (3) shall not apply to the  
7 sale for delivery of a liquid into a fuel tank of a  
8 motor vehicle which is shipped or driven out of the  
9 United States.”.

10 (2) Clause (iv) of section 4081(a)(1)(A) (relat-  
11 ing to tax on removal, entry, or sale) is amended by  
12 inserting “or at a duty-free sales enterprise (as de-  
13 fined in section 555(b)(8) of the Tariff Act of  
14 1930)” after “section 4101”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to sales or deliveries made after  
17 the date of the enactment of this Act.

18 **SEC. 1317. REPEAL OF PHASEOUTS FOR QUALIFIED ELEC-**  
19 **TRIC VEHICLE CREDIT AND DEDUCTION FOR**  
20 **CLEAN FUEL-VEHICLES.**

21 (a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—  
22 Subsection (b) of section 30 (relating to limitations) is  
23 amended by striking paragraph (2) and redesignating  
24 paragraph (3) as paragraph (2).

1 (b) DEDUCTION FOR CLEAN-FUEL VEHICLES AND  
2 CERTAIN REFUELING PROPERTY.—Paragraph (1) of sec-  
3 tion 179A(b) (relating to qualified clean-fuel vehicle prop-  
4 erty) is amended to read as follows:

5 “(1) QUALIFIED CLEAN-FUEL VEHICLE PROP-  
6 erty.— The cost which may be taken into account  
7 under subsection (a)(1)(A) with respect to any  
8 motor vehicle shall not exceed—

9 “(A) in the case of a motor vehicle not de-  
10 scribed in subparagraph (B) or (C), \$2,000,

11 “(B) in the case of any truck or van with  
12 a gross vehicle weight rating greater than  
13 10,000 pounds but not greater than 26,000  
14 pounds, \$5,000, or

15 “(C) \$50,000 in the case of—

16 “(i) a truck or van with a gross vehi-  
17 cle weight rating greater than 26,000  
18 pounds, or

19 “(ii) any bus which has a seating ca-  
20 pacity of at least 20 adults (not including  
21 the driver).”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to property placed in service after  
24 the date of the enactment of this Act.

1 **SEC. 1318. ALTERNATIVE MOTOR VEHICLE CREDIT.**

2 (a) IN GENERAL.—Subpart B of part IV of sub-  
3 chapter A of chapter 1 (relating to foreign tax credit, etc.)  
4 is amended by adding at the end the following:

5 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

6 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
7 lowed as a credit against the tax imposed by this chapter  
8 for the taxable year an amount equal to the sum of—

9 “(1) the new qualified fuel cell motor vehicle  
10 credit determined under subsection (b),

11 “(2) the new advanced lean burn technology  
12 motor vehicle credit determined under subsection (c),

13 “(3) the new qualified hybrid motor vehicle  
14 credit determined under subsection (d), and

15 “(4) the new qualified alternative fuel motor ve-  
16 hicle credit determined under subsection (e).

17 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE  
18 CREDIT.—

19 “(1) IN GENERAL.—For purposes of subsection  
20 (a), the new qualified fuel cell motor vehicle credit  
21 determined under this subsection with respect to a  
22 new qualified fuel cell motor vehicle placed in service  
23 by the taxpayer during the taxable year shall be de-  
24 termined in accordance with the following table:

<b>“In the case of a vehicle which has a gross vehicle weight rating of—</b>	<b>The new qualified fuel cell motor vehicle credit is—</b>
Not more than 8,500 lbs .....	\$4,000
More than 8,500 lbs but not more than 14,000 lbs .....	\$10,000
More than 14,000 lbs but not more than 26,000 lbs .....	\$20,000
More than 26,000 lbs .....	\$40,000.

1           “(2) INCREASE FOR FUEL EFFICIENCY.—

2                   “(A) IN GENERAL.—The amount deter-

3                   mined under paragraph (1) with respect to a

4                   new qualified fuel cell motor vehicle which is a

5                   passenger automobile or light truck shall be in-

6                   creased by the additional credit amount.

7                   “(B) ADDITIONAL CREDIT AMOUNT.—For

8                   purposes of subparagraph (A), the additional

9                   credit amount shall be determined in accord-

10                  ance with the following table:

<b>“In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—</b>	<b>The additional credit amount is—</b>
At least 150 percent but less than 175 percent .....	\$1,000
At least 175 percent but less than 200 percent .....	\$1,500
At least 200 percent but less than 225 percent .....	\$2,000
At least 225 percent but less than 250 percent .....	\$2,500
At least 250 percent but less than 275 percent .....	\$3,000
At least 275 percent but less than 300 percent .....	\$3,500
At least 300 percent .....	\$4,000.

11                  “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-

12                  CLE.—For purposes of this subsection, the term

13                  ‘new qualified fuel cell motor vehicle’ means a motor

14                  vehicle—

15                   “(A) which is propelled by power derived

16                  from one or more cells which convert chemical

1 energy directly into electricity by combining ox-  
2 ygen with hydrogen fuel which is stored on  
3 board the vehicle in any form and may or may  
4 not require reformation prior to use,

5 “(B) which, in the case of a passenger  
6 automobile or light truck, has received—

7 “(i) a certificate of conformity under  
8 the Clean Air Act and meets or exceeds the  
9 equivalent qualifying California low emis-  
10 sion vehicle standard under section  
11 243(e)(2) of the Clean Air Act for that  
12 make and model year, and

13 “(ii) a certificate that such vehicle  
14 meets or exceeds the Bin 5 Tier II emis-  
15 sion standard established in regulations  
16 prescribed by the Administrator of the En-  
17 vironmental Protection Agency under sec-  
18 tion 202(i) of the Clean Air Act for that  
19 make and model year vehicle,

20 “(C) the original use of which commences  
21 with the taxpayer,

22 “(D) which is acquired for use or lease by  
23 the taxpayer and not for resale, and

24 “(E) which is made by a manufacturer.



1           “(c) NEW ADVANCED LEAN BURN TECHNOLOGY  
2 MOTOR VEHICLE CREDIT.—

3                   “(1) IN GENERAL.—For purposes of subsection  
4 (a), the new advanced lean burn technology motor  
5 vehicle credit determined under this subsection with  
6 respect to a new advanced lean burn technology  
7 motor vehicle placed in service by the taxpayer dur-  
8 ing the taxable year is the credit amount determined  
9 under paragraph (2).

10                   “(2) CREDIT AMOUNT.—

11                           “(A) FUEL ECONOMY.—The credit amount  
12 determined under this paragraph shall be deter-  
13 mined in accordance with the following table:

<b>“In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—</b>	<b>The credit amount is—</b>
At least 125 percent but less than 150 percent .....	\$400
At least 150 percent but less than 175 percent .....	\$800
At least 175 percent but less than 200 percent .....	\$1,200
At least 200 percent but less than 225 percent .....	\$1,600
At least 225 percent but less than 250 percent .....	\$2,000
At least 250 percent .....	\$2,400.

14                   “(B) CONSERVATION CREDIT.—The  
15 amount determined under subparagraph (A)  
16 with respect to a new advanced lean burn tech-  
17 nology motor vehicle shall be increased by the  
18 conservation credit amount determined in ac-  
19 cordance with the following table:

<b>“In the case of a vehicle which achieves a lifetime fuel savings (expressed in gallons of gasoline) of—</b>	<b>The conservation credit amount is—</b>
At least 1,200 but less than 1,800 .....	\$250
At least 1,800 but less than 2,400 .....	\$500
At least 2,400 but less than 3,000 .....	\$750
At least 3,000 .....	\$1,000.

1                   “(3) NEW ADVANCED LEAN BURN TECHNOLOGY  
2                   MOTOR VEHICLE.—For purposes of this subsection,  
3                   the term ‘new advanced lean burn technology motor  
4                   vehicle’ means a passenger automobile or a light  
5                   truck—

6                   “(A) with an internal combustion engine  
7                   which—

8                   “(i) is designed to operate primarily  
9                   using more air than is necessary for com-  
10                  plete combustion of the fuel,

11                  “(ii) incorporates direct injection,

12                  “(iii) achieves at least 125 percent of  
13                  the 2002 model year city fuel economy,

14                  “(iv) for 2004 and later model vehi-  
15                  cles, has received a certificate that such ve-  
16                  hicle meets or exceeds—

17                  “(I) in the case of a vehicle hav-  
18                  ing a gross vehicle weight rating of  
19                  6,000 pounds or less, the Bin 5 Tier  
20                  II emission standard established in  
21                  regulations prescribed by the Adminis-

1                   trator of the Environmental Protec-  
2                   tion Agency under section 202(i) of  
3                   the Clean Air Act for that make and  
4                   model year vehicle, and

5                   “ (II) in the case of a vehicle hav-  
6                   ing a gross vehicle weight rating of  
7                   more than 6,000 pounds but not more  
8                   than 8,500 pounds, the Bin 8 Tier II  
9                   emission standard which is so estab-  
10                  lished.

11                  “(B) the original use of which commences  
12                  with the taxpayer,

13                  “(C) which is acquired for use or lease by  
14                  the taxpayer and not for resale, and

15                  “(D) which is made by a manufacturer.

16                  “(4) LIFETIME FUEL SAVINGS.—For purposes  
17                  of this subsection, the term ‘lifetime fuel savings’  
18                  means, in the case of any new advanced lean burn  
19                  technology motor vehicle, an amount equal to the ex-  
20                  cess (if any) of—

21                  “(A) 120,000 divided by the 2002 model  
22                  year city fuel economy for the vehicle inertia  
23                  weight class, over

24                  “(B) 120,000 divided by the city fuel econ-  
25                  omy for such vehicle.

1       “(d) NEW QUALIFIED HYBRID MOTOR VEHICLE  
2 CREDIT.—

3           “(1) IN GENERAL.—For purposes of subsection  
4 (a), the new qualified hybrid motor vehicle credit de-  
5 termined under this subsection with respect to a new  
6 qualified hybrid motor vehicle placed in service by  
7 the taxpayer during the taxable year is the credit  
8 amount determined under paragraph (2).

9           “(2) CREDIT AMOUNT.—

10           “(A) CREDIT AMOUNT FOR PASSENGER  
11 AUTOMOBILES AND LIGHT TRUCKS.—In the  
12 case of a new qualified hybrid motor vehicle  
13 which is a passenger automobile or light truck  
14 and which has a gross vehicle weight rating of  
15 not more than 8,500 pounds, the amount deter-  
16 mined under this paragraph is the sum of the  
17 amounts determined under clauses (i) and (ii).

18           “(i) FUEL ECONOMY.—The amount  
19 determined under this clause is the amount  
20 which would be determined under sub-  
21 section (c)(2)(A) if such vehicle were a ve-  
22 hicle referred to in such subsection.

23           “(ii) CONSERVATION CREDIT.—The  
24 amount determined under this clause is the  
25 amount which would be determined under

1 subsection (c)(2)(B) if such vehicle were a  
2 vehicle referred to in such subsection.

3 “(B) CREDIT AMOUNT FOR OTHER MOTOR  
4 VEHICLES.—

5 “(i) IN GENERAL.—In the case of any  
6 new qualified hybrid motor vehicle to which  
7 subparagraph (A) does not apply, the  
8 amount determined under this paragraph  
9 is the amount equal to the applicable per-  
10 centage of the qualified incremental hybrid  
11 cost of the vehicle as certified under clause  
12 (v).

13 “(ii) APPLICABLE PERCENTAGE.—For  
14 purposes of clause (i), the applicable per-  
15 centage is—

16 “(I) 20 percent if the vehicle  
17 achieves an increase in city fuel econ-  
18 omy relative to a comparable vehicle  
19 of at least 30 percent but less than 40  
20 percent,

21 “(II) 30 percent if the vehicle  
22 achieves such an increase of at least  
23 40 percent but less than 50 percent,  
24 and

1                   “(III) 40 percent if the vehicle  
2                   achieves such an increase of at least  
3                   50 percent.

4                   “(iii) QUALIFIED INCREMENTAL HY-  
5                   BRID COST.—For purposes of this subpara-  
6                   graph, the qualified incremental hybrid  
7                   cost of any vehicle is equal to the amount  
8                   of the excess of the manufacturer’s sug-  
9                   gested retail price for such vehicle over  
10                  such price for a comparable vehicle, to the  
11                  extent such amount does not exceed—

12                  “(I) \$7,500, if such vehicle has a  
13                  gross vehicle weight rating of not  
14                  more than 14,000 pounds,

15                  “(II) \$15,000, if such vehicle has  
16                  a gross vehicle weight rating of more  
17                  than 14,000 pounds but not more  
18                  than 26,000 pounds, and

19                  “(III) \$30,000, if such vehicle  
20                  has a gross vehicle weight rating of  
21                  more than 26,000 pounds.

22                  “(iv) COMPARABLE VEHICLE.—For  
23                  purposes of this subparagraph, the term  
24                  ‘comparable vehicle’ means, with respect to  
25                  any new qualified hybrid motor vehicle,

1 any vehicle which is powered solely by a  
2 gasoline or diesel internal combustion en-  
3 gine and which is comparable in weight,  
4 size, and use to such vehicle.

5 “(v) CERTIFICATION.—A certification  
6 described in clause (i) shall be made by the  
7 manufacturer and shall be determined in  
8 accordance with guidance prescribed by the  
9 Secretary. Such guidance shall specify pro-  
10 cedures and methods for calculating fuel  
11 economy savings and incremental hybrid  
12 costs.

13 “(3) NEW QUALIFIED HYBRID MOTOR VEHI-  
14 CLE.—For purposes of this subsection—

15 “(A) IN GENERAL.—The term ‘new quali-  
16 fied hybrid motor vehicle’ means a motor  
17 vehicle—

18 “(i) which draws propulsion energy  
19 from onboard sources of stored energy  
20 which are both—

21 “(I) an internal combustion or  
22 heat engine using consumable fuel,  
23 and

24 “(II) a rechargeable energy stor-  
25 age system,

1           “(ii) which, in the case of a vehicle to  
2           which paragraph (2)(A) applies, has re-  
3           ceived a certificate of conformity under the  
4           Clean Air Act and meets or exceeds the  
5           equivalent qualifying California low emis-  
6           sion vehicle standard under section  
7           243(e)(2) of the Clean Air Act for that  
8           make and model year, and

9           “(I) in the case of a vehicle hav-  
10          ing a gross vehicle weight rating of  
11          6,000 pounds or less, the Bin 5 Tier  
12          II emission standard established in  
13          regulations prescribed by the Adminis-  
14          trator of the Environmental Protec-  
15          tion Agency under section 202(i) of  
16          the Clean Air Act for that make and  
17          model year vehicle, and

18          “(II) in the case of a vehicle hav-  
19          ing a gross vehicle weight rating of  
20          more than 6,000 pounds but not more  
21          than 8,500 pounds, the Bin 8 Tier II  
22          emission standard which is so estab-  
23          lished,

24          “(iii) which has a maximum available  
25          power of at least—



1                   “(I) 4 percent in the case of a ve-  
2                   hicle to which paragraph (2)(A) ap-  
3                   plies,

4                   “(II) 10 percent in the case of a  
5                   vehicle which has a gross vehicle  
6                   weight rating or more than 8,500  
7                   pounds and not than 14,000 pounds,  
8                   and

9                   “(III) 15 percent in the case of a  
10                  vehicle in excess of 14,000 pounds,

11                  “(iv) which, in the case of a vehicle to  
12                  which paragraph (2)(B) applies, has an in-  
13                  ternal combustion or heat engine which  
14                  has received a certificate of conformity  
15                  under the Clean Air Act as meeting the  
16                  emission standards set in the regulations  
17                  prescribed by the Administrator of the En-  
18                  vironmental Protection Agency for 2004  
19                  through 2007 model year diesel heavy duty  
20                  engines or otto-cycle heavy duty engines, as  
21                  applicable,

22                  “(v) the original use of which com-  
23                  mences with the taxpayer,

1                   “(vi) which is acquired for use or  
2                   lease by the taxpayer and not for resale,  
3                   and

4                   “(vii) which is made by a manufac-  
5                   turer.

6                   Such term shall not include any vehicle which  
7                   is not a passenger automobile or light truck if  
8                   such vehicle has a gross vehicle weight rating of  
9                   less than 8,500 pounds.

10                  “(B) CONSUMABLE FUEL.—For purposes  
11                  of subparagraph (A)(i)(I), the term ‘consumable  
12                  fuel’ means any solid, liquid, or gaseous matter  
13                  which releases energy when consumed by an  
14                  auxiliary power unit.

15                  “(C) MAXIMUM AVAILABLE POWER.—

16                  “(i) CERTAIN PASSENGER AUTO-  
17                  MOBILES AND LIGHT TRUCKS.—In the case  
18                  of a vehicle to which paragraph (2)(A) ap-  
19                  plies, the term ‘maximum available power’  
20                  means the maximum power available from  
21                  the rechargeable energy storage system,  
22                  during a standard 10 second pulse power  
23                  or equivalent test, divided by such max-  
24                  imum power and the SAE net power of the  
25                  heat engine.

1                   “(ii) OTHER MOTOR VEHICLES.—In  
2                   the case of a vehicle to which paragraph  
3                   (2)(B) applies, the term ‘maximum avail-  
4                   able power’ means the maximum power  
5                   available from the rechargeable energy  
6                   storage system, during a standard 10 sec-  
7                   ond pulse power or equivalent test, divided  
8                   by the vehicle’s total traction power. For  
9                   purposes of the preceding sentence, the  
10                  term ‘total traction power’ means the sum  
11                  of the peak power from the rechargeable  
12                  energy storage system and the heat engine  
13                  peak power of the vehicle, except that if  
14                  such storage system is the sole means by  
15                  which the vehicle can be driven, the total  
16                  traction power is the peak power of such  
17                  storage system.

18                  “(e) NEW QUALIFIED ALTERNATIVE FUEL MOTOR  
19                  VEHICLE CREDIT.—

20                  “(1) ALLOWANCE OF CREDIT.—Except as pro-  
21                  vided in paragraph (5), the new qualified alternative  
22                  fuel motor vehicle credit determined under this sub-  
23                  section is an amount equal to the applicable percent-  
24                  age of the incremental cost of any new qualified al-

1       ternative fuel motor vehicle placed in service by the  
2       taxpayer during the taxable year.

3               “(2) APPLICABLE PERCENTAGE.—For purposes  
4       of paragraph (1), the applicable percentage with re-  
5       spect to any new qualified alternative fuel motor ve-  
6       hicle is—

7                       “(A) 40 percent, plus

8                       “(B) 30 percent, if such vehicle—

9                               “(i) has received a certificate of con-  
10       formity under the Clean Air Act and meets  
11       or exceeds the most stringent standard  
12       available for certification under the Clean  
13       Air Act for that make and model year vehi-  
14       cle (other than a zero emission standard),  
15       or

16                               “(ii) has received an order certifying  
17       the vehicle as meeting the same require-  
18       ments as vehicles which may be sold or  
19       leased in California and meets or exceeds  
20       the most stringent standard available for  
21       certification under the State laws of Cali-  
22       fornia (enacted in accordance with a waiv-  
23       er granted under section 209(b) of the  
24       Clean Air Act) for that make and model



1           “(C) \$25,000, if such vehicle has a gross  
2           vehicle weight rating of more than 14,000  
3           pounds but not more than 26,000 pounds, and

4           “(D) \$40,000, if such vehicle has a gross  
5           vehicle weight rating of more than 26,000  
6           pounds.

7           “(4) NEW QUALIFIED ALTERNATIVE FUEL  
8           MOTOR VEHICLE.—For purposes of this  
9           subsection—

10           “(A) IN GENERAL.—The term ‘new quali-  
11           fied alternative fuel motor vehicle’ means any  
12           motor vehicle—

13           “(i) which is only capable of operating  
14           on an alternative fuel,

15           “(ii) the original use of which com-  
16           mences with the taxpayer,

17           “(iii) which is acquired by the tax-  
18           payer for use or lease, but not for resale,  
19           and

20           “(iv) which is made by a manufac-  
21           turer.

22           “(B) ALTERNATIVE FUEL.—The term ‘al-  
23           ternative fuel’ means compressed natural gas,  
24           liquefied natural gas, liquefied petroleum gas,

1 hydrogen, and any liquid at least 85 percent of  
2 the volume of which consists of methanol.

3 “(5) CREDIT FOR MIXED-FUEL VEHICLES.—

4 “(A) IN GENERAL.—In the case of a  
5 mixed-fuel vehicle placed in service by the tax-  
6 payer during the taxable year, the credit deter-  
7 mined under this subsection is an amount equal  
8 to—

9 “(i) in the case of a 75/25 mixed-fuel  
10 vehicle, 70 percent of the credit which  
11 would have been allowed under this sub-  
12 section if such vehicle was a qualified alter-  
13 native fuel motor vehicle, and

14 “(ii) in the case of a 90/10 mixed-fuel  
15 vehicle, 90 percent of the credit which  
16 would have been allowed under this sub-  
17 section if such vehicle was a qualified alter-  
18 native fuel motor vehicle.

19 “(B) MIXED-FUEL VEHICLE.—For pur-  
20 poses of this subsection, the term ‘mixed-fuel  
21 vehicle’ means any motor vehicle described in  
22 subparagraph (C) or (D) of paragraph (3),  
23 which—

24 “(i) is certified by the manufacturer  
25 as being able to perform efficiently in nor-

1 mal operation on a combination of an al-  
2 ternative fuel and a petroleum-based fuel,  
3 “(ii) either—  
4 “(I) has received a certificate of  
5 conformity under the Clean Air Act,  
6 or  
7 “(II) has received an order certi-  
8 fying the vehicle as meeting the same  
9 requirements as vehicles which may be  
10 sold or leased in California and meets  
11 or exceeds the low emission vehicle  
12 standard under section 88.105–94 of  
13 title 40, Code of Federal Regulations,  
14 for that make and model year vehicle,  
15 “(iii) the original use of which com-  
16 mences with the taxpayer,  
17 “(iv) which is acquired by the tax-  
18 payer for use or lease, but not for resale,  
19 and  
20 “(v) which is made by a manufac-  
21 turer.  
22 “(C) 75/25 MIXED-FUEL VEHICLE.—For  
23 purposes of this subsection, the term ‘75/25  
24 mixed-fuel vehicle’ means a mixed-fuel vehicle  
25 which operates using at least 75 percent alter-



1           native fuel and not more than 25 percent petro-  
2           leum-based fuel.

3           “(D) 90/10 MIXED-FUEL VEHICLE.—For  
4           purposes of this subsection, the term ‘90/10  
5           mixed-fuel vehicle’ means a mixed-fuel vehicle  
6           which operates using at least 90 percent alter-  
7           native fuel and not more than 10 percent petro-  
8           leum-based fuel.

9           “(f) LIMITATION ON NUMBER OF NEW QUALIFIED  
10          HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VE-  
11          HICLES ELIGIBLE FOR CREDIT.—

12           “(1) IN GENERAL.—In the case of a qualified  
13          vehicle sold during the phaseout period, only the ap-  
14          plicable percentage of the credit otherwise allowable  
15          under subsection (c) or (d) shall be allowed.

16           “(2) PHASEOUT PERIOD.—For purposes of this  
17          subsection, the phaseout period is the period begin-  
18          ning with the second calendar quarter following the  
19          calendar quarter which includes the first date on  
20          which the number of qualified vehicles manufactured  
21          by the manufacturer of the vehicle referred to in  
22          paragraph (1) sold for use in the United States after  
23          the date of the enactment of this section is at least  
24          80,000.

1           “(3) APPLICABLE PERCENTAGE.—For purposes  
2 of paragraph (1), the applicable percentage is—

3           “(A) 50 percent for the first 2 calendar  
4 quarters of the phaseout period,

5           “(B) 25 percent for the 3d and 4th cal-  
6 endar quarters of the phaseout period, and

7           “(C) 0 percent for each calendar quarter  
8 thereafter.

9           “(4) CONTROLLED GROUPS.—

10           “(A) IN GENERAL.—For purposes of this  
11 subsection, all persons treated as a single em-  
12 ployer under subsection (a) or (b) of section 52  
13 or subsection (m) or (o) of section 414 shall be  
14 treated as a single manufacturer.

15           “(B) INCLUSION OF FOREIGN CORPORA-  
16 TIONS.—For purposes of subparagraph (A), in  
17 applying subsections (a) and (b) of section 52  
18 to this section, section 1563 shall be applied  
19 without regard to subsection (b)(2)(C) thereof.

20           “(5) QUALIFIED VEHICLE.—For purposes of  
21 this subsection, the term ‘qualified vehicle’ means  
22 any new qualified hybrid motor vehicle and any new  
23 advanced lean burn technology motor vehicle.

1           “(g) LIMITATION BASED ON AMOUNT OF TAX.—The  
2 credit allowed under subsection (a) for the taxable year  
3 shall not exceed the excess of—

4           “(1) the sum of the regular tax liability (as de-  
5 fined in section 26(b)) plus the tax imposed by sec-  
6 tion 55, over

7           “(2) the sum of the credits allowable under sub-  
8 part A and sections 27 and 30 for the taxable year.

9           “(h) OTHER DEFINITIONS AND SPECIAL RULES.—  
10 For purposes of this section—

11           “(1) MOTOR VEHICLE.—The term ‘motor vehi-  
12 cle’ has the meaning given such term by section  
13 30(c)(2).

14           “(2) OTHER TERMS.—The terms ‘automobile’,  
15 ‘passenger automobile’, ‘light truck’, and ‘manufac-  
16 turer’ have the meanings given such terms in regula-  
17 tions prescribed by the Administrator of the Envi-  
18 ronmental Protection Agency for purposes of the ad-  
19 ministration of title II of the Clean Air Act (42  
20 U.S.C. 7521 et seq.).

21           “(3) 2002 MODEL YEAR CITY FUEL ECON-  
22 OMY.—

23           “(A) IN GENERAL.—The 2002 model year  
24 city fuel economy with respect to a vehicle shall

1 be determined in accordance with the following  
2 tables:

3 “(i) In the case of a passenger auto-  
4 mobile:

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
1,500 or 1,750 lbs .....	45.2 mpg
2,000 lbs .....	39.6 mpg
2,250 lbs .....	35.2 mpg
2,500 lbs .....	31.7 mpg
2,750 lbs .....	28.8 mpg
3,000 lbs .....	26.4 mpg
3,500 lbs .....	22.6 mpg
4,000 lbs .....	19.8 mpg
4,500 lbs .....	17.6 mpg
5,000 lbs .....	15.9 mpg
5,500 lbs .....	14.4 mpg
6,000 lbs .....	13.2 mpg
6,500 lbs .....	12.2 mpg
7,000 to 8,500 lbs .....	11.3 mpg.

5 “(ii) In the case of a light truck:

<b>“If vehicle inertia weight class is:</b>	<b>The 2002 model year city fuel economy is:</b>
1,500 or 1,750 lbs .....	39.4 mpg
2,000 lbs .....	35.2 mpg
2,250 lbs .....	31.8 mpg
2,500 lbs .....	29.0 mpg
2,750 lbs .....	26.8 mpg
3,000 lbs .....	24.9 mpg
3,500 lbs .....	21.8 mpg
4,000 lbs .....	19.4 mpg
4,500 lbs .....	17.6 mpg
5,000 lbs .....	16.1 mpg
5,500 lbs .....	14.8 mpg
6,000 lbs .....	13.7 mpg
6,500 lbs .....	12.8 mpg
7,000 to 8,500 lbs .....	12.1 mpg.

6 “(B) VEHICLE INERTIA WEIGHT CLASS.—

7 For purposes of subparagraph (A), the term  
8 ‘vehicle inertia weight class’ has the same  
9 meaning as when defined in regulations pre-  
10 scribed by the Administrator of the Environ-

1           mental Protection Agency for purposes of the  
2           administration of title II of the Clean Air Act  
3           (42 U.S.C. 7521 et seq.).

4           “(4) FUEL ECONOMY.—Fuel economy with re-  
5           spect to any vehicle shall be measured under rules  
6           similar to the rules under section 4064(c).

7           “(5) REDUCTION IN BASIS.—For purposes of  
8           this subtitle, if a credit is allowed under this section  
9           for any expenditure with respect to any property, the  
10          increase in the basis of such property which would  
11          (but for this paragraph) result from such expendi-  
12          ture shall be reduced by the amount of the credit so  
13          allowed.

14          “(6) NO DOUBLE BENEFIT.—The amount of  
15          any deduction or credit allowable under this chapter  
16          (other than the credits allowable under this section  
17          and section 30) shall be reduced by the amount of  
18          credit allowed under subsection (a) for such vehicle  
19          for the taxable year.

20          “(7) RECAPTURE.—The Secretary shall, by reg-  
21          ulations, provide for recapturing the benefit of any  
22          credit allowable under subsection (a) with respect to  
23          any property which ceases to be property eligible for  
24          such credit (including recapture in the case of a

1 lease period of less than the economic life of a vehi-  
2 cle).

3 “(8) PROPERTY USED OUTSIDE UNITED  
4 STATES, ETC., NOT QUALIFIED.—No credit shall be  
5 allowed under subsection (a) with respect to any  
6 property referred to in section 50(b) or with respect  
7 to the portion of the cost of any property taken into  
8 account under section 179.

9 “(9) ELECTION NOT TO TAKE CREDIT.—No  
10 credit shall be allowed under subsection (a) for any  
11 vehicle if the taxpayer elects to not have this section  
12 apply to such vehicle.

13 “(10) BUSINESS CARRYOVERS ALLOWED.—If  
14 the credit allowable under subsection (a) for a tax-  
15 able year exceeds the limitation under subsection (g)  
16 for such taxable year, such excess (to the extent of  
17 the credit allowable with respect to property subject  
18 to the allowance for depreciation) shall be allowed as  
19 a credit carryback and carryforward under rules  
20 similar to the rules of section 39.

21 “(11) INTERACTION WITH MOTOR VEHICLE  
22 SAFETY STANDARDS.—Unless otherwise provided in  
23 this section, a motor vehicle shall not be considered  
24 eligible for a credit under this section unless such  
25 vehicle is in compliance with the motor vehicle safety

1 provisions of sections 30101 through 30169 of title  
2 49, United States Code.

3 “(i) REGULATIONS.—

4 “(1) IN GENERAL.—The Secretary shall pro-  
5 mulgate such regulations as necessary to carry out  
6 the provisions of this section.

7 “(2) DETERMINATION OF MOTOR VEHICLE ELI-  
8 GIBILITY.—The Secretary, after coordination with  
9 the Secretary of Transportation and the Adminis-  
10 trator of the Environmental Protection Agency, shall  
11 prescribe such regulations as necessary to determine  
12 whether a motor vehicle meets the requirements to  
13 be eligible for a credit under this section.

14 “(j) TERMINATION.—This section shall not apply to  
15 any property placed in service after—

16 “(1) in the case of a new qualified alternative  
17 fuel motor vehicle, December 31, 2006,

18 “(2) in the case of a new advanced lean burn  
19 technology motor vehicle or a new qualified hybrid  
20 motor vehicle, December 31, 2008, and

21 “(3) in the case of a new qualified fuel cell  
22 motor vehicle, December 31, 2012.”.

23 (b) CONFORMING AMENDMENTS.—

1           (1) Section 30(d) (relating to special rules) is  
2 amended by adding at the end the following new  
3 paragraphs:

4           “(5) NO DOUBLE BENEFIT.—No credit shall be  
5 allowed under this section for any motor vehicle for  
6 which a credit is also allowed under section 30B.”.

7           (2) Section 1016(a), as amended by this Act, is  
8 amended by striking “and” at the end of paragraph  
9 (31), by striking the period at the end of paragraph  
10 (32) and inserting “, and”, and by adding at the  
11 end the following:

12           “(33) to the extent provided in section  
13 30B(h)(5).”.

14           (3) Section 6501(m) is amended by inserting  
15 “30B(h)(9),” after “30(d)(4),”.

16           (4) The table of sections for subpart B of part  
17 IV of subchapter A of chapter 1 is amended by in-  
18 serting after the item relating to section 30A the fol-  
19 lowing:

          “Sec. 30B. Alternative motor vehicle credit.”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to property placed in service after  
22 the date of the enactment of this Act, in taxable years  
23 ending after such date.

24           (d) STICKER INFORMATION REQUIRED AT RETAIL  
25 SALE.—



1           (1) IN GENERAL.—The Secretary of the Treas-  
2           ury shall issue regulations under which each quali-  
3           fied vehicle sold at retail shall display a notice—

4                   (A) that such vehicle is a qualified vehicle,  
5           and

6                   (B) that the buyer may not benefit from  
7           the credit allowed under section 30B of the In-  
8           ternal Revenue Code of 1986 if such buyer has  
9           insufficient tax liability.

10           (2) QUALIFIED VEHICLE.—For purposes of  
11           paragraph (1), the term “qualified vehicle” means a  
12           vehicle with respect to which a credit is allowed  
13           under section 30B of the Internal Revenue Code of  
14           1986.

15 **SEC. 1319. MODIFICATIONS OF DEDUCTION FOR CERTAIN**  
16 **REFUELING PROPERTY.**

17           (a) IN GENERAL.—Subsection (f) of section 179A is  
18           amended to read as follows:

19                   “(f) TERMINATION.—This section shall not apply to  
20           any property placed in service—

21                           “(1) in the case of property relating to hydro-  
22                           gen, after December 31, 2011, and

23                           “(2) in the case of any other property, after  
24                           December 31, 2008.”.

1 (b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT  
2 QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROP-  
3 erty.—Section 179A(d) (defining qualified clean-fuel ve-  
4 hicle refueling property) is amended by adding at the end  
5 the following new flush sentence:

6 “In the case of clean-burning fuel which is hydrogen pro-  
7 duced from another clean-burning fuel, paragraph (3)(A)  
8 shall be applied by substituting ‘production, storage, or  
9 dispensing’ for ‘storage or dispensing’ both places it ap-  
10 pears.”.

11 (c) INCREASE IN LOCATION EXPENDITURES.—Sec-  
12 tion 179A(b)(2)(A)(i) is amended by striking “\$100,000”  
13 and inserting “\$150,000”.

14 (d) NONBUSINESS USE OF QUALIFIED CLEAN-FUEL  
15 VEHICLE REFUELING PROPERTY.—Section 179A(d) is  
16 amended by striking paragraph (1) and by redesignating  
17 paragraphs (2) and (3) as paragraphs (1) and (2), respec-  
18 tively.

19 (e) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to property placed in service after  
21 the date of the enactment of this Act, in taxable years  
22 ending after such date.

## 1                   **Subtitle B—Reliability**

### 2   **SEC. 1321. NATURAL GAS GATHERING LINES TREATED AS 7-** 3                   **YEAR PROPERTY.**

4           (a) IN GENERAL.—Subparagraph (C) of section  
5 168(e)(3) (relating to classification of certain property) is  
6 amended by striking “and” at the end of clause (i), by  
7 redesignating clause (ii) as clause (iii), and by inserting  
8 after clause (i) the following new clause:

9                           “(ii) any natural gas gathering line,  
10                           and”.

11          (b) NATURAL GAS GATHERING LINE.—Subsection (i)  
12 of section 168, as amended by this Act, is amended by  
13 adding after paragraph (15) the following new paragraph:

14                   “(16) NATURAL GAS GATHERING LINE.—The  
15                   term ‘natural gas gathering line’ means—

16                           “(A) the pipe, equipment, and appur-  
17                           tenances determined to be a gathering line by  
18                           the Federal Energy Regulatory Commission, or

19                           “(B) the pipe, equipment, and appur-  
20                           tenances used to deliver natural gas from the  
21                           wellhead or a commonpoint to the point at  
22                           which such gas first reaches—

23                                   “(i) a gas processing plant,

24                                   “(ii) an interconnection with a trans-  
25                                   mission pipeline for which a certificate as

1 an interstate transmission pipeline has  
 2 been issued by the Federal Energy Regu-  
 3 latory Commission,

4 “(iii) an interconnection with an  
 5 intrastate transmission pipeline, or

6 “(iv) a direct interconnection with a  
 7 local distribution company, a gas storage  
 8 facility, or an industrial consumer.”.

9 (c) ALTERNATIVE SYSTEM.—The table contained in  
 10 section 168(g)(3)(B) is amended by inserting after the  
 11 item relating to subparagraph (C)(i) the following:

“(C)(ii) ..... 14”.

12 (d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-  
 13 paragraph (B) of section 56(a)(1) is amended by inserting  
 14 before the period the following: “, or in section  
 15 168(e)(3)(C)(ii)”.

16 (e) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to property placed in service after  
 18 the date of the enactment of this Act, in taxable years  
 19 ending after such date.

20 **SEC. 1322. NATURAL GAS DISTRIBUTION LINES TREATED**  
 21 **AS 15-YEAR PROPERTY.**

22 (a) IN GENERAL.—Subparagraph (E) of section  
 23 168(e)(3) (relating to classification of certain property) is  
 24 amended by striking “and” at the end of clause (ii), by  
 25 striking the period at the end of clause (iii) and by insert-

1 ing “, and”, and by adding at the end the following new  
2 clause:

3 “(iv) any natural gas distribution  
4 line.”.

5 (b) ALTERNATIVE SYSTEM.—The table contained in  
6 section 168(g)(3)(B) is amended by inserting after the  
7 item relating to subparagraph (E)(iii) the following:

“(E)(iv) ..... 35”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to property placed in service after  
10 the date of the enactment of this Act, in taxable years  
11 ending after such date.

12 **SEC. 1323. ELECTRIC TRANSMISSION PROPERTY TREATED**  
13 **AS 15-YEAR PROPERTY.**

14 (a) IN GENERAL.—Subparagraph (E) of section  
15 168(e)(3) (relating to classification of certain property),  
16 as amended by this Act, is amended by striking “and”  
17 at the end of clause (iii), by striking the period at the  
18 end of clause (iv) and by inserting “, and”, and by adding  
19 at the end the following new clause:

20 “(v) any section 1245 property (as de-  
21 fined in section 1245(a)(3)) used in the  
22 transmission at 69 or more kilovolts of  
23 electricity for sale the original use of which  
24 commences with the taxpayer after the  
25 date of the enactment of this clause.”.

1 (b) ALTERNATIVE SYSTEM.—The table contained in  
2 section 168(g)(3)(B) is amended by inserting after the  
3 item relating to subparagraph (E)(iv) the following:

“(E)(v) ..... 30”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to property placed in service after  
6 the date of the enactment of this Act, in taxable years  
7 ending after such date.

8 **SEC. 1324. EXPENSING OF CAPITAL COSTS INCURRED IN**  
9 **COMPLYING WITH ENVIRONMENTAL PROTEC-**  
10 **TION AGENCY SULFUR REGULATIONS.**

11 (a) IN GENERAL.—Part VI of subchapter B of chap-  
12 ter 1 (relating to itemized deductions for individuals and  
13 corporations), as amended by this Act, is amended by in-  
14 serting after section 179B the following new section:

15 **“SEC. 179C. DEDUCTION FOR CAPITAL COSTS INCURRED IN**  
16 **COMPLYING WITH ENVIRONMENTAL PROTEC-**  
17 **TION AGENCY SULFUR REGULATIONS.**

18 “(a) TREATMENT AS EXPENSES.—A small business  
19 refiner (as defined in section 45I(c)(1)) may elect to treat  
20 75 percent of qualified capital costs (as defined in section  
21 45I(c)(2)) which are paid or incurred by the taxpayer dur-  
22 ing the taxable year as expenses which are not chargeable  
23 to capital account. Any cost so treated shall be allowed  
24 as a deduction for the taxable year in which paid or in-  
25 curred.

1           “(b) REDUCED PERCENTAGE.—In the case of a small  
2 business refiner with average daily domestic refinery runs  
3 for the 1-year period ending on December 31, 2002, in  
4 excess of 155,000 barrels, the number of percentage  
5 points described in subsection (a) shall be reduced (not  
6 below zero) by the product of such number (before the  
7 application of this subsection) and the ratio of such excess  
8 to 50,000 barrels.

9           “(c) BASIS REDUCTION.—

10           “(1) IN GENERAL.—For purposes of this title,  
11 the basis of any property shall be reduced by the  
12 portion of the cost of such property taken into ac-  
13 count under subsection (a).

14           “(2) ORDINARY INCOME RECAPTURE.—For  
15 purposes of section 1245, the amount of the deduc-  
16 tion allowable under subsection (a) with respect to  
17 any property which is of a character subject to the  
18 allowance for depreciation shall be treated as a de-  
19 duction allowed for depreciation under section 167.”.

20           “(d) COORDINATION WITH OTHER PROVISIONS.—  
21 Section 280B shall not apply to amounts which are treated  
22 as expenses under this section.”.

23           (b) CONFORMING AMENDMENTS.—

24           (1) Section 263(a)(1), as amended by this Act,  
25 is amended by striking “or” at the end of subpara-

1 graph (H), by striking the period at the end of sub-  
2 paragraph (I) and inserting “; or”, and by adding  
3 at the end the following new subparagraph:

4 “(J) expenditures for which a deduction is  
5 allowed under section 179C.”.

6 (2) Section 263A(c)(3) is amended by inserting  
7 “179C,” after “section”.

8 (3) Section 312(k)(3)(B), as amended by this  
9 Act, is amended by striking “or 179B” each place  
10 it appears in the heading and text and inserting  
11 “179B, or 179C”.

12 (4) Section 1016(a), as amended by this Act, is  
13 amended by striking “and” at the end of paragraph  
14 (32), by striking the period at the end of paragraph  
15 (33) and inserting “, and”, and by adding at the  
16 end the following new paragraph:

17 “(34) to the extent provided in section  
18 179C(e).”

19 (5) Paragraphs (2)(C) and (3)(C) of section  
20 1245(a), as amended by this Act, are each amended  
21 by inserting “179C,” after “179B,”.

22 (6) The table of sections for part VI of sub-  
23 chapter B of chapter 1, as amended by this Act, is  
24 amended by inserting after the item relating to sec-  
25 tion 179B the following new item:



“Sec. 179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.”.

1 (c) **EFFECTIVE DATE.**—The amendment made by  
2 this section shall apply to expenses paid or incurred after  
3 December 31, 2002, in taxable years ending after such  
4 date.

5 **SEC. 1325. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**  
6 **SEL FUEL.**

7 (a) **IN GENERAL.**—Subpart D of part IV of sub-  
8 chapter A of chapter 1 (relating to business-related cred-  
9 its), as amended by this Act, is amended by adding at  
10 the end the following new section:

11 **“SEC. 45I. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**  
12 **SEL FUEL.**

13 “(a) **IN GENERAL.**—For purposes of section 38, the  
14 amount of the low sulfur diesel fuel production credit de-  
15 termined under this section with respect to any facility  
16 of a small business refiner is an amount equal to 5 cents  
17 for each gallon of low sulfur diesel fuel produced during  
18 the taxable year by such small business refiner at such  
19 facility.

20 “(b) **MAXIMUM CREDIT.**—

21 “(1) **IN GENERAL.**—The aggregate credit deter-  
22 mined under subsection (a) for any taxable year with  
23 respect to any facility shall not exceed—

1           “(A) 25 percent of the qualified capital  
2           costs incurred by the small business refiner  
3           with respect to such facility, reduced by

4           “(B) the aggregate credits determined  
5           under this section for all prior taxable years  
6           with respect to such facility.

7           “(2) REDUCED PERCENTAGE.—In the case of a  
8           small business refiner with average daily domestic  
9           refinery runs for the 1-year period ending on De-  
10          cember 31, 2002, in excess of 155,000 barrels, the  
11          number of percentage points described in paragraph  
12          (1) shall be reduced (not below zero) by the product  
13          of such number (before the application of this para-  
14          graph) and the ratio of such excess to 50,000 bar-  
15          rels.

16          “(c) DEFINITIONS AND SPECIAL RULE.—For pur-  
17          poses of this section—

18               “(1) SMALL BUSINESS REFINER.—The term  
19               ‘small business refiner’ means, with respect to any  
20               taxable year, a refiner of crude oil—

21                       “(A) with respect to which not more than  
22                       1,500 individuals are engaged in the refinery  
23                       operations of the business on any day during  
24                       such taxable year, and

1           “(B) the average daily domestic refinery  
2           run or average retained production of which for  
3           all facilities of the taxpayer for the 1-year pe-  
4           riod ending on December 31, 2002, did not ex-  
5           ceed 205,000 barrels.

6           “(2) QUALIFIED CAPITAL COSTS.—The term  
7           ‘qualified capital costs’ means, with respect to any  
8           facility, those costs paid or incurred during the ap-  
9           plicable period for compliance with the applicable  
10          EPA regulations with respect to such facility, includ-  
11          ing expenditures for the construction of new process  
12          operation units or the dismantling and reconstruc-  
13          tion of existing process units to be used in the pro-  
14          duction of low sulfur diesel fuel, associated adjacent  
15          or offsite equipment (including tankage, catalyst,  
16          and power supply), engineering, construction period  
17          interest, and sitework.

18          “(3) APPLICABLE EPA REGULATIONS.—The  
19          term ‘applicable EPA regulations’ means the High-  
20          way Diesel Fuel Sulfur Control Requirements of the  
21          Environmental Protection Agency.

22          “(4) APPLICABLE PERIOD.—The term ‘applica-  
23          ble period’ means, with respect to any facility, the  
24          period beginning on January 1, 2003, and ending on  
25          the earlier of the date which is 1 year after the date

1 on which the taxpayer must comply with the applica-  
2 ble EPA regulations with respect to such facility or  
3 December 31, 2009.

4 “(5) LOW SULFUR DIESEL FUEL.—The term  
5 ‘low sulfur diesel fuel’ means diesel fuel with a sul-  
6 fur content of 15 parts per million or less.

7 “(d) REDUCTION IN BASIS.—For purposes of this  
8 subtitle, if a credit is determined under this section for  
9 any expenditure with respect to any property, the increase  
10 in basis of such property which would (but for this sub-  
11 section) result from such expenditure shall be reduced by  
12 the amount of the credit so determined.

13 “(e) SPECIAL RULE FOR DETERMINATION OF REFIN-  
14 ERY RUNS.—For purposes this section and section  
15 179C(b), in the calculation of average daily domestic refin-  
16 ery run or retained production, only refineries which on  
17 April 1, 2003, were refineries of the refiner or a related  
18 person (within the meaning of section 613A(d)(3)), shall  
19 be taken into account.

20 “(f) CERTIFICATION.—

21 “(1) REQUIRED.—No credit shall be allowed  
22 unless, not later than the date which is 30 months  
23 after the first day of the first taxable year in which  
24 the low sulfur diesel fuel production credit is allowed  
25 with respect to a facility, the small business refiner

1 obtains certification from the Secretary, after con-  
2 sultation with the Administrator of the Environ-  
3 mental Protection Agency, that the taxpayer's quali-  
4 fied capital costs with respect to such facility will re-  
5 sult in compliance with the applicable EPA regula-  
6 tions.

7 “(2) CONTENTS OF APPLICATION.—An applica-  
8 tion for certification shall include relevant informa-  
9 tion regarding unit capacities and operating charac-  
10 teristics sufficient for the Secretary, after consulta-  
11 tion with the Administrator of the Environmental  
12 Protection Agency, to determine that such qualified  
13 capital costs are necessary for compliance with the  
14 applicable EPA regulations.

15 “(3) REVIEW PERIOD.—Any application shall  
16 be reviewed and notice of certification, if applicable,  
17 shall be made within 60 days of receipt of such ap-  
18 plication. In the event the Secretary does not notify  
19 the taxpayer of the results of such certification with-  
20 in such period, the taxpayer may presume the cer-  
21 tification to be issued until so notified.

22 “(4) STATUTE OF LIMITATIONS.—With respect  
23 to the credit allowed under this section—

24 “(A) the statutory period for the assess-  
25 ment of any deficiency attributable to such

1 credit shall not expire before the end of the 3-  
2 year period ending on the date that the review  
3 period described in paragraph (3) ends with re-  
4 spect to the taxpayer, and

5 “(B) such deficiency may be assessed be-  
6 fore the expiration of such 3-year period not-  
7 withstanding the provisions of any other law or  
8 rule of law which would otherwise prevent such  
9 assessment.

10 “(g) COOPERATIVE ORGANIZATIONS.—

11 “(1) APPORTIONMENT OF CREDIT.—

12 “(A) IN GENERAL.—In the case of a coop-  
13 erative organization described in section  
14 1381(a), any portion of the credit determined  
15 under subsection (a) for the taxable year may,  
16 at the election of the organization, be appor-  
17 tioned among patrons eligible to share in pa-  
18 tronage dividends on the basis of the quantity  
19 or value of business done with or for such pa-  
20 trons for the taxable year.

21 “(B) FORM AND EFFECT OF ELECTION.—

22 An election under subparagraph (A) for any  
23 taxable year shall be made on a timely filed re-  
24 turn for such year. Such election, once made,  
25 shall be irrevocable for such taxable year.

1           “(2) TREATMENT OF ORGANIZATIONS AND PA-  
2           TRONS.—

3                   “(A) ORGANIZATIONS.—The amount of the  
4           credit not apportioned to patrons pursuant to  
5           paragraph (1) shall be included in the amount  
6           determined under subsection (a) for the taxable  
7           year of the organization.

8                   “(B) PATRONS.—The amount of the credit  
9           apportioned to patrons pursuant to paragraph  
10          (1) shall be included in the amount determined  
11          under subsection (a) for the first taxable year  
12          of each patron ending on or after the last day  
13          of the payment period (as defined in section  
14          1382(d)) for the taxable year of the organiza-  
15          tion or, if earlier, for the taxable year of each  
16          patron ending on or after the date on which the  
17          patron receives notice from the cooperative of  
18          the apportionment.

19                  “(3) SPECIAL RULE.—If the amount of a credit  
20          which has been apportioned to any patron under this  
21          subsection is decreased for any reason—

22                          “(A) such amount shall not increase the  
23          tax imposed on such patron, and

1           “(B) the tax imposed by this chapter on  
2           such organization shall be increased by such  
3           amount.

4           The increase under subparagraph (B) shall not be  
5           treated as tax imposed by this chapter for purposes  
6           of determining the amount of any credit under this  
7           chapter or for purposes of section 55.”.

8           (b) CREDIT MADE PART OF GENERAL BUSINESS  
9 CREDIT.—Subsection (b) of section 38 (relating to general  
10 business credit), as amended by this Act, is amended by  
11 striking “plus” at the end of paragraph (17), by striking  
12 the period at the end of paragraph (18) and inserting “,  
13 plus”, and by adding at the end the following new para-  
14 graph:

15           “(19) in the case of a small business refiner,  
16           the low sulfur diesel fuel production credit deter-  
17           mined under section 45I(a).”.

18           (c) DENIAL OF DOUBLE BENEFIT.—Section 280C  
19 (relating to certain expenses for which credits are allow-  
20 able) is amended by adding at the end the following new  
21 subsection:

22           “(d) LOW SULFUR DIESEL FUEL PRODUCTION  
23 CREDIT.—No deduction shall be allowed for that portion  
24 of the expenses otherwise allowable as a deduction for the



1 taxable year which is equal to the amount of the credit  
2 determined for the taxable year under section 45I(a).”.

3 (d) BASIS ADJUSTMENT.—Section 1016(a) (relating  
4 to adjustments to basis), as amended by this Act, is  
5 amended by striking “and” at the end of paragraph (33),  
6 by striking the period at the end of paragraph (34) and  
7 inserting “, and”, and by adding at the end the following  
8 new paragraph:

9 “(35) in the case of a facility with respect to  
10 which a credit was allowed under section 45I, to the  
11 extent provided in section 45I(d).”.

12 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
13 CREDITS.—Section 196(c) (defining qualified business  
14 credits), as amended by this Act, is amended by striking  
15 “and” at the end of paragraph (12), by striking the period  
16 at the end of paragraph (13) and inserting “, and”, and  
17 by adding after paragraph (13) the following new para-  
18 graph:

19 “(14) the low sulfur diesel fuel production cred-  
20 it determined under section 45I(a).”.

21 (e) CLERICAL AMENDMENT.—The table of sections  
22 for subpart D of part IV of subchapter A of chapter 1,  
23 as amended by this Act, is amended by adding at the end  
24 the following new item:

“Sec. 45I. Credit for production of low sulfur diesel fuel.”.

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to expenses paid or incurred after  
3 December 31, 2002, in taxable years ending after such  
4 date.

5 **SEC. 1326. DETERMINATION OF SMALL REFINER EXCEP-**  
6 **TION TO OIL DEPLETION DEDUCTION.**

7 (a) IN GENERAL.—Paragraph (4) of section 613A(d)  
8 (relating to limitations on application of subsection (e))  
9 is amended to read as follows:

10 “(4) CERTAIN REFINERS EXCLUDED.—If the  
11 taxpayer or 1 or more related persons engages in the  
12 refining of crude oil, subsection (e) shall not apply  
13 to the taxpayer for a taxable year if the average  
14 daily refinery runs of the taxpayer and such persons  
15 for the taxable year exceed 67,500 barrels. For pur-  
16 poses of this paragraph, the average daily refinery  
17 runs for any taxable year shall be determined by di-  
18 viding the aggregate refinery runs for the taxable  
19 year by the number of days in the taxable year.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to taxable years ending after the  
22 date of the enactment of this Act.

1 **SEC. 1327. SALES OR DISPOSITIONS TO IMPLEMENT FED-**  
2 **ERAL ENERGY REGULATORY COMMISSION**  
3 **OR STATE ELECTRIC RESTRUCTURING POL-**  
4 **ICY.**

5 (a) IN GENERAL.—Section 451 (relating to general  
6 rule for taxable year of inclusion) is amended by adding  
7 at the end the following new subsection:

8 “(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO  
9 IMPLEMENT FEDERAL ENERGY REGULATORY COMMIS-  
10 SION OR STATE ELECTRIC RESTRUCTURING POLICY.—

11 “(1) IN GENERAL.—In the case of any quali-  
12 fying electric transmission transaction for which the  
13 taxpayer elects the application of this section, quali-  
14 fied gain from such transaction shall be  
15 recognized—

16 “(A) in the taxable year which includes the  
17 date of such transaction to the extent the  
18 amount realized from such transaction  
19 exceeds—

20 “(i) the cost of exempt utility property  
21 which is purchased by the taxpayer during  
22 the 4-year period beginning on such date,  
23 reduced (but not below zero) by

24 “(ii) any portion of such cost pre-  
25 viously taken into account under this sub-  
26 section, and

1           “(B) ratably over the 8-taxable year period  
2           beginning with the taxable year which includes  
3           the date of such transaction, in the case of any  
4           such gain not recognized under subparagraph  
5           (A).

6           “(2) QUALIFIED GAIN.—For purposes of this  
7           subsection, the term ‘qualified gain’ means, with re-  
8           spect to any qualifying electric transmission trans-  
9           action in any taxable year—

10           “(A) any ordinary income derived from  
11           such transaction which would be required to be  
12           recognized under section 1245 or 1250 for such  
13           taxable year (determined without regard to this  
14           subsection), and

15           “(B) any income derived from such trans-  
16           action in excess of the amount described in sub-  
17           paragraph (A) which is required to be included  
18           in gross income for such taxable year (deter-  
19           mined without regard to this subsection).

20           “(3) QUALIFYING ELECTRIC TRANSMISSION  
21           TRANSACTION.—For purposes of this subsection, the  
22           term ‘qualifying electric transmission transaction’  
23           means any sale or other disposition before January  
24           1, 2007, of—

1           “(A) property used in the trade or business  
2 of providing electric transmission services, or

3           “(B) any stock or partnership interest in a  
4 corporation or partnership, as the case may be,  
5 whose principal trade or business consists of  
6 providing electric transmission services,

7 but only if such sale or disposition is to an inde-  
8 pendent transmission company.

9           “(4) INDEPENDENT TRANSMISSION COM-  
10 PANY.—For purposes of this subsection, the term  
11 ‘independent transmission company’ means—

12           “(A) an independent transmission provider  
13 approved by the Federal Energy Regulatory  
14 Commission,

15           “(B) a person—

16           “(i) who the Federal Energy Regu-  
17 latory Commission determines in its au-  
18 thorization of the transaction under section  
19 203 of the Federal Power Act (16 U.S.C.  
20 824b) or by declaratory order is not a  
21 market participant within the meaning of  
22 such Commission’s rules applicable to inde-  
23 pendent transmission providers, and

24           “(ii) whose transmission facilities to  
25 which the election under this subsection

1 applies are under the operational control of  
2 a Federal Energy Regulatory Commission-  
3 approved independent transmission pro-  
4 vider before the close of the period speci-  
5 fied in such authorization, but not later  
6 than the close of the period applicable  
7 under subsection (a)(2)(B) as extended  
8 under paragraph (2), or

9 “(C) in the case of facilities subject to the  
10 jurisdiction of the Public Utility Commission of  
11 Texas—

12 “(i) a person which is approved by  
13 that Commission as consistent with Texas  
14 State law regarding an independent trans-  
15 mission provider, or

16 “(ii) a political subdivision or affiliate  
17 thereof whose transmission facilities are  
18 under the operational control of a person  
19 described in clause (i).

20 “(5) EXEMPT UTILITY PROPERTY.—For pur-  
21 poses of this subsection—

22 “(A) IN GENERAL.—The term ‘exempt  
23 utility property’ means property used in the  
24 trade or business of—

1                   “(i) generating, transmitting, distrib-  
2                   uting, or selling electricity, or

3                   “(ii) producing, transmitting, distrib-  
4                   uting, or selling natural gas.

5                   “(B) NONRECOGNITION OF GAIN BY REA-  
6                   SON OF ACQUISITION OF STOCK.—Acquisition of  
7                   control of a corporation shall be taken into ac-  
8                   count under this subsection with respect to a  
9                   qualifying electric transmission transaction only  
10                  if the principal trade or business of such cor-  
11                  poration is a trade or business referred to in  
12                  subparagraph (A).

13                  “(6) SPECIAL RULE FOR CONSOLIDATED  
14                  GROUPS.—In the case of a corporation which is a  
15                  member of an affiliated group filing a consolidated  
16                  return, any exempt utility property purchased by an-  
17                  other member of such group shall be treated as pur-  
18                  chased by such corporation for purposes of applying  
19                  paragraph (1)(A).

20                  “(7) TIME FOR ASSESSMENT OF DEFICI-  
21                  CIENCIES.—If the taxpayer has made the election  
22                  under paragraph (1) and any gain is recognized by  
23                  such taxpayer as provided in paragraph (1)(B),  
24                  then—

1           “(A) the statutory period for the assess-  
2           ment of any deficiency, for any taxable year in  
3           which any part of the gain on the transaction  
4           is realized, attributable to such gain shall not  
5           expire prior to the expiration of 3 years from  
6           the date the Secretary is notified by the tax-  
7           payer (in such manner as the Secretary may by  
8           regulations prescribe) of the purchase of exempt  
9           utility property or of an intention not to pur-  
10          chase such property, and

11           “(B) such deficiency may be assessed be-  
12          fore the expiration of such 3-year period not-  
13          withstanding any law or rule of law which  
14          would otherwise prevent such assessment.

15           “(8) PURCHASE.—For purposes of this sub-  
16          section, the taxpayer shall be considered to have  
17          purchased any property if the unadjusted basis of  
18          such property is its cost within the meaning of sec-  
19          tion 1012.

20           “(9) ELECTION.—An election under paragraph  
21          (1) shall be made at such time and in such manner  
22          as the Secretary may require and, once made, shall  
23          be irrevocable.

24           “(10) NONAPPLICATION OF INSTALLMENT  
25          SALES TREATMENT.—Section 453 shall not apply to



1 any qualifying electric transmission transaction with  
2 respect to which an election to apply this subsection  
3 is made.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to transactions occurring after the  
6 date of the enactment of this Act, in taxable years ending  
7 after such date.

8 **SEC. 1328. MODIFICATIONS TO SPECIAL RULES FOR NU-**  
9 **CLEAR DECOMMISSIONING COSTS.**

10 (a) REPEAL OF LIMITATION ON DEPOSITS INTO  
11 FUND BASED ON COST OF SERVICE; CONTRIBUTIONS  
12 AFTER FUNDING PERIOD.—Subsection (b) of section  
13 468A (relating to special rules for nuclear decommis-  
14 sioning costs) is amended to read as follows:

15 “(b) LIMITATION ON AMOUNTS PAID INTO FUND.—

16 “(1) IN GENERAL.—The amount which a tax-  
17 payer may pay into the Fund for any taxable year  
18 shall not exceed the ruling amount applicable to  
19 such taxable year.

20 “(2) CONTRIBUTIONS AFTER FUNDING PE-  
21 RIOD.—Notwithstanding any other provision of this  
22 section, a taxpayer may pay into the Fund in any  
23 taxable year after the last taxable year to which the  
24 ruling amount applies. Payments may not be made  
25 under the preceding sentence to the extent such pay-

1       ments would cause the assets of the Fund to exceed  
2       the nuclear decommissioning costs allocable to the  
3       taxpayer's current or former interest in the nuclear  
4       power plant to which the Fund relates. The limita-  
5       tion under the preceding sentence shall be deter-  
6       mined by taking into account a reasonable rate of  
7       inflation for the nuclear decommissioning costs and  
8       a reasonable after-tax rate of return on the assets  
9       of the Fund until such assets are anticipated to be  
10      expended.”.

11      (b) CLARIFICATION OF TREATMENT OF FUND  
12 TRANSFERS.—Section 468A(e) (relating to Nuclear De-  
13 commissioning Reserve Fund) is amended by adding at  
14 the end the following new paragraph:

15           “(8) TREATMENT OF FUND TRANSFERS.—

16                   “(A) IN GENERAL.—If, in connection with  
17                   the transfer of the taxpayer's interest in a nu-  
18                   clear power plant, the taxpayer transfers the  
19                   Fund with respect to such power plant to the  
20                   transferee of such interest and the transferee  
21                   elects to continue the application of this section  
22                   to such Fund—

23                           “(i) the transfer of such Fund shall  
24                           not cause such Fund to be disqualified  
25                           from the application of this section, and

1           “(ii) no amount shall be treated as  
2 distributed from such Fund, or be includ-  
3 able in gross income, by reason of such  
4 transfer.

5           “(B) SPECIAL RULES IF TRANSFEROR IS  
6 TAX-EXEMPT ENTITY.—

7           “(i) IN GENERAL.—If—

8           “(I) a person exempt from tax-  
9 ation under this title transfers an in-  
10 terest in a nuclear power plant,

11           “(II) such person has set aside  
12 amounts for nuclear decommissioning  
13 which are transferred to the trans-  
14 feree of the interest, and

15           “(III) the transferee elects the  
16 application of this subparagraph no  
17 later than the due date (including ex-  
18 tensions) of its return of tax for the  
19 taxable year in which the transfer oc-  
20 curs,

21 the amounts so set aside shall be treated  
22 as if contributed by such person to a Fund  
23 immediately before the transfer and then  
24 transferred in the Fund to the transferee.

1           “(ii) LIMITATION.—The amount treat-  
2           ed as transferred to a Fund under clause  
3           (i) shall not exceed the amount which  
4           bears the same ratio to the present value  
5           of the nuclear decommissioning costs of  
6           the transferor with respect to the nuclear  
7           power plant as the number of years the  
8           nuclear power plant has been in service  
9           bears to the estimated useful life of such  
10          power plant.

11          “(iii) BASIS.—The transferee’s basis  
12          in any asset treated as transferred in the  
13          Fund shall be the same as the adjusted  
14          basis of such asset in the hands of the  
15          transferor.

16          “(iv) RULING AMOUNT REQUIRED.—  
17          This subparagraph shall not apply to any  
18          transfer unless the transferee requests  
19          from the Secretary a schedule of ruling  
20          amounts.

21          “(v) ELECTION DISREGARDED.—An  
22          election under this subparagraph shall be  
23          disregarded in determining the Federal in-  
24          come tax of the transferor.”

1 (c) TREATMENT OF CERTAIN DECOMMISSIONING  
2 COSTS.—

3 (1) IN GENERAL.—Section 468A is amended by  
4 redesignating subsections (f) and (g) as subsections  
5 (g) and (h), respectively, and by inserting after sub-  
6 section (e) the following new subsection:

7 “(f) TRANSFERS INTO QUALIFIED FUNDS.—

8 “(1) IN GENERAL.—Notwithstanding subsection  
9 (b), any taxpayer maintaining a Fund to which this  
10 section applies with respect to a nuclear power plant  
11 may transfer into such Fund not more than an  
12 amount equal to the present value of the portion of  
13 the total nuclear decommissioning costs with respect  
14 to such nuclear power plant previously excluded for  
15 such nuclear power plant under subsection (d)(2)(A)  
16 as in effect immediately before the date of the enact-  
17 ment of the Energy Tax Policy Act of 2003.

18 “(2) DEDUCTION FOR AMOUNTS TRANS-  
19 FERRED.—

20 “(A) IN GENERAL.—Except as provided in  
21 subparagraph (C), the deduction allowed by  
22 subsection (a) for any transfer permitted by  
23 this subsection shall be allowed ratably over the  
24 remaining estimated useful life (within the  
25 meaning of subsection (d)(2)(A)) of the nuclear

1 power plant beginning with the taxable year  
2 during which the transfer is made.

3 “(B) DENIAL OF DEDUCTION FOR PRE-  
4 VIOUSLY DEDUCTED AMOUNTS.—No deduction  
5 shall be allowed for any transfer under this sub-  
6 section of an amount for which a deduction was  
7 previously allowed to the taxpayer (or a prede-  
8 cessor) or a corresponding amount was not in-  
9 cluded in gross income of the taxpayer (or a  
10 predecessor). For purposes of the preceding  
11 sentence, a ratable portion of each transfer  
12 shall be treated as being from previously de-  
13 ducted or excluded amounts to the extent there-  
14 of.

15 “(C) TRANSFERS OF QUALIFIED FUNDS.—  
16 If—

17 “(i) any transfer permitted by this  
18 subsection is made to any Fund to which  
19 this section applies, and

20 “(ii) such Fund is transferred there-  
21 after,

22 any deduction under this subsection for taxable  
23 years ending after the date that such Fund is  
24 transferred shall be allowed to the transferor  
25 for the taxable year which includes such date.

1                   “(D) SPECIAL RULES.—

2                   “(i) GAIN OR LOSS NOT RECOG-  
3                   NIZED.—No gain or loss shall be recog-  
4                   nized on any transfer permitted by this  
5                   subsection.

6                   “(ii) TRANSFERS OF APPRECIATED  
7                   PROPERTY.—If appreciated property is  
8                   transferred in a transfer permitted by this  
9                   subsection, the amount of the deduction  
10                  shall not exceed the adjusted basis of such  
11                  property.

12                  “(3) NEW RULING AMOUNT REQUIRED.—Para-  
13                  graph (1) shall not apply to any transfer unless the  
14                  taxpayer requests from the Secretary a new schedule  
15                  of ruling amounts in connection with such transfer.

16                  “(4) NO BASIS IN QUALIFIED FUNDS.—Not-  
17                  withstanding any other provision of law, the tax-  
18                  payer’s basis in any Fund to which this section ap-  
19                  plies shall not be increased by reason of any transfer  
20                  permitted by this subsection.”.

21                  (2) NEW RULING AMOUNT TO TAKE INTO AC-  
22                  COUNT TOTAL COSTS.—Subparagraph (A) of section  
23                  468A(d)(2) (defining ruling amount) is amended to  
24                  read as follows:

1           “(A) fund the total nuclear decommis-  
2           sioning costs with respect to such power plant  
3           over the estimated useful life of such power  
4           plant, and”.

5           (d) TECHNICAL AMENDMENTS.—Section 468A(e)(2)  
6 (relating to taxation of Fund) is amended—

7           (1) by striking “rate set forth in subparagraph  
8           (B)” in subparagraph (A) and inserting “rate of 20  
9           percent”,

10           (2) by striking subparagraph (B), and

11           (3) by redesignating subparagraphs (C) and  
12           (D) as subparagraphs (B) and (C), respectively.

13           (e) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2003.

16 **SEC. 1329. TREATMENT OF CERTAIN INCOME OF COOPERA-**  
17 **TIVES.**

18           (a) INCOME FROM OPEN ACCESS AND NUCLEAR DE-  
19 COMMISSIONING TRANSACTIONS.—

20           (1) IN GENERAL.—Subparagraph (C) of section  
21           501(c)(12) is amended by striking “or” at the end  
22           of clause (i), by striking clause (ii), and by adding  
23           at the end the following new clauses:

24                           “(ii) from any provision or sale of  
25                           electric energy transmission services or an-



1 cillary services if such services are provided  
2 on a nondiscriminatory open access basis  
3 under an open access transmission tariff  
4 approved or accepted by FERC or under  
5 an independent transmission provider  
6 agreement approved or accepted by FERC  
7 (other than income received or accrued di-  
8 rectly or indirectly from a member),

9 “(iii) from the provision or sale of  
10 electric energy distribution services or an-  
11 cillary services if such services are provided  
12 on a nondiscriminatory open access basis  
13 to distribute electric energy not owned by  
14 the mutual or electric cooperative  
15 company—

16 “(I) to end-users who are served  
17 by distribution facilities not owned by  
18 such company or any of its members  
19 (other than income received or ac-  
20 crued directly or indirectly from a  
21 member), or

22 “(II) generated by a generation  
23 facility not owned or leased by such  
24 company or any of its members and  
25 which is directly connected to dis-

1                   tribution facilities owned by such com-  
2                   pany or any of its members (other  
3                   than income received or accrued di-  
4                   rectly or indirectly from a member),

5                   “(iv) from any nuclear decommis-  
6                   sioning transaction, or

7                   “(v) from any asset exchange or con-  
8                   version transaction.”.

9                   (2) DEFINITIONS AND SPECIAL RULES.—Para-  
10                  graph (12) of section 501(e) is amended by adding  
11                  at the end the following new subparagraphs:

12                   “(E) For purposes of subparagraph (C)(ii),  
13                   the term ‘FERC’ means the Federal Energy  
14                   Regulatory Commission and references to such  
15                   term shall be treated as including the Public  
16                   Utility Commission of Texas with respect to  
17                   any ERCOT utility (as defined in section  
18                   212(k)(2)(B) of the Federal Power Act (16  
19                   U.S.C. 824k(k)(2)(B))).

20                   “(F) For purposes of subparagraph  
21                   (C)(iii), the term ‘nuclear decommissioning  
22                   transaction’ means—

23                   “(i) any transfer into a trust, fund, or  
24                   instrument established to pay any nuclear  
25                   decommissioning costs if the transfer is in

1 connection with the transfer of the mutual  
2 or cooperative electric company's interest  
3 in a nuclear power plant or nuclear power  
4 plant unit,

5 “(ii) any distribution from any trust,  
6 fund, or instrument established to pay any  
7 nuclear decommissioning costs, or

8 “(iii) any earnings from any trust,  
9 fund, or instrument established to pay any  
10 nuclear decommissioning costs.

11 “(G) For purposes of subparagraph  
12 (C)(iv), the term ‘asset exchange or conversion  
13 transaction’ means any voluntary exchange or  
14 involuntary conversion of any property related  
15 to generating, transmitting, distributing, or sell-  
16 ing electric energy by a mutual or cooperative  
17 electric company, the gain from which qualifies  
18 for deferred recognition under section 1031 or  
19 1033, but only if the replacement property ac-  
20 quired by such company pursuant to such sec-  
21 tion constitutes property which is used, or to be  
22 used, for—

23 “(i) generating, transmitting, distrib-  
24 uting, or selling electric energy, or

1                   “(ii) producing, transmitting, distrib-  
2                   uting, or selling natural gas.”.

3           (b) TREATMENT OF INCOME FROM LOAD LOSS  
4 TRANSACTIONS, ETC.—Paragraph (12) of section 501(c),  
5 as amended by subsection (a)(2), is amended by adding  
6 after subparagraph (G) the following new subparagraph:

7                   “(H)(i) In the case of a mutual or coopera-  
8                   tive electric company described in this para-  
9                   graph or an organization described in section  
10                  1381(a)(2)(C), income received or accrued from  
11                  a load loss transaction shall be treated as an  
12                  amount collected from members for the sole  
13                  purpose of meeting losses and expenses.

14                  “(ii) For purposes of clause (i), the term  
15                  ‘load loss transaction’ means any wholesale or  
16                  retail sale of electric energy (other than to  
17                  members) to the extent that the aggregate sales  
18                  during the recovery period do not exceed the  
19                  load loss mitigation sales limit for such period.

20                  “(iii) For purposes of clause (ii), the load  
21                  loss mitigation sales limit for the recovery pe-  
22                  riod is the sum of the annual load losses for  
23                  each year of such period.

24                  “(iv) For purposes of clause (iii), a mutual  
25                  or cooperative electric company’s annual load

1           loss for each year of the recovery period is the  
2           amount (if any) by which—

3                   “(I) the megawatt hours of electric  
4                   energy sold during such year to members  
5                   of such electric company are less than

6                   “(II) the megawatt hours of electric  
7                   energy sold during the base year to such  
8                   members.

9                   “(v) For purposes of clause (iv)(II), the  
10           term ‘base year’ means—

11                   “(I) the calendar year preceding the  
12                   start-up year, or

13                   “(II) at the election of the mutual or  
14                   cooperative electric company, the second or  
15                   third calendar years preceding the start-up  
16                   year.

17                   “(vi) For purposes of this subparagraph,  
18           the recovery period is the 7-year period begin-  
19           ning with the start-up year.

20                   “(vii) For purposes of this subparagraph,  
21           the start-up year is the first year that the mu-  
22           tual or cooperative electric company offers non-  
23           discriminatory open access or the calendar year  
24           which includes the date of the enactment of this

1           subparagraph, if later, at the election of such  
2           company.

3           “(viii) A company shall not fail to be treat-  
4           ed as a mutual or cooperative electric company  
5           for purposes of this paragraph or as a corpora-  
6           tion operating on a cooperative basis for pur-  
7           poses of section 1381(a)(2)(C) by reason of the  
8           treatment under clause (i).

9           “(ix) For purposes of subparagraph (A), in  
10          the case of a mutual or cooperative electric  
11          company, income received, or accrued, indirectly  
12          from a member shall be treated as an amount  
13          collected from members for the sole purpose of  
14          meeting losses and expenses.”.

15          (c) EXCEPTION FROM UNRELATED BUSINESS TAX-  
16          ABLE INCOME.—Subsection (b) of section 512 (relating to  
17          modifications) is amended by adding at the end the fol-  
18          lowing new paragraph:

19                 “(18) TREATMENT OF MUTUAL OR COOPERA-  
20                 TIVE ELECTRIC COMPANIES.—In the case of a mu-  
21                 tual or cooperative electric company described in sec-  
22                 tion 501(c)(12), there shall be excluded income  
23                 which is treated as member income under subpara-  
24                 graph (H) thereof.”.

1 (d) CROSS REFERENCE.—Section 1381 is amended  
2 by adding at the end the following new subsection:

3 “(c) CROSS REFERENCE.—

“For treatment of income from load loss trans-  
actions of organizations described in subsection  
(a)(2)(C), see section 501(c)(12)(H).”.

4 (e) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to taxable years beginning after  
6 the date of the enactment of this Act.

7 **SEC. 1330. ARBITRAGE RULES NOT TO APPLY TO PREPAY-**  
8 **MENTS FOR NATURAL GAS.**

9 (a) IN GENERAL.—Subsection (b) of section 148 (re-  
10 lating to higher yielding investments) is amended by add-  
11 ing at the end the following new paragraph:

12 “(4) SAFE HARBOR FOR PREPAID NATURAL  
13 GAS.—

14 “(A) IN GENERAL.—The term ‘investment-  
15 type property’ does not include a prepayment  
16 under a qualified natural gas supply contract.

17 “(B) QUALIFIED NATURAL GAS SUPPLY  
18 CONTRACT.—For purposes of this paragraph,  
19 the term ‘qualified natural gas supply contract’  
20 means any contract to acquire natural gas for  
21 resale by a utility owned by a governmental  
22 unit if the amount of gas permitted to be ac-  
23 quired under the contract by the utility during  
24 any year does not exceed the sum of—

1                   “(i) the annual average amount dur-  
2                   ing the testing period of natural gas pur-  
3                   chased (other than for resale) by cus-  
4                   tomers of such utility who are located  
5                   within the service area of such utility, and

6                   “(ii) the amount of natural gas to be  
7                   used to transport the prepaid natural gas  
8                   to the utility during such year.

9                   “(C) NATURAL GAS USED TO GENERATE  
10                  ELECTRICITY.—Natural gas used to generate  
11                  electricity shall be taken into account in deter-  
12                  mining the average under subparagraph  
13                  (B)(i)—

14                   “(i) only if the electricity is generated  
15                   by a utility owned by a governmental unit,  
16                   and

17                   “(ii) only to the extent that the elec-  
18                   tricity is sold (other than for resale) to  
19                   customers of such utility who are located  
20                   within the service area of such utility.

21                  “(D) ADJUSTMENTS FOR CHANGES IN  
22                  CUSTOMER BASE.—

23                   “(i) NEW BUSINESS CUSTOMERS.—  
24                   If—



1                   “(I) after the close of the testing  
2                   period and before the date of issuance  
3                   of the issue, the utility owned by a  
4                   governmental unit enters into a con-  
5                   tract to supply natural gas (other  
6                   than for resale) for a business use at  
7                   a property within the service area of  
8                   such utility, and

9                   “(II) the utility did not supply  
10                  natural gas to such property during  
11                  the testing period or the ratable  
12                  amount of natural gas to be supplied  
13                  under the contract is significantly  
14                  greater than the ratable amount of  
15                  gas supplied to such property during  
16                  the testing period,

17                  then a contract shall not fail to be treated  
18                  as a qualified natural gas supply contract  
19                  by reason of supplying the additional nat-  
20                  ural gas under the contract referred to in  
21                  subclause (I).

22                  “(ii) LOST CUSTOMERS.—The average  
23                  under subparagraph (B)(i) shall not exceed  
24                  the annual amount of natural gas reason-  
25                  ably expected to be purchased (other than



1 as of the date of issuance of the  
2 issue).

3 “(ii) APPLICABLE SHARE.—For pur-  
4 poses of the clause (i), the term ‘applicable  
5 share’ means, with respect to any period,  
6 the natural gas allocable to such period if  
7 the gas were allocated ratably over the pe-  
8 riod to which the prepayment relates.

9 “(G) INTENTIONAL ACTS.—Subparagraph  
10 (A) shall cease to apply to any issue if the util-  
11 ity owned by the governmental unit engages in  
12 any intentional act to render the volume of nat-  
13 ural gas acquired by such prepayment to be in  
14 excess of the sum of—

15 “(i) the amount of natural gas needed  
16 (other than for resale) by customers of  
17 such utility who are located within the  
18 service area of such utility, and

19 “(ii) the amount of natural gas used  
20 to transport such natural gas to the utility.

21 “(H) TESTING PERIOD.—For purposes of  
22 this paragraph, the term ‘testing period’ means,  
23 with respect to an issue, the most recent 5 cal-  
24 endar years ending before the date of issuance  
25 of the issue.

1           “(I) SERVICE AREA.—For purposes of this  
2 paragraph, the service area of a utility owned  
3 by a governmental unit shall be comprised of—

4                   “(i) any area throughout which such  
5 utility provided at all times during the  
6 testing period—

7                           “(I) in the case of a natural gas  
8 utility, natural gas transmission or  
9 distribution services, and

10                           “(II) in the case of an electric  
11 utility, electricity distribution services,

12                           “(ii) any area within a county contig-  
13 uous to the area described in clause (i) in  
14 which retail customers of such utility are  
15 located if such area is not also served by  
16 another utility providing natural gas or  
17 electricity services, as the case may be, and

18                           “(iii) any area recognized as the serv-  
19 ice area of such utility under State or Fed-  
20 eral law.”.

21           (b) PRIVATE LOAN FINANCING TEST NOT TO APPLY  
22 TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of  
23 section 141(c) (providing exceptions to the private loan fi-  
24 nancing test) is amended by striking “or” at the end of  
25 subparagraph (A), by striking the period at the end of

1 subparagraph (B) and inserting “, or”, and by adding at  
2 the end the following new subparagraph:

3 “(C) is a qualified natural gas supply con-  
4 tract (as defined in section 148(b)(4)).”.

5 (e) EXCEPTION FOR QUALIFIED ELECTRIC AND NAT-  
6 URAL GAS SUPPLY CONTRACTS.—Section 141(d) is  
7 amended by adding at the end the following new para-  
8 graph:

9 “(7) EXCEPTION FOR QUALIFIED ELECTRIC  
10 AND NATURAL GAS SUPPLY CONTRACTS.—The term  
11 ‘nongovernmental output property’ shall not include  
12 any contract for the prepayment of electricity or nat-  
13 ural gas which is not investment property under sec-  
14 tion 148(b)(2).”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to obligations issued after the date  
17 of the enactment of this Act.

## 18 **Subtitle C—Production**

### 19 **PART I—OIL AND GAS PROVISIONS**

#### 20 **SEC. 1341. OIL AND GAS FROM MARGINAL WELLS.**

21 (a) IN GENERAL.—Subpart D of part IV of sub-  
22 chapter A of chapter 1 (relating to business credits), as  
23 amended by this Act, is amended by adding at the end  
24 the following:

1 **“SEC. 45J. CREDIT FOR PRODUCING OIL AND GAS FROM**  
2 **MARGINAL WELLS.**

3 “(a) GENERAL RULE.—For purposes of section 38,  
4 the marginal well production credit for any taxable year  
5 is an amount equal to the product of—

6 “(1) the credit amount, and

7 “(2) the qualified credit oil production and the  
8 qualified natural gas production which is attrib-  
9 utable to the taxpayer.

10 “(b) CREDIT AMOUNT.—For purposes of this  
11 section—

12 “(1) IN GENERAL.—The credit amount is—

13 “(A) \$3 per barrel of qualified crude oil  
14 production, and

15 “(B) 50 cents per 1,000 cubic feet of  
16 qualified natural gas production.

17 “(2) REDUCTION AS OIL AND GAS PRICES IN-  
18 CREASE.—

19 “(A) IN GENERAL.—The \$3 and 50 cents  
20 amounts under paragraph (1) shall each be re-  
21 duced (but not below zero) by an amount which  
22 bears the same ratio to such amount (deter-  
23 mined without regard to this paragraph) as—

24 “(i) the excess (if any) of the applica-  
25 ble reference price over \$15 (\$1.67 for  
26 qualified natural gas production), bears to



1                   1,000 cubic feet for all domestic natural  
2                   gas.

3           “(c) QUALIFIED CRUDE OIL AND NATURAL GAS  
4 PRODUCTION.—For purposes of this section—

5                   “(1) IN GENERAL.—The terms ‘qualified crude  
6 oil production’ and ‘qualified natural gas production’  
7 mean domestic crude oil or natural gas which is pro-  
8 duced from a qualified marginal well.

9                   “(2) LIMITATION ON AMOUNT OF PRODUCTION  
10 WHICH MAY QUALIFY.—

11                   “(A) IN GENERAL.—Crude oil or natural  
12 gas produced during any taxable year from any  
13 well shall not be treated as qualified crude oil  
14 production or qualified natural gas production  
15 to the extent production from the well during  
16 the taxable year exceeds 1,095 barrels or bar-  
17 rel-of-oil equivalents (as defined in section  
18 45K(d)(5)).

19                   “(B) PROPORTIONATE REDUCTIONS.—

20                   “(i) SHORT TAXABLE YEARS.—In the  
21 case of a short taxable year, the limitations  
22 under this paragraph shall be proportion-  
23 ately reduced to reflect the ratio which the  
24 number of days in such taxable year bears  
25 to 365.



1                   “(ii) WELLS NOT IN PRODUCTION EN-  
2                   TIRE YEAR.—In the case of a well which is  
3                   not capable of production during each day  
4                   of a taxable year, the limitations under  
5                   this paragraph applicable to the well shall  
6                   be proportionately reduced to reflect the  
7                   ratio which the number of days of produc-  
8                   tion bears to the total number of days in  
9                   the taxable year.

10                  “(3) DEFINITIONS.—

11                   “(A) QUALIFIED MARGINAL WELL.—The  
12                   term ‘qualified marginal well’ means a domestic  
13                   well—

14                   “(i) the production from which during  
15                   the taxable year is treated as marginal  
16                   production under section 613A(c)(6), or

17                   “(ii) which, during the taxable year—

18                   “(I) has average daily production  
19                   of not more than 25 barrel-of-oil  
20                   equivalents (as so defined), and

21                   “(II) produces water at a rate  
22                   not less than 95 percent of total well  
23                   effluent.

24                   “(B) CRUDE OIL, ETC.—The terms ‘crude  
25                   oil’, ‘natural gas’, ‘domestic’, and ‘barrel’ have

1           the meanings given such terms by section  
2           613A(e).

3           “(d) OTHER RULES.—

4           “(1) PRODUCTION ATTRIBUTABLE TO THE TAX-  
5           PAYER.—In the case of a qualified marginal well in  
6           which there is more than one owner of operating in-  
7           terests in the well and the crude oil or natural gas  
8           production exceeds the limitation under subsection  
9           (c)(2), qualifying crude oil production or qualifying  
10          natural gas production attributable to the taxpayer  
11          shall be determined on the basis of the ratio which  
12          taxpayer’s revenue interest in the production bears  
13          to the aggregate of the revenue interests of all oper-  
14          ating interest owners in the production.

15          “(2) OPERATING INTEREST REQUIRED.—Any  
16          credit under this section may be claimed only on  
17          production which is attributable to the holder of an  
18          operating interest.

19          “(3) PRODUCTION FROM NONCONVENTIONAL  
20          SOURCES EXCLUDED.—In the case of production  
21          from a qualified marginal well which is eligible for  
22          the credit allowed under section 45K for the taxable  
23          year, no credit shall be allowable under this section  
24          unless the taxpayer elects not to claim the credit  
25          under section 45K with respect to the well.”.

1 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-  
2 tion 38(b), as amended by this Act, is amended by striking  
3 “plus” at the end of paragraph (18), by striking the period  
4 at the end of paragraph (19) and inserting “, plus”, and  
5 by adding at the end the following:

6 “(20) the marginal oil and gas well production  
7 credit determined under section 45J(a).”.

8 (c) CARRYBACK.—Subsection (a) of section 39 (relat-  
9 ing to carryback and carryforward of unused credits gen-  
10 erally) is amended by adding at the end the following:

11 “(3) 5-YEAR CARRYBACK FOR MARGINAL OIL  
12 AND GAS WELL PRODUCTION CREDIT.—Notwith-  
13 standing subsection (d), in the case of the marginal  
14 oil and gas well production credit—

15 “(A) this section shall be applied sepa-  
16 rately from the business credit (other than the  
17 marginal oil and gas well production credit),

18 “(B) paragraph (1) shall be applied by  
19 substituting ‘5 taxable years’ for ‘1 taxable  
20 years’ in subparagraph (A) thereof, and

21 “(C) paragraph (2) shall be applied—

22 “(i) by substituting ‘25 taxable years’  
23 for ‘21 taxable years’ in subparagraph (A)  
24 thereof, and

1                   “(ii) by substituting ‘24 taxable years’  
2                   for ‘20 taxable years’ in subparagraph (B)  
3                   thereof.”.

4           (d) CLERICAL AMENDMENT.—The table of sections  
5 for subpart D of part IV of subchapter A of chapter 1,  
6 as amended by this Act, is amended by adding at the end  
7 the following:

                  “Sec. 45J. Credit for producing oil and gas from marginal wells.”.

8           (e) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to production in taxable years be-  
10 ginning after December 31, 2003.

11 **SEC. 1342. TEMPORARY SUSPENSION OF LIMITATION**  
12 **BASED ON 65 PERCENT OF TAXABLE INCOME**  
13 **AND EXTENSION OF SUSPENSION OF TAX-**  
14 **ABLE INCOME LIMIT WITH RESPECT TO MAR-**  
15 **GINAL PRODUCTION.**

16           (a) LIMITATION BASED ON 65 PERCENT OF TAX-  
17 ABLE INCOME.—Subsection (d) of section 613A (relating  
18 to limitation on percentage depletion in case of oil and  
19 gas wells) is amended by adding at the end the following  
20 new paragraph:

21                   “(6) TEMPORARY SUSPENSION OF TAXABLE IN-  
22 COME LIMIT.—Paragraph (1) shall not apply to tax-  
23 able years beginning after December 31, 2003, and  
24 before January 1, 2005, including with respect to

1 amounts carried under the second sentence of para-  
2 graph (1) to such taxable years.”.

3 (b) **EXTENSION OF SUSPENSION OF TAXABLE IN-**  
4 **COME LIMIT WITH RESPECT TO MARGINAL PRODUC-**  
5 **TION.**—Subparagraph (H) of section 613A(c)(6) (relating  
6 to temporary suspension of taxable income limit with re-  
7 spect to marginal production) is amended by striking  
8 “2004” and inserting “2005”.

9 (c) **EFFECTIVE DATE.**—The amendment made by  
10 subsection (a) shall apply to taxable years beginning after  
11 December 31, 2003.

12 **SEC. 1343. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

13 (a) **IN GENERAL.**—Section 167 (relating to deprecia-  
14 tion) is amended by redesignating subsection (h) as sub-  
15 section (i) and by inserting after subsection (g) the fol-  
16 lowing new subsection:

17 “(h) **AMORTIZATION OF DELAY RENTAL PAYMENTS**  
18 **FOR DOMESTIC OIL AND GAS WELLS.**—

19 “(1) **IN GENERAL.**—Any delay rental payment  
20 paid or incurred in connection with the development  
21 of oil or gas wells within the United States (as de-  
22 fined in section 638) shall be allowed as a deduction  
23 ratably over the 24-month period beginning on the  
24 date that such payment was paid or incurred.

1           “(2) HALF-YEAR CONVENTION.—For purposes  
2 of paragraph (1), any payment paid or incurred dur-  
3 ing the taxable year shall be treated as paid or in-  
4 curred on the mid-point of such taxable year.

5           “(3) EXCLUSIVE METHOD.—Except as provided  
6 in this subsection, no depreciation or amortization  
7 deduction shall be allowed with respect to such pay-  
8 ments.

9           “(4) TREATMENT UPON ABANDONMENT.—If  
10 any property to which a delay rental payment relates  
11 is retired or abandoned during the 24-month period  
12 described in paragraph (1), no deduction shall be al-  
13 lowed on account of such retirement or abandon-  
14 ment and the amortization deduction under this sub-  
15 section shall continue with respect to such payment.

16           “(5) DELAY RENTAL PAYMENTS.—For purposes  
17 of this subsection, the term ‘delay rental payment’  
18 means an amount paid for the privilege of deferring  
19 development of an oil or gas well under an oil or gas  
20 lease.”.

21           (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to amounts paid or incurred in tax-  
23 able years beginning after the date of the enactment of  
24 this Act.

1 **SEC. 1344. AMORTIZATION OF GEOLOGICAL AND GEO-**  
2 **PHYSICAL EXPENDITURES.**

3 (a) IN GENERAL.—Section 167 (relating to deprecia-  
4 tion), as amended by this Act, is amended by redesignig-  
5 nating subsection (i) as subsection (j) and by inserting  
6 after subsection (h) the following new subsection:

7 “(i) AMORTIZATION OF GEOLOGICAL AND GEO-  
8 PHYSICAL EXPENDITURES.—

9 “(1) IN GENERAL.—Any geological and geo-  
10 physical expenses paid or incurred in connection  
11 with the exploration for, or development of, oil or  
12 gas within the United States (as defined in section  
13 638) shall be allowed as a deduction ratably over the  
14 24-month period beginning on the date that such ex-  
15 pense was paid or incurred.

16 “(2) SPECIAL RULES.—For purposes of this  
17 subsection, rules similar to the rules of paragraphs  
18 (2), (3), and (4) of subsection (h) shall apply.”.

19 (b) CONFORMING AMENDMENT.—Section 263A(e)(3)  
20 is amended by inserting “167(h), 167(i),” after “under  
21 section”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to amounts paid or incurred in tax-  
24 able years beginning after the date of the enactment of  
25 this Act.

1 **SEC. 1345. EXTENSION AND MODIFICATION OF CREDIT FOR**  
2 **PRODUCING FUEL FROM A NONCONVEN-**  
3 **TIONAL SOURCE.**

4 (a) IN GENERAL.—Section 29 (relating to credit for  
5 producing fuel from a nonconventional source) is amended  
6 by adding at the end the following new subsection:

7 “(h) EXTENSION FOR OTHER FACILITIES.—Notwith-  
8 standing subsection (f)—

9 “(1) NEW OIL AND GAS WELLS AND FACILI-  
10 TIES.—In the case of a well or facility for producing  
11 qualified fuels described in subparagraph (A) or (B)  
12 of subsection (c)(1) which was drilled or placed in  
13 service after the date of the enactment of this sub-  
14 section and before January 1, 2007, this section  
15 shall apply with respect to such fuels produced at  
16 such well or facility and sold during the period—

17 “(A) beginning on the later of January 1,  
18 2004, or the date that such well is drilled or  
19 such facility is placed in service, and

20 “(B) ending on the earlier of the date  
21 which is 4 years after the date such period  
22 began or December 31, 2009.

23 “(2) OLD OIL AND GAS WELLS AND FACILI-  
24 TIES.—In the case of a well or facility producing  
25 qualified fuels described in subparagraph (A) or  
26 (B)(i) of subsection (c)(1) or a facility producing



1 natural gas and byproducts by coal gasification from  
2 lignite, subsection (f)(2) shall be applied by sub-  
3 stituting ‘2008’ for ‘2003’ with respect to wells and  
4 facilities described in subsection (f)(1) with respect  
5 to such fuels.

6 “(3) EXTENSION FOR FACILITIES PRODUCING  
7 QUALIFIED FUEL FROM LANDFILL GAS.—

8 “(A) IN GENERAL.—In the case of a facil-  
9 ity for producing qualified fuel from landfill gas  
10 which was placed in service after June 30,  
11 1998, and before January 1, 2007, this section  
12 shall apply to fuel produced at such facility and  
13 sold during the period—

14 “(i) beginning on the later of January  
15 1, 2004, or the date that such facility is  
16 placed in service, and

17 “(ii) ending on the earlier of the date  
18 which is 4 years after the date such period  
19 began or December 31, 2009.

20 “(B) REDUCTION OF CREDIT FOR CERTAIN  
21 LANDFILL FACILITIES.—In the case of a facility  
22 to which subparagraph (A) applies and which is  
23 located at a landfill which is required pursuant  
24 to section 60.751(b)(2) or section 60.33c of  
25 title 40, Code of Federal Regulations (as in ef-

1           fect on April 3, 2003) to install and operate a  
2           collection and control system which captures  
3           gas generated within the landfill, subsection  
4           (a)(1) shall be applied to gas so captured by  
5           substituting ‘\$2’ for ‘\$3’ for the taxable year  
6           during which such system is required to be in-  
7           stalled and operated.

8           “(4) FACILITIES PRODUCING FUELS FROM AG-  
9           RICULTURAL AND ANIMAL WASTE.—

10                   “(A) IN GENERAL.—In the case of any fa-  
11           cility for producing liquid, gaseous, or solid  
12           fuels from qualified agricultural and animal  
13           wastes, including such fuels when used as feed-  
14           stocks, which is placed in service after the date  
15           of the enactment of this subsection and before  
16           January 1, 2007, this section shall apply with  
17           respect to fuel produced at such facility and  
18           sold during the period—

19                           “(i) beginning on the later of January  
20                           1, 2004, or the date that such facility is  
21                           placed in service, and

22                           “(ii) ending on the earlier of the date  
23                           which is 4 years after the date such period  
24                           began or December 31, 2009.

1           “(B) QUALIFIED AGRICULTURAL AND ANI-  
2 MAL WASTE.—For purposes of this paragraph,  
3 the term ‘qualified agricultural and animal  
4 waste’ means agriculture and animal waste, in-  
5 cluding by-products, packaging, and any mate-  
6 rials associated with the processing, feeding,  
7 selling, transporting, or disposal of agricultural  
8 or animal products or wastes.

9           “(5) FACILITIES PRODUCING REFINED COAL.—

10           “(A) IN GENERAL.—In the case of a facil-  
11 ity described in subparagraph (C) for producing  
12 refined coal which is placed in service after the  
13 date of the enactment of this subsection and be-  
14 fore January 1, 2008, this section shall apply  
15 with respect to fuel produced at such facility  
16 and sold before the close of the 5-year period  
17 beginning on the date such facility is placed in  
18 service.

19           “(B) REFINED COAL.—For purposes of  
20 this paragraph, the term ‘refined coal’ means a  
21 fuel which is a liquid, gaseous, or solid syn-  
22 thetic fuel produced from coal (including lig-  
23 nite) or high carbon fly ash, including such fuel  
24 used as a feedstock.

25           “(C) COVERED FACILITIES.—

1           “(i) IN GENERAL.—A facility is de-  
2           scribed in this subparagraph if such facil-  
3           ity produces refined coal using a tech-  
4           nology which the taxpayer certifies (in  
5           such manner as the Secretary may pre-  
6           scribe) results in—

7                       “(I) a qualified emission reduc-  
8                       tion, and

9                       “(II) a qualified enhanced value.

10           “(ii) QUALIFIED EMISSION REDUC-  
11           TION.—For purposes of this subparagraph,  
12           the term ‘qualified emission reduction’  
13           means a reduction of at least 20 percent of  
14           the emissions of nitrogen oxide and either  
15           sulfur dioxide or mercury released when  
16           burning the refined coal (excluding any di-  
17           lution caused by materials combined or  
18           added during the production process), as  
19           compared to the emissions released when  
20           burning the feedstock coal or comparable  
21           coal predominantly available in the market-  
22           place as of January 1, 2003.

23                       “(iii) QUALIFIED ENHANCED  
24           VALUE.—For purposes of this subpara-  
25           graph, the term ‘qualified enhanced value’

1 means an increase of at least 50 percent in  
2 the market value of the refined coal (ex-  
3 cluding any increase caused by materials  
4 combined or added during the production  
5 process), as compared to the value of the  
6 feedstock coal.

7 “(iv) ADVANCED CLEAN COAL TECH-  
8 NOLOGY UNITS EXCLUDED.—A facility de-  
9 scribed in this subparagraph shall not in-  
10 clude any advanced clean coal technology  
11 unit (as defined in section 48A(e)).

12 “(6) COALMINE GAS.—

13 “(A) IN GENERAL.—This section shall  
14 apply to coalmine gas—

15 “(i) captured or extracted by the tax-  
16 payer during the period beginning on the  
17 day after the date of the enactment of this  
18 subsection and ending on December 31,  
19 2006, and

20 “(ii) utilized as a fuel source or sold  
21 by or on behalf of the taxpayer to an unre-  
22 lated person during such period.

23 “(B) COALMINE GAS.—For purposes of  
24 this paragraph, the term ‘coalmine gas’ means  
25 any methane gas which is—

1                   “(i) liberated during or as a result of  
2                   coal mining operations, or

3                   “(ii) extracted up to 10 years in ad-  
4                   vance of coal mining operations as part of  
5                   a specific plan to mine a coal deposit.

6                   “(C) SPECIAL RULE FOR ADVANCED EX-  
7                   TRACTION.—In the case of coalmine gas which  
8                   is captured in advance of coal mining oper-  
9                   ations, the credit under subsection (a) shall be  
10                  allowed only after the date the coal extraction  
11                  occurs in the immediate area where the  
12                  coalmine gas was removed.

13                  “(D) NONCOMPLIANCE WITH POLLUTION  
14                  LAWS.—This paragraph shall not apply to the  
15                  capture or extraction of coalmine gas from coal  
16                  mining operations with respect to any period in  
17                  which such coal mining operations are not in  
18                  compliance with applicable Federal pollution  
19                  prevention, control, and permit requirements.

20                  “(7) COKE AND COKE GAS.—In the case of a  
21                  facility for producing coke or coke gas which was  
22                  placed in service before January 1, 1993, or after  
23                  June 30, 1998, and before January 1, 2007, this  
24                  section shall apply with respect to coke and coke gas

1 produced in such facility and sold during the during  
2 the period—

3 “(A) beginning on the later of January 1,  
4 2004, or the date that such facility is placed in  
5 service, and

6 “(B) ending on the earlier of the date  
7 which is 4 years after the date such period  
8 began or December 31, 2009.

9 “(8) SPECIAL RULES.—In determining the  
10 amount of credit allowable under this section solely  
11 by reason of this subsection—

12 “(A) FUELS TREATED AS QUALIFIED  
13 FUELS.—Any fuel described in paragraph (3),  
14 (4), (5), or (6) shall be treated as a qualified  
15 fuel for purposes of this section.

16 “(B) DAILY LIMIT.—The amount of quali-  
17 fied fuels sold during any taxable year which  
18 may be taken into account by reason of this  
19 subsection with respect to any property or facil-  
20 ity shall not exceed an average barrel-of-oil  
21 equivalent of 200,000 cubic feet of natural gas  
22 per day. Days before the date the property or  
23 facility is placed in service shall not be taken  
24 into account in determining such average.

1           “(C) EXTENSION PERIOD TO COMMENCE  
2 WITH UNADJUSTED CREDIT AMOUNT AND NEW  
3 PHASEOUT ADJUSTMENT.—For purposes of ap-  
4 plying subsection (b)(2), in the case of fuels  
5 sold after 2003—

6           “(i) paragraphs (1)(A) and (2) of sub-  
7 section (b) shall be applied by substituting  
8 ‘\$35.00’ for ‘\$23.50’, and

9           “(ii) subparagraph (B) of subsection  
10 (d)(2) shall be applied by substituting  
11 ‘2002’ for ‘1979’.

12           “(D) DENIAL OF DOUBLE BENEFIT.—This  
13 subsection shall not apply to any facility pro-  
14 ducing qualified fuels for which a credit was al-  
15 lowed under this section for the taxable year or  
16 any preceding taxable year by reason of sub-  
17 section (g).”.

18 (b) TREATMENT AS BUSINESS CREDIT.—

19           (1) CREDIT MOVED TO SUBPART RELATING TO  
20 BUSINESS RELATED CREDITS.—The Internal Rev-  
21 enue Code of 1986 is amended by redesignating sec-  
22 tion 29, as amended by this Act, as section 45K and  
23 by moving section 45K (as so redesignated) from  
24 subpart B of part IV of subchapter A of chapter 1



1 to the end of subpart D of part IV of subchapter A  
2 of chapter 1.

3 (2) CREDIT TREATED AS BUSINESS CREDIT.—

4 Section 38(b) is amended by striking “plus” at the  
5 end of paragraph (19), by striking the period at the  
6 end of paragraph (20) and inserting “, plus”, and  
7 by adding at the end the following:

8 “(21) the nonconventional source production  
9 credit determined under section 45K(a).”.

10 (3) CONFORMING AMENDMENTS.—

11 (A) Section 30(b)(2)(A), as redesignated  
12 by section 1317(a), is amended by striking  
13 “sections 27 and 29” and inserting “section  
14 27”.

15 (B) Sections 43(b)(2) and 613A(c)(6)(C)  
16 are each amended by striking “section  
17 29(d)(2)(C)” and inserting “section  
18 45K(d)(2)(C)”.

19 (C) Section 45K(a), as redesignated by  
20 paragraph (1), is amended by striking “At the  
21 election of the taxpayer, there shall be allowed  
22 as a credit against the tax imposed by this  
23 chapter for the taxable year” and inserting  
24 “For purposes of section 38, if the taxpayer  
25 elects to have this section apply, the nonconven-

1            tional source production credit determined  
2            under this section for the taxable year is”.

3            (D) Section 45K(b), as so redesignated, is  
4            amended by striking paragraph (6).

5            (E) Section 53(d)(1)(B)(iii) is amended by  
6            striking “under section 29” and all that follows  
7            through “or not allowed”.

8            (F) Section 55(c)(2) is amended by strik-  
9            ing “29(b)(6),”.

10           (G) Subsection (a) of section 772 is  
11           amended by inserting “and” at the end of para-  
12           graph (9), by striking paragraph (10), and by  
13           redesignating paragraph (11) as paragraph  
14           (10).

15           (H) Paragraph (5) of section 772(d) is  
16           amended by striking “the foreign tax credit,  
17           and the credit allowable under section 29” and  
18           inserting “and the foreign tax credit”.

19           (I) The table of sections for subpart B of  
20           part IV of subchapter A of chapter 1 is amend-  
21           ed by striking the item relating to section 29.

22           (J) The table of sections for subpart D of  
23           part IV of subchapter A of chapter 1, as  
24           amended by this Act, is amended by inserting

1 after the item relating to section 45J the fol-  
2 lowing new item:

“Sec. 45K. Credit for producing fuel from a nonconventional source.”.

3 (c) DETERMINATIONS UNDER NATURAL GAS POLICY  
4 ACT OF 1978.—Subparagraph (A) of section 45K(c)(2), as  
5 redesignated by subsection (b)(1), is amended—

6 (1) by inserting “by the Secretary, after con-  
7 sultation with the Federal Energy Regulatory Com-  
8 mission,” after “shall be made”, and

9 (2) by inserting “(as in effect before the repeal  
10 of such section)” after “1978”.

11 (d) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to fuel produced and sold after December  
15 31, 2003, in taxable years ending after such date.

16 (2) DETERMINATIONS UNDER NATURAL GAS  
17 POLICY ACT OF 1978.—The amendments made by  
18 subsection (c) shall apply as if included in the provi-  
19 sions repealing section 503 of the Natural Gas Pol-  
20 icy Act of 1978.

1                   **PART II—ALTERNATIVE MINIMUM TAX**  
2                                   **PROVISIONS**  
3 **SEC. 1346. NEW NONREFUNDABLE PERSONAL CREDITS AL-**  
4                                   **LOWED AGAINST REGULAR AND MINIMUM**  
5                                   **TAXES.**

6           (a) IN GENERAL.—

7                   (1) SECTION 25C.—Section 25C(b), as added  
8           by section 1301 of this Act, is amended by adding  
9           at the end the following new paragraph:

10                   “(3) LIMITATION BASED ON AMOUNT OF  
11           TAX.—The credit allowed under subsection (a) for  
12           the taxable year shall not exceed the excess of—

13                           “(A) the sum of the regular tax liability  
14                           (as defined in section 26(b)) plus the tax im-  
15                           posed by section 55, over

16                           “(B) the sum of the credits allowable  
17                           under this subpart (other than this section and  
18                           section 25D) and section 27 for the taxable  
19                           year.”.

20                   (2) SECTION 25D.—Section 25D(b), as added  
21           by section 1304 of this Act, is amended by adding  
22           at the end the following new paragraph:

23                   “(3) LIMITATION BASED ON AMOUNT OF  
24           TAX.—The credit allowed under subsection (a) for  
25           the taxable year shall not exceed the excess of—

1           “(A) the sum of the regular tax liability  
2           (as defined in section 26(b)) plus the tax im-  
3           posed by section 55, over

4           “(B) the sum of the credits allowable  
5           under this subpart (other than this section) and  
6           section 27 for the taxable year.”.

7           (b) CONFORMING AMENDMENTS.—

8           (1) Section 23(b)(4)(B) is amended by inserting  
9           “and sections 25C and 25D” after “this section”.

10          (2) Section 24(b)(3)(B) is amended by striking  
11          “and 25B” and inserting “, 25B, 25C, and 25D”.

12          (3) Section 25(e)(1)(C) is amended by inserting  
13          “25C, and 25D” after “25B,”.

14          (4) Section 25B(g)(2) is amended by striking  
15          “section 23” and inserting “sections 23, 25C, and  
16          25D”.

17          (5) Section 26(a)(1) is amended by striking  
18          “and 25B” and inserting “25B, 25C, and 25D”.

19          (6) Section 904(h) is amended by striking “and  
20          25B” and inserting “25B, 25C, and 25D”.

21          (7) Section 1400C(d) is amended by striking  
22          “and 25B” and inserting “25B, 25C, and 25D”.

23          (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2003.

1 **SEC. 1347. BUSINESS RELATED ENERGY CREDITS ALLOWED**  
2 **AGAINST REGULAR AND MINIMUM TAX.**

3 (a) IN GENERAL.—Subsection (c) of section 38 (re-  
4 lating to limitation based on amount of tax) is amended  
5 by redesignating paragraph (4) as paragraph (5) and by  
6 inserting after paragraph (3) the following new paragraph:

7 “(4) SPECIAL RULES FOR SPECIFIED ENERGY  
8 CREDITS.—

9 “(A) IN GENERAL.—In the case of speci-  
10 fied energy credits—

11 “(i) this section and section 39 shall  
12 be applied separately with respect to such  
13 credits, and

14 “(ii) in applying paragraph (1) to  
15 such credits—

16 “(I) the tentative minimum tax  
17 shall be treated as being zero, and

18 “(II) the limitation under para-  
19 graph (1) (as modified by subclause  
20 (I)) shall be reduced by the credit al-  
21 lowed under subsection (a) for the  
22 taxable year (other than the specified  
23 energy credits).

24 “(B) SPECIFIED ENERGY CREDITS.—For  
25 purposes of this subsection, the term ‘specified  
26 energy credits’ means the credits determined

1 under sections 45G, 45H, 45I, and 45J. For  
2 taxable years beginning after December 31,  
3 2003, such term includes the credit determined  
4 under section 40. For taxable years beginning  
5 after December 31, 2003, and before January  
6 1, 2006, such term includes the credit deter-  
7 mined under section 43.

8 “(C) SPECIAL RULE FOR ELECTRICITY  
9 PRODUCED FROM QUALIFIED FACILITIES.—For  
10 purposes of this subsection, the term ‘specified  
11 energy credits’ shall include the credit deter-  
12 mined under section 45 to the extent that such  
13 credit is attributable to electricity produced—

14 “(i) at a facility which is originally  
15 placed in service after the date of the en-  
16 actment of this paragraph, and

17 “(ii) during the 4-year period begin-  
18 ning on the date that such facility was  
19 originally placed in service.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Paragraph (2)(A)(ii)(II) of section 38(e) is  
22 amended by striking “or” and inserting a comma  
23 and by inserting “, and the specified energy credits”  
24 after “employee credit”.

1           (2) Paragraph (3)(A)(ii)(II) of section 38(c) is  
2           amended by inserting “and the specified energy  
3           credits” after “employee credit”.

4           (c) EFFECTIVE DATE.—The amendments made by  
5           this section shall apply to taxable years ending after the  
6           date of the enactment of this Act.

7           **SEC. 1348. TEMPORARY REPEAL OF ALTERNATIVE MIN-**  
8                                   **IMUM TAX PREFERENCE FOR INTANGIBLE**  
9                                   **DRILLING COSTS.**

10          (a) IN GENERAL.—Clause (ii) of section 57(a)(2)(E)  
11          is amended by adding at the end the following new sen-  
12          tence: “The preceding sentence shall not apply to taxable  
13          years beginning after December 31, 2003, and before Jan-  
14          uary 1, 2006.”.

15          (b) EFFECTIVE DATE.—The amendment made by  
16          this section shall apply to taxable years beginning after  
17          December 31, 2003.

18                                   **PART III—CLEAN COAL INCENTIVES**

19           **SEC. 1351. CREDIT FOR CLEAN COAL TECHNOLOGY UNITS.**

20          (a) IN GENERAL.—Subpart E of part IV of sub-  
21          chapter A of chapter 1 (relating to rules for computing  
22          investment credit) is amended by inserting after section  
23          48 the following new section:



1 **“SEC. 48A. CLEAN COAL TECHNOLOGY CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 46, the  
3 clean coal technology credit for any taxable year is an  
4 amount equal to the applicable percentage of the basis of  
5 qualified clean coal property placed in service during such  
6 year.

7 “(b) APPLICABLE PERCENTAGE.—For purposes of  
8 this section, the applicable percentage is—

9 “(1) 15 percent in the case of property placed  
10 in service in connection with any basic clean coal  
11 technology unit, and

12 “(2) 17.5 percent in the case of property placed  
13 in service in connection with any advanced clean coal  
14 technology unit.

15 “(c) QUALIFIED CLEAN COAL PROPERTY.—For pur-  
16 poses of this section—

17 “(1) IN GENERAL.—The term ‘qualified clean  
18 coal property’ means section 1245 property—

19 “(A) which is installed in connection  
20 with—

21 “(i) an existing coal-based unit as  
22 part of the conversion of such unit to any  
23 basic or advanced clean coal technology  
24 unit, or

25 “(ii) any new advanced clean coal  
26 technology unit,

1           “(B) which is placed in service after De-  
2           cember 31, 2003, and before—

3           “(i) in the case of property to which  
4           subsection (b)(1) applies, January 1, 2014,  
5           and

6           “(ii) in the case of property to which  
7           subsection (b)(2) applies, January 1, 2017  
8           (January 1, 2013, in the case of property  
9           installed in connection with an eligible ad-  
10          vanced pulverized coal or atmospheric flu-  
11          idized bed combustion technology unit),

12          “(C) the original use of which commences  
13          with the taxpayer, and

14          “(D) which has a useful life of not less  
15          than 4 years.

16          “(2) EXISTING COAL-BASED UNIT.—The term  
17          ‘existing coal-based unit’ means a coal-based elec-  
18          tricity generating steam generator-turbine unit—

19                 “(A) which is not a basic or advanced  
20                 clean coal technology unit, and

21                 “(B) which is in operation on or before  
22                 January 1, 2004.

23          In the case of a unit being converted to a basic clean  
24          coal technology unit, such term shall not include a

1 unit having a nameplate capacity rating of more  
2 than 300 megawatts.

3 “(3) NEW ADVANCED CLEAN COAL TECH-  
4 NOLOGY UNIT.—The term ‘new advanced clean coal  
5 technology unit’ means any advanced clean coal  
6 technology unit which is placed in service after De-  
7 cember 31, 2003, and the original use of which com-  
8 mences with the taxpayer.

9 “(d) BASIC CLEAN COAL TECHNOLOGY UNIT.—For  
10 purposes of this section—

11 “(1) IN GENERAL.—The term ‘basic clean coal  
12 technology unit’ means a unit which—

13 “(A) uses clean coal technology (including  
14 advanced pulverized coal or atmospheric fluid-  
15 ized bed combustion, pressurized fluidized bed  
16 combustion, and integrated gasification com-  
17 bined cycle) for the production of electricity,

18 “(B) uses an input of at least 75 percent  
19 coal to produce at least 50 percent of its ther-  
20 mal output as electricity,

21 “(C) has a design net heat rate of at least  
22 500 less than that of the existing coal-based  
23 unit prior to its conversion,

24 “(D) has a maximum design net heat rate  
25 of not more than 9,500, and

1           “(E) meets the pollution control require-  
2           ments of paragraph (2).

3           Such term shall not include an advanced clean coal  
4           technology unit.

5           “(2) POLLUTION CONTROL REQUIREMENTS.—

6           “(A) IN GENERAL.—A unit meets the re-  
7           quirements of this paragraph if—

8           “(i) its emissions of sulfur dioxide, ni-  
9           trogen oxide, or particulates meet the  
10          lower of the emission levels for each such  
11          emission specified in—

12                           “(I) subparagraph (B), or

13                           “(II) the new source performance  
14                           standards of the Clean Air Act (42  
15                           U.S.C. 7411) which are in effect for  
16                           the category of source at the time of  
17                           the conversion of the unit, and

18           “(ii) its emissions do not exceed any  
19           relevant emission level specified by regula-  
20           tion pursuant to the hazardous air pollut-  
21           ant requirements of the Clean Air Act (42  
22           U.S.C. 7412) in effect at the time of the  
23           conversion of the unit.

24           “(B) SPECIFIC LEVELS.—The levels speci-  
25           fied in this subparagraph are—

1                   “(i) in the case of sulfur dioxide emis-  
2                   sions, 50 percent of the sulfur dioxide  
3                   emission levels specified in the new source  
4                   performance standards of the Clean Air  
5                   Act (42 U.S.C. 7411) in effect on the date  
6                   of the enactment of this section for the  
7                   category of source,

8                   “(ii) in the case of nitrogen oxide  
9                   emissions—

10                   “(I) 0.1 pound per million Btu of  
11                   heat input if the unit is not a cyclone-  
12                   fired boiler, and

13                   “(II) if the unit is a cyclone-fired  
14                   boiler, 15 percent of the uncontrolled  
15                   nitrogen oxide emissions from such  
16                   boilers, and

17                   “(iii) in the case of particulate emis-  
18                   sions, 0.02 pound per million Btu of heat  
19                   input.

20                   “(3) DESIGN NET HEAT RATE.—The design net  
21                   heat rate with respect to any unit, measured in Btu  
22                   per kilowatt hour (HHV)—

23                   “(A) shall be based on the design annual  
24                   heat input to and the design annual net elec-  
25                   trical power, fuels, and chemicals output from

1 such unit (determined without regard to such  
2 unit's co-generation of steam),

3 “(B) shall be adjusted for the heat content  
4 of the design coal to be used by the unit if it  
5 is less than 12,000 Btu per pound according to  
6 the following formula:

7 Design net heat rate = Unit net heat rate  $\times$  [1 –  
8 {((12,000-design coal heat content, Btu per pound)/  
9 1,000)  $\times$  0.013}],

10 “(C) shall be corrected for the site ref-  
11 erence conditions of—

12 “(i) elevation above sea level of 500  
13 feet,

14 “(ii) air pressure of 14.4 pounds per  
15 square inch absolute (psia),

16 “(iii) temperature, dry bulb of 63°F,

17 “(iv) temperature, wet bulb of 54°F,

18 and

19 “(v) relative humidity of 55 percent,

20 and

21 “(D) if carbon capture controls have been  
22 installed with respect to any existing coal-based  
23 unit and such controls remove at least 50 per-  
24 cent of the unit's carbon dioxide emissions,  
25 shall be adjusted up to the design heat rate

1 level which would have resulted without the in-  
2 stallation of such controls.

3 “(4) HHV.—The term ‘HHV’ means higher  
4 heating value.

5 “(e) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—  
6 For purposes of this section—

7 “(1) IN GENERAL.—The term ‘advanced clean  
8 coal technology unit’ means any electricity gener-  
9 ating unit of the taxpayer—

10 “(A) which is—

11 “(i) an eligible advanced pulverized  
12 coal or atmospheric fluidized bed combus-  
13 tion technology unit,

14 “(ii) an eligible pressurized fluidized  
15 bed combustion technology unit,

16 “(iii) an eligible integrated gasifi-  
17 cation combined cycle technology unit, or

18 “(iv) an eligible other technology unit,

19 “(B) which uses an input of at least 75  
20 percent coal to produce at least 50 percent of  
21 its thermal output as electricity, and

22 “(C) which meets the carbon emission rate  
23 requirements of paragraph (6).

24 “(2) ELIGIBLE ADVANCED PULVERIZED COAL  
25 OR ATMOSPHERIC FLUIDIZED BED COMBUSTION

1 TECHNOLOGY UNIT.—The term ‘eligible advanced  
2 pulverized coal or atmospheric fluidized bed combus-  
3 tion technology unit’ means a clean coal technology  
4 unit using advanced pulverized coal or atmospheric  
5 fluidized bed combustion technology which has a de-  
6 sign net heat rate of not more than 8,500 (8,900 in  
7 the case of units placed in service before 2009).

8 “(3) ELIGIBLE PRESSURIZED FLUIDIZED BED  
9 COMBUSTION TECHNOLOGY UNIT.—The term ‘eligi-  
10 ble pressurized fluidized bed combustion technology  
11 unit’ means a clean coal technology unit using pres-  
12 surized fluidized bed combustion technology which  
13 has a design net heat rate of not more than 7,720  
14 (8,900 in the case of units placed in service before  
15 2009, and 8,500 in the case of units placed in serv-  
16 ice after 2008 and before 2013).

17 “(4) ELIGIBLE INTEGRATED GASIFICATION  
18 COMBINED CYCLE TECHNOLOGY UNIT.—The term  
19 ‘eligible integrated gasification combined cycle tech-  
20 nology unit’ means a clean coal technology unit  
21 using integrated gasification combined cycle tech-  
22 nology, with or without fuel or chemical co-  
23 production—

24 “(A) which has a design net heat rate of  
25 not more than 7,720 (8,900 in the case of units



1 placed in service before 2009, and 8,500 in the  
2 case of units placed in service after 2008 and  
3 before 2013), and

4 “(B) has a net thermal efficiency (HHV)  
5 using coal with fuel or chemical co-production  
6 of not less than 44.2 percent (38.4 percent in  
7 the case of units placed in service before 2009,  
8 and 40.2 percent in the case of units placed in  
9 service after 2008 and before 2013).

10 “(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—  
11 The term ‘eligible other technology unit’ means a  
12 clean coal technology unit—

13 “(A) which uses any other technology for  
14 the production of electricity, and

15 “(B) which has a design net heat rate  
16 which meets the requirement of paragraph (2).

17 “(6) CARBON EMISSION RATE REQUIRE-  
18 MENTS.—

19 “(A) IN GENERAL.—Except as provided in  
20 subparagraph (B), a unit meets the require-  
21 ments of this paragraph if—

22 “(i) in the case of a unit using design  
23 coal with a heat content of not more than  
24 9,000 Btu per pound, the carbon emission

1 rate is less than 0.60 pound of carbon per  
2 kilowatt hour, and

3 “(ii) in the case of a unit using design  
4 coal with a heat content of more than  
5 9,000 Btu per pound, the carbon emission  
6 rate is less than 0.54 pound of carbon per  
7 kilowatt hour.

8 “(B) ELIGIBLE OTHER TECHNOLOGY  
9 UNIT.—In the case of an eligible other tech-  
10 nology unit, subparagraph (A) shall be applied  
11 by substituting ‘0.51’ and ‘0.459’ for ‘0.60’ and  
12 ‘0.54’, respectively.

13 “(f) NATIONAL LIMITATIONS ON CREDIT.—For pur-  
14 poses of this section—

15 “(1) IN GENERAL.—The amount of credit  
16 which would (but for this subsection) be allowed  
17 with respect to any property shall not exceed the  
18 amount which bears the same ratio to such amount  
19 of credit as—

20 “(A) the national megawatt capacity limi-  
21 tation allocated to the taxpayer with respect to  
22 the basic or advanced clean coal technology unit  
23 to which such property relates, bears to

24 “(B) the total megawatt capacity of such  
25 unit.

1 The capacity described in subparagraph (B) shall be  
2 the reasonably expected capacity after the installa-  
3 tion of the property.

4 “(2) AMOUNT OF NATIONAL LIMITATION.—

5 “(A) ADVANCED UNITS.—The national  
6 megawatt capacity limitation for advanced clean  
7 coal technology units shall be 6,000 megawatts.  
8 Of such amount, the national megawatt capac-  
9 ity limitation is—

10 “(i) for advanced clean coal tech-  
11 nology units using advanced pulverized  
12 coal or atmospheric fluidized bed combus-  
13 tion technology, not more than 1,500  
14 megawatts (not more than 750 megawatts  
15 in the case of units placed in service before  
16 2009),

17 “(ii) for such units using pressurized  
18 fluidized bed combustion technology, not  
19 more than 750 megawatts (not more than  
20 375 megawatts in the case of units placed  
21 in service before 2009),

22 “(iii) for such units using integrated  
23 gasification combined cycle technology,  
24 with or without fuel or chemical co-produc-  
25 tion, not more than 3,000 megawatts (not

1 more than 1,250 megawatts in the case of  
2 units placed in service before 2009), and

3 “(iv) for such units using other tech-  
4 nology for the production of electricity, not  
5 more than 750 megawatts (not more than  
6 375 megawatts in the case of units placed  
7 in service before 2009).

8 “(B) BASIC UNITS.—The national mega-  
9 watt capacity limitation for basic clean coal  
10 technology units shall be 4,000 megawatts.

11 “(3) ALLOCATION OF LIMITATION.—The Sec-  
12 retary shall allocate the national megawatt capacity  
13 limitations in such manner as the Secretary may  
14 prescribe, except that the Secretary may not allocate  
15 more than 300 megawatts to any basic clean coal  
16 technology unit.

17 “(4) REGULATIONS.—Not later than 6 months  
18 after the date of the enactment of this section, the  
19 Secretary shall prescribe such regulations as may be  
20 necessary or appropriate to carry out the purposes  
21 of this subsection. Such regulations shall provide a  
22 certification process under which the Secretary, after  
23 consultation with the Secretary of Energy, shall ap-  
24 prove and allocate the national megawatt capacity  
25 limitations—

1           “(A) to encourage that units with the high-  
2           est thermal efficiencies, when adjusted for the  
3           heat content of the design coal and site ref-  
4           erence conditions, and environmental perform-  
5           ance, be placed in service as soon as possible,  
6           and

7           “(B) to allocate capacity to taxpayers  
8           which have a definite and credible plan for plac-  
9           ing into commercial operation a basic or ad-  
10          vanced clean coal technology unit, including—

11                   “(i) a site,

12                   “(ii) contractual commitments for  
13                   procurement and construction or, in the  
14                   case of regulated utilities, the agreement of  
15                   the State utility commission,

16                   “(iii) filings for all necessary  
17                   preconstruction approvals,

18                   “(iv) a demonstrated record of having  
19                   successfully completed comparable projects  
20                   on a timely basis, and

21                   “(v) such other factors which the Sec-  
22                   retary determines are appropriate.

23          “(g) SPECIAL RULES.—For purposes of this  
24          section—

1           “(1) CERTAIN PROGRESS EXPENDITURE RULES  
2           MADE APPLICABLE.—Rules similar to the rules of  
3           subsections (c)(4) and (d) of section 46 (as in effect  
4           on the day before the date of the enactment of the  
5           Revenue Reconciliation Act of 1990) shall apply for  
6           purposes of this section.

7           “(2) PROPERTY FINANCED BY SUBSIDIZED FI-  
8           NANCING OR INDUSTRIAL DEVELOPMENT BONDS.—  
9           Rules similar to the rules of section 45(b)(3) shall  
10          apply for purposes of this section.

11          “(3) NONCOMPLIANCE WITH POLLUTION  
12          LAWS.—The terms ‘basic clean coal technology unit’  
13          and ‘advanced clean coal technology unit’ shall not  
14          include any unit which is not in compliance with the  
15          applicable Federal pollution prevention, control, and  
16          permit requirements at any time during the period  
17          applicable under subsection (c)(1)(B).

18          “(4) DENIAL OF CREDIT FOR UNITS RECEIVING  
19          CERTAIN OTHER FEDERAL ASSISTANCE.—The terms  
20          ‘basic clean coal technology unit’ and ‘advanced  
21          clean coal technology unit’ shall not include any unit  
22          if, at any time during the period applicable under  
23          subsection (c)(1)(B), any funding is provided to such  
24          unit under the Clean Coal Technology Program, the  
25          Power Plant Improvement Initiative, or the Clean

1 Coal Power Initiative administered by the Secretary  
2 of Energy.

3 “(5) COORDINATION WITH OTHER CREDITS.—  
4 This section shall not apply to any property with re-  
5 spect to which the rehabilitation credit under section  
6 47, the energy credit under section 48, or any credit  
7 under section 45 or 45K is allowable unless the tax-  
8 payer elects to waive the application of such credit  
9 to such property.”.

10 (b) SPECIAL RECAPTURE RULES.—

11 (1) Subsection (a) of section 50 is amended by  
12 redesignating paragraph (3), (4), and (5) as para-  
13 graphs (4), (5), and (6), respectively, and by insert-  
14 ing after paragraph (2) the following new para-  
15 graph:

16 “(3) SPECIAL RULES FOR CLEAN COAL TECH-  
17 NOLOGY CREDITS.—

18 “(A) EARLY DISPOSITION, ETC.—If, dur-  
19 ing any taxable year, qualified clean coal prop-  
20 erty is disposed of, or otherwise ceases to be  
21 part of a basic or advanced clean coal tech-  
22 nology unit with respect to the taxpayer, before  
23 the close of the recovery period under section  
24 168 for such unit, then the tax under this chap-

1           ter for such taxable year shall be increased  
2           by—

3                   “(i) the aggregate decrease in the  
4                   credits allowed under section 38 for all  
5                   prior taxable years which would have re-  
6                   sulted solely from reducing to zero any  
7                   credit determined under section 48A with  
8                   respect to such property, multiplied by

9                   “(ii) a fraction—

10                           “(I) the numerator of which is  
11                           the number of years in the period be-  
12                           ginning with the year of such disposi-  
13                           tion or cessation and ending with the  
14                           last year of such recovery period, and

15                           “(II) the denominator of which is  
16                           the total number of years in such re-  
17                           covery period.

18                   “(B) PROPERTY CEASES TO QUALIFY FOR  
19                   PROGRESS EXPENDITURES.—Rules similar to  
20                   the rules of this paragraph shall apply in cases  
21                   where qualified progress expenditures were  
22                   taken into account under the rules referred to  
23                   in section 48A(g)(1).

24                   “(C) INCREASED RECAPTURE IN CERTAIN  
25                   CASES.—The fraction in subparagraph (A)(ii)



1 shall be 1 in any case in which the property  
2 ceases to be a basic or advanced clean coal  
3 technology unit by reason of paragraph (3), (4),  
4 or (5) of section 48A(g).

5 “(D) COORDINATION WITH OTHER RECAP-  
6 TURE RULES.—Paragraphs (1) and (2) shall  
7 not apply to qualified clean coal property.

8 “(E) DEFINITIONS.—Terms used in this  
9 section which are also used in section 48A shall  
10 have the meanings given to such terms in sec-  
11 tion 48A.”

12 (2) Paragraph (4) of section 50(a), as redesi-  
13 gnated by paragraph (1), is amended by striking “or  
14 (2)” and inserting “, (2), or (3)”.

15 (3) Paragraph (5) of section 50(a), as so redesi-  
16 gnated, is amended by striking “and (2)” and in-  
17 serting “, (2), and (3)”.

18 (4) Section 1371(d)(1) is amended by striking  
19 “section 50(a)(4)” and inserting “section 50(a)(5)”.

20 (c) TECHNICAL AMENDMENTS.—

21 (1) Section 46 (relating to amount of credit) is  
22 amended by striking “and” at the end of paragraph  
23 (2), by striking the period at the end of paragraph  
24 (3) and inserting “, and”, and by adding at the end  
25 the following new paragraph:

1 “(4) the clean coal technology credit.”.

2 (2) Section 49(a)(1)(C) is amended by striking  
3 “and” at the end of clause (ii), by striking the pe-  
4 riod at the end of clause (iii) and inserting “, and”,  
5 and by adding at the end the following new clause:

6 “(iv) the portion of the basis of any  
7 qualified clean coal property (as defined by  
8 section 48A(c)).”.

9 (3) The table of sections for subpart E of part  
10 IV of subchapter A of chapter 1 is amended by in-  
11 sserting after the item relating to section 48 the fol-  
12 lowing new item:

“Sec. 48A. Clean coal technology credit.”.

13 (d) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to periods after December 31,  
15 2003, under rules similar to the rules of section 48(m)  
16 of the Internal Revenue Code of 1986 (as in effect on the  
17 day before the date of the enactment of the Revenue Rec-  
18 onciliation Act of 1990).

19 **SEC. 1352. EXPANSION OF AMORTIZATION FOR CERTAIN**  
20 **POLLUTION CONTROL FACILITIES.**

21 (a) ELIGIBILITY OF POST-1975 POLLUTION CON-  
22 TROL FACILITIES.—

23 (1) IN GENERAL.—Paragraph (1) of section  
24 169(d) is amended by striking “before January 1,

1 1976,” and by striking “a new identifiable” and in-  
2 sserting “an identifiable”.

3 (2) IDENTIFIABLE TREATMENT FACILITY.—  
4 Paragraph (4) of section 169(d) is amended to read  
5 as follows:

6 “(4) IDENTIFIABLE TREATMENT FACIL-  
7 ITY.—For purposes of paragraph (1), the term  
8 ‘identifiable treatment facility’ includes only  
9 tangible property (not including a building and  
10 its structural components, other than a building  
11 which is exclusively a treatment facility) which  
12 is of a character subject to the allowance for  
13 depreciation provided in section 167, which is  
14 identifiable as a treatment facility, and which is  
15 property—

16 “(A) the construction, reconstruction, or  
17 erection of which is completed by the taxpayer,  
18 or

19 “(B) the original use of the property com-  
20 mences with the taxpayer.”

21 (3) TECHNICAL AMENDMENT.—Section  
22 169(d)(3) is amended by striking “Health, Edu-  
23 cation, and Welfare” and inserting “Health and  
24 Human Services”.

1 (b) COORDINATION WITH SECTION 48A INVEST-  
2 MENT CREDIT.—Section 169 is amended by redesignating  
3 subsections (e) through (j) as subsection (f) through (k),  
4 respectively, and by inserting after subsection (d) the fol-  
5 lowing new subsection:

6 “(e) COORDINATION WITH SECTION 48A INVEST-  
7 MENT CREDIT.—

8 “(1) IN GENERAL.—In the case of any treat-  
9 ment facility used in connection with a plant or  
10 other property to which an amount is allocated  
11 under section 48A(f), this section shall apply only if  
12 such plant or other property was in operation before  
13 January 1, 1976.

14 “(2) 36-MONTH AMORTIZATION WITH RESPECT  
15 TO PRE-1976 PLANTS NOT ALLOCATED CREDIT.—  
16 References in this section to 60 months shall be  
17 treated as references to 36 months in the case of  
18 treatment facilities used in connection with a plant  
19 or other property in operation before January 1,  
20 1976, if no allocation is made under section 48A(f)  
21 with respect to such plant or property.”

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to facilities placed in service after  
24 the date of the enactment of this Act.

1 **SEC. 1353. 5-YEAR RECOVERY PERIOD FOR ELIGIBLE INTE-**  
 2 **GRATED GASIFICATION COMBINED CYCLE**  
 3 **TECHNOLOGY UNIT ELIGIBLE FOR CREDIT.**

4 (a) IN GENERAL.—Subparagraph (B) of section  
 5 168(e)(3) (defining 5-year property) is amended by strik-  
 6 ing “and” at the end of clause (v), by striking the period  
 7 at the end of clause (vi) and inserting “, and”, and by  
 8 inserting after clause (vi) the following new clause:

9 “(vii) any section 1245 property  
 10 which is part of an eligible integrated gas-  
 11 ification combined cycle technology unit (as  
 12 defined in section 48A(e)(4)) for which an  
 13 allocation is made under section 48A(f).”

14 (b) ALTERNATIVE SYSTEM.—The table contained in  
 15 section 168(g)(3)(B) (relating to special rule for certain  
 16 property assigned to classes) is amended by inserting after  
 17 the item relating to subparagraph (B)(iii) the following  
 18 new item:

“(B)(vii) ..... 20”.

19 (c) EFFECTIVE DATE.—The amendments made by  
 20 this section shall apply to property placed in service after  
 21 the date of the enactment of this Act in taxable years end-  
 22 ing after such date.

1           **PART IV—HIGH VOLUME NATURAL GAS**  
2                           **PROVISIONS**

3   **SEC. 1355. HIGH VOLUME NATURAL GAS PIPE TREATED AS**  
4                           **7-YEAR PROPERTY.**

5           (a) **IN GENERAL.**—Section 168(e)(3)(C) (defining 7-  
6 year property), as amended by this Act, is amended by  
7 striking “and” at the end of clause (ii), by redesignating  
8 clause (iii) as clause (iv), and by inserting after clause (ii)  
9 the following new clause:

10                           “(iii) any high volume natural gas  
11 pipe the original use of which commences  
12 with the taxpayer after the date of the en-  
13 actment of this clause, and”.

14           (b) **HIGH VOLUME NATURAL GAS PIPE.**—Section  
15 168(i) (relating to definitions and special rules), as  
16 amended by this Act, is amended by adding at the end  
17 the following new paragraph:

18                           “(17) **HIGH VOLUME NATURAL GAS PIPE.**—The  
19 term ‘high volume natural gas pipe’ means—

20                           “(A) pipe which has an interior diameter  
21 of at least 42 inches and which is part of a nat-  
22 ural gas pipeline system, and

23                           “(B) any related equipment and appur-  
24 tenances used in connection with such pipe.”.

25           (c) **ALTERNATIVE SYSTEM.**—The table contained in  
26 section 168(g)(3)(B) (relating to special rule for certain

1 property assigned to classes), as amended by this Act, is  
2 amended by inserting after the item relating to subpara-  
3 graph (C)(ii) the following new item:

“(C)(iii) ..... 22”.

4 (d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Sub-  
5 paragraph (B) of section 56(a)(1), as amended by this  
6 Act, is amended by inserting before the period the fol-  
7 lowing: “, or in section 168(e)(3)(C)(iii)”.

8 (e) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to property placed in service on  
10 or after the date of the enactment of this Act.

11 **SEC. 1356. EXTENSION OF ENHANCED OIL RECOVERY**  
12 **CREDIT TO HIGH VOLUME NATURAL GAS FA-**  
13 **CILITIES.**

14 (a) IN GENERAL.—Section 43(e)(1) (defining quali-  
15 fied enhanced oil recovery costs) is amended by adding at  
16 the end the following new subparagraph:

17 “(D) Any amount which is paid or in-  
18 curred during the taxable year in connection  
19 with the construction of a gas treatment plant  
20 which—

21 “(i) prepares natural gas for transpor-  
22 tation through a pipeline with a capacity of  
23 at least 1,000,000,000,000 Btu of natural  
24 gas per day, and

1                   “(ii) produces carbon dioxide which is  
2                   injected into hydrocarbon-bearing geologi-  
3                   cal formations.”.

4           (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to costs paid or incurred in taxable  
6 years beginning after December 31, 2003.

## 7   **Subtitle D—Additional Provisions**

### 8   **SEC. 1361. EXTENSION OF ACCELERATED DEPRECIATION** 9                   **BENEFIT FOR ENERGY-RELATED BUSINESSES** 10                   **ON INDIAN RESERVATIONS.**

11           Paragraph (8) of section 168(j) (relating to termi-  
12 nation) is amended by adding at the end the following new  
13 sentence: “The preceding sentence shall be applied by sub-  
14 stituting ‘December 31, 2005’ for ‘December 31, 2004’  
15 in the case of property placed in service as part of a facil-  
16 ity for—

17                   “(A) the generation or transmission of  
18                   electricity (including from any qualified energy  
19                   resource, as defined in section 45(e)),

20                   “(B) an oil or gas well,

21                   “(C) the transmission or refining of oil or  
22                   gas, or

23                   “(D) the production of any qualified fuel  
24                   (as defined in section 45K(e)).”.



1 **SEC. 1362. PAYMENT OF DIVIDENDS ON STOCK OF CO-**  
2 **OPERATIVES WITHOUT REDUCING PATRON-**  
3 **AGE DIVIDENDS.**

4 (a) IN GENERAL.—Subsection (a) of section 1388  
5 (relating to patronage dividend defined) is amended by  
6 adding at the end the following: “For purposes of para-  
7 graph (3), net earnings shall not be reduced by amounts  
8 paid during the year as dividends on capital stock or other  
9 proprietary capital interests of the organization to the ex-  
10 tent that the articles of incorporation or bylaws of such  
11 organization or other contract with patrons provide that  
12 such dividends are in addition to amounts otherwise pay-  
13 able to patrons which are derived from business done with  
14 or for patrons during the taxable year.”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to distributions in taxable years  
17 ending after the date of the enactment of this Act.

18 **SEC. 1363. DISTRIBUTIONS FROM PUBLICLY TRADED PART-**  
19 **NERSHIPS TREATED AS QUALIFYING INCOME**  
20 **OF REGULATED INVESTMENT COMPANIES.**

21 (a) IN GENERAL.—Paragraph (2) of section 851(b)  
22 (defining regulated investment company) is amended to  
23 read as follows:

24 “(2) at least 90 percent of its gross income is  
25 derived from—

1           “(A) dividends, interest, payments with re-  
2           spect to securities loans (as defined in section  
3           512(a)(5)), and gains from the sale or other  
4           disposition of stock or securities (as defined in  
5           section 2(a)(36) of the Investment Company  
6           Act of 1940, as amended) or foreign currencies,  
7           or other income (including but not limited to  
8           gains from options, futures or forward con-  
9           tracts) derived with respect to its business of  
10          investing in such stock, securities, or currencies,  
11          and

12           “(B) distributions or other income derived  
13          from an interest in a qualified publicly traded  
14          partnership (as defined in subsection (h)); and”

15          (b) SOURCE FLOW-THROUGH RULE NOT TO  
16          APPLY.—The last sentence of section 851(b) is amended  
17          by inserting “(other than a qualified publicly traded part-  
18          nership as defined in subsection (h))” after “derived from  
19          a partnership”.

20          (c) LIMITATION ON OWNERSHIP.—Subsection (c) of  
21          section 851 is amended by redesignating paragraph (5)  
22          as paragraph (6) and inserting after paragraph (4) the  
23          following new paragraph:

24                 “(5) The term ‘outstanding voting securities of  
25                 such issuer’ shall include the equity securities of a

1 qualified publicly traded partnership (as defined in  
2 subsection (h)).”.

3 (d) DEFINITION OF QUALIFIED PUBLICLY TRADED  
4 PARTNERSHIP.—Section 851 is amended by adding at the  
5 end the following new subsection:

6 “(h) QUALIFIED PUBLICLY TRADED PARTNER-  
7 SHIP.—For purposes of this section, the term ‘qualified  
8 publicly traded partnership’ means a publicly traded part-  
9 nership described in section 7704(b) other than a partner-  
10 ship which would satisfy the gross income requirements  
11 of section 7704(c)(2) if qualifying income included only  
12 income described in subsection (b)(2)(A).”.

13 (e) DEFINITION OF QUALIFYING INCOME.—Section  
14 7704(d)(4) is amended by striking “section 851(b)(2)”  
15 and inserting “section 851(b)(2)(A)”.

16 (f) LIMITATION ON COMPOSITION OF ASSETS.—Sub-  
17 paragraph (B) of section 851(b)(3) is amended to read  
18 as follows:

19 “(B) not more than 25 percent of the  
20 value of its total assets is invested in—

21 “(i) the securities (other than Govern-  
22 ment securities or the securities of other  
23 regulated investment companies) of any  
24 one issuer,

1                   “(ii) the securities (other than the se-  
2                   curities of other regulated investment com-  
3                   panies) of two or more issuers which the  
4                   taxpayer controls and which are deter-  
5                   mined, under regulations prescribed by the  
6                   Secretary, to be engaged in the same or  
7                   similar trades or businesses or related  
8                   trades or businesses, or

9                   “(iii) the securities of one or more  
10                  qualified publicly traded partnerships (as  
11                  defined in subsection (h)).”.

12                  (g) APPLICATION OF SPECIAL PASSIVE ACTIVITY  
13                  RULE TO REGULATED INVESTMENT COMPANIES.—Sub-  
14                  section (k) of section 469 (relating to separate application  
15                  of section in case of publicly traded partnerships) is  
16                  amended by adding at the end the following new para-  
17                  graph:

18                  “(4) APPLICATION TO REGULATED INVEST-  
19                  MENT COMPANIES.—For purposes of this section, a  
20                  regulated investment company (as defined in section  
21                  851) holding an interest in a qualified publicly trad-  
22                  ed partnership (as defined in section 851(h)) shall  
23                  be treated as a taxpayer described in subsection  
24                  (a)(2) with respect to items attributable to such in-  
25                  terest.”.

1 (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 1364. CEILING FANS.**

5 (a) IN GENERAL.—Subchapter II of chapter 99 of  
6 the Harmonized Tariff Schedule of the United States is  
7 amended by inserting in numerical sequence the following  
8 new heading:

“	9902.84.14	Ceiling fans for permanent installa- tion (provided for in subheading 8414.51.00) .....	Free	No change	No change	On or before 12/31/2005	”.
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9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section applies to goods entered, or withdrawn from  
11 warehouse, for consumption on or after the 15th day after  
12 the date of enactment of this Act.

13 **SEC. 1365. CERTAIN STEAM GENERATORS, AND CERTAIN**  
14 **REACTOR VESSEL HEADS, USED IN NUCLEAR**  
15 **FACILITIES.**

16 (a) CERTAIN STEAM GENERATORS.—Heading  
17 9902.84.02 of the Harmonized Tariff Schedule of the  
18 United States is amended by striking “12/31/2006” and  
19 inserting “12/31/2008”.

20 (b) CERTAIN REACTOR VESSEL HEADS.—Sub-  
21 chapter II of chapter 99 of the Harmonized Tariff Sched-  
22 ule of the United States is amended by inserting in numer-  
23 ical sequence the following new heading:

“	9902.84.03	Reactor vessel heads for nuclear reactors (provided for in sub-heading 8401.40.00) .....	Free	No change	No change	On or before 12/31/2007	”.
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1 (c) EFFECTIVE DATE.—

2 (1) SUBSECTION (a).—The amendment made  
3 by subsection (a) shall take effect on the date of the  
4 enactment of this Act.

5 (2) SUBSECTION (b).—The amendment made  
6 by subsection (b) shall apply to goods entered, or  
7 withdrawn from warehouse, for consumption on or  
8 after the 15th day after the date of the enactment  
9 of this Act.

10 **SEC. 1366. BROWNFIELDS DEMONSTRATION PROGRAM FOR**  
11 **QUALIFIED GREEN BUILDING AND SUSTAIN-**  
12 **ABLE DESIGN PROJECTS.**

13 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-  
14 section (a) of section 142 (relating to the definition of ex-  
15 empt facility bond) is amended by striking “or” at the  
16 end of paragraph (12), by striking the period at the end  
17 of paragraph (13) and inserting “, or”, and by inserting  
18 at the end the following new paragraph:

19 “(14) qualified green building and sustainable  
20 design projects.”.

21 (b) QUALIFIED GREEN BUILDING AND SUSTAINABLE  
22 DESIGN PROJECTS.—Section 142 (relating to exempt fa-

1 cility bonds) is amended by adding at the end thereof the  
2 following new subsection:

3 “(1) QUALIFIED GREEN BUILDING AND SUSTAIN-  
4 ABLE DESIGN PROJECTS.—

5 “(1) IN GENERAL.—For purposes of subsection  
6 (a)(14), the term ‘qualified green building and sus-  
7 tainable design project’ means any project which is  
8 designated by the Secretary, after consultation with  
9 the Administrator of the Environmental Protection  
10 Agency, as a qualified green building and sustain-  
11 able design project and which meets the require-  
12 ments of clauses (i), (ii), (iii), and (iv) of paragraph  
13 (4)(A).

14 “(2) DESIGNATIONS.—

15 “(A) IN GENERAL.—Within 60 days after  
16 the end of the application period described in  
17 paragraph (3)(A), the Secretary, after consulta-  
18 tion with the Administrator of the Environ-  
19 mental Protection Agency, shall designate quali-  
20 fied green building and sustainable design  
21 projects. At least one of the projects designated  
22 shall be located in, or within a 10-mile radius  
23 of, an empowerment zone as designated pursu-  
24 ant to section 1391, and at least one of the  
25 projects designated shall be located in a rural

1 State. No more than one project shall be des-  
2 ignated in a State. A project shall not be des-  
3 ignated if such project includes a stadium or  
4 arena for professional sports exhibitions or  
5 games.

6 “(B) MINIMUM CONSERVATION AND TECH-  
7 NOLOGY INNOVATION OBJECTIVES.—The Sec-  
8 retary, after consultation with the Adminis-  
9 trator of the Environmental Protection Agency,  
10 shall ensure that, in the aggregate, the projects  
11 designated shall—

12 “(i) reduce electric consumption by  
13 more than 150 megawatts annually as  
14 compared to conventional construction,

15 “(ii) reduce daily sulfur dioxide emis-  
16 sions by at least 10 tons compared to coal  
17 generation power,

18 “(iii) expand by 75 percent the do-  
19 mestic solar photovoltaic market in the  
20 United States (measured in megawatts) as  
21 compared to the expansion of that market  
22 from 2001 to 2002, and

23 “(iv) use at least 25 megawatts of  
24 fuel cell energy generation.



1           “(3) LIMITED DESIGNATIONS.—A project may  
2 not be designated under this subsection unless—

3           “(A) the project is nominated by a State  
4 or local government within 180 days of the en-  
5 actment of this subsection, and

6           “(B) such State or local government pro-  
7 vides written assurances that the project will  
8 satisfy the eligibility criteria described in para-  
9 graph (4).

10          “(4) APPLICATION.—

11          “(A) IN GENERAL.—A project may not be  
12 designated under this subsection unless the ap-  
13 plication for such designation includes a project  
14 proposal which describes the energy efficiency,  
15 renewable energy, and sustainable design fea-  
16 tures of the project and demonstrates that the  
17 project satisfies the following eligibility criteria:

18           “(i) GREEN BUILDING AND SUSTAIN-  
19 ABLE DESIGN.—At least 75 percent of the  
20 square footage of commercial buildings  
21 which are part of the project is registered  
22 for United States Green Building Council’s  
23 LEED certification and is reasonably ex-  
24 pected (at the time of the designation) to  
25 receive such certification.

1           “(ii) BROWNFIELD REDEVELOP-  
2           MENT.—The project includes a brownfield  
3           site as defined by section 101(39) of the  
4           Comprehensive Environmental Response,  
5           Compensation, and Liability Act of 1980  
6           (42 U.S.C. 9601), including a site de-  
7           scribed in subparagraph (D)(ii)(II)(aa)  
8           thereof.

9           “(iii) STATE AND LOCAL SUPPORT.—  
10          The project receives specific State or local  
11          government resources which will support  
12          the project in an amount equal to at least  
13          \$5,000,000. For purposes of the preceding  
14          sentence, the term ‘resources’ includes tax  
15          abatement benefits and contributions in  
16          kind.

17          “(iv) SIZE.—The project includes at  
18          least one of the following:

19                 “(I) At least 1,000,000 square  
20                 feet of building.

21                 “(II) At least 20 acres.

22          “(v) USE OF TAX BENEFIT.—The  
23          project proposal includes a description of  
24          the net benefit of the tax-exempt financing  
25          provided under this subsection which will

1 be allocated for financing of one or more  
2 of the following:

3 “(I) The purchase, construction,  
4 integration, or other use of energy ef-  
5 ficiency, renewable energy, and sus-  
6 tainable design features of the project.

7 “(II) Compliance with LEED  
8 certification standards.

9 “(III) The purchase, remediation,  
10 and foundation construction and prep-  
11 aration of the brownfields site.

12 “(vi) EMPLOYMENT.—The project is  
13 projected to provide permanent employ-  
14 ment of at least 1,500 full time equivalents  
15 (150 full time equivalents in rural States)  
16 when completed and construction employ-  
17 ment of at least 1,000 full time equivalents  
18 (100 full time equivalents in rural States).

19 The application shall include an independent  
20 analysis which describes the project’s economic  
21 impact, including the amount of projected em-  
22 ployment.

23 “(B) PROJECT DESCRIPTION.—Each appli-  
24 cation described in subparagraph (A) shall con-  
25 tain for each project a description of—

1                   “(i) the amount of electric consump-  
2                   tion reduced as compared to conventional  
3                   construction,

4                   “(ii) the amount of sulfur dioxide  
5                   daily emissions reduced compared to coal  
6                   generation,

7                   “(iii) the amount of the gross in-  
8                   stalled capacity of the project’s solar pho-  
9                   tovoltaic capacity measured in megawatts,  
10                  and

11                  “(iv) the amount, in megawatts, of  
12                  the project’s fuel cell energy generation.

13                  “(5) CERTIFICATION OF USE OF TAX BEN-  
14                  EFIT.—No later than 30 days after the completion  
15                  of the project, each project must certify to the Sec-  
16                  retary that the net benefit of the tax-exempt financ-  
17                  ing was used for the purposes described in para-  
18                  graph (4).

19                  “(6) DEFINITIONS.—For purposes of this  
20                  subsection—

21                  “(A) RURAL STATE.—The term ‘rural  
22                  State’ means any State which has—

23                  “(i) a population of less than  
24                  4,500,000 according to the 2000 census,

1                   “(ii) a population density of less than  
2                   150 people per square mile according to  
3                   the 2000 census, and

4                   “(iii) increased in population by less  
5                   than half the rate of the national increase  
6                   between the 1990 and 2000 censuses.

7                   “(B) LOCAL GOVERNMENT.—The term  
8                   ‘local government’ has the meaning given such  
9                   term by section 1393(a)(5).

10                   “(C) NET BENEFIT OF TAX-EXEMPT FI-  
11                   NANCING.—The term ‘net benefit of tax-exempt  
12                   financing’ means the present value of the inter-  
13                   est savings (determined by a calculation estab-  
14                   lished by the Secretary) which result from the  
15                   tax-exempt status of the bonds.

16                   “(7) AGGREGATE FACE AMOUNT OF TAX-EX-  
17                   EMPT FINANCING.—

18                   “(A) IN GENERAL.—An issue shall not be  
19                   treated as an issue described in subsection  
20                   (a)(14) if the aggregate face amount of bonds  
21                   issued by the State or local government pursu-  
22                   ant thereto for a project (when added to the ag-  
23                   gregate face amount of bonds previously so  
24                   issued for such project) exceeds an amount des-

1           ignated by the Secretary as part of the designa-  
2           tion.

3           “(B) LIMITATION ON AMOUNT OF  
4           BONDS.—The Secretary may not allocate au-  
5           thority to issue qualified green building and  
6           sustainable design project bonds in an aggre-  
7           gate face amount exceeding \$2,000,000,000.

8           “(8) TERMINATION.—Subsection (a)(14) shall  
9           not apply with respect to any bond issued after Sep-  
10          tember 30, 2009.

11          “(9) TREATMENT OF CURRENT REFUNDING  
12          BONDS.—Paragraphs (7)(B) and (8) shall not apply  
13          to any bond (or series of bonds) issued to refund a  
14          bond issued under subsection (a)(14) before October  
15          1, 2009, if—

16                 “(A) the average maturity date of the issue  
17                 of which the refunding bond is a part is not  
18                 later than the average maturity date of the  
19                 bonds to be refunded by such issue,

20                 “(B) the amount of the refunding bond  
21                 does not exceed the outstanding amount of the  
22                 refunded bond, and

23                 “(C) the net proceeds of the refunding  
24                 bond are used to redeem the refunded bond not

1 later than 90 days after the date of the  
2 issuance of the refunding bond.

3 For purposes of subparagraph (A), average maturity shall  
4 be determined in accordance with section 147(b)(2)(A).”.

5 (c) EXEMPTION FROM GENERAL STATE VOLUME  
6 CAPS.—Paragraph (3) of section 146(g) (relating to ex-  
7 ception for certain bonds) is amended—

8 (1) by striking “or (13)” and inserting “(13),  
9 or (14)”, and

10 (2) by striking “and qualified public educational  
11 facilities” and inserting “qualified public educational  
12 facilities, and qualified green building and sustain-  
13 able design projects”.

14 (d) SPECIAL RULE FOR ASSETS FINANCED UNDER  
15 THIS SECTION AND ACCOUNTABILITY.—

16 (1) DENIAL OF DOUBLE BENEFIT.—Any asset  
17 financed with bonds issued pursuant to this section  
18 shall be ineligible for any credit or deduction estab-  
19 lished under the Energy Tax Policy Act of 2003.

20 (2) ACCOUNTABILITY.—Each issuer shall main-  
21 tain, on behalf of each project, an interest bearing  
22 reserve account equal to 1 percent of the net pro-  
23 ceeds of any bond issued under this section for such  
24 project. Not later than 5 years after the date of  
25 issuance, the Secretary of the Treasury, after con-

1       sultation with the Administrator of the Environ-  
2       mental Protection Agency, shall determine whether  
3       the project financed with such bonds has substan-  
4       tially complied with the terms and conditions de-  
5       scribed in section 142(1)(4) of the Internal Revenue  
6       Code of 1986 (as added by this section). If the Sec-  
7       retary, after such consultation, certifies that the  
8       project has substantially complied with such terms  
9       and conditions and meets the commitments set forth  
10      in the application for such project described in sec-  
11      tion 142(1)(4) of such Code, amounts in the reserve  
12      account, including all interest, shall be released to  
13      the project. If the Secretary determines that the  
14      project has not substantially complied with such  
15      terms and conditions, amounts in the reserve ac-  
16      count, including all interest, shall be paid to the  
17      United States Treasury.

18      (e) EFFECTIVE DATE.—The amendments made by  
19      this section shall apply to bonds issued after the date of  
20      the enactment of this Act.