

[CHAIRMEN'S PROPOSED CONFERENCE REPORT]

NOVEMBER 17, 2003

TITLE XIII—ENERGY TAX INCENTIVES

Sec. 1300. Short title; amendment of 1986 code.

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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”.

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

7 **Subtitle A—Conservation**

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

9 **SEC. 1301. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT** 10 **PROPERTY.**

11 (a) IN GENERAL.—Subpart A of part IV of sub-
12 chapter A of chapter 1 (relating to nonrefundable personal
13 credits) is amended by inserting after section 25B the fol-
14 lowing new section:

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

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

20 “(1) 15 percent of the qualified solar water
21 heating property expenditures made by the taxpayer
22 during such year,

23 “(2) 15 percent of the qualified photovoltaic
24 property expenditures made by the taxpayer during
25 such year,

1 “(3) 15 percent of the qualified wind energy
2 property expenditures made by the taxpayer during
3 such year, and

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

7 “(b) LIMITATIONS.—

8 “(1) MAXIMUM CREDIT.—

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

11 “(i) \$2,000 for property described in
12 paragraph (1), (2), or (3) of subsection
13 (c), and

14 “(ii) \$500 for each 0.5 kilowatt of ca-
15 pacity of property described in subsection
16 (c)(4).

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

19 In determining the amount of the credit allowed
20 to a taxpayer with respect to any dwelling unit
21 under this section, the dollar amount under
22 subparagraph (A)(i) with respect to each type
23 of property described in such subparagraph
24 shall be reduced by the credit allowed to the
25 taxpayer under this section with respect to such

1 property for all preceding taxable years with re-
2 spect to such dwelling unit.

3 “(2) PROPERTY STANDARDS.—No credit shall
4 be allowed under this section for an item of property
5 unless—

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

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

10 “(C) such property is installed on or in
11 connection with a dwelling unit located in the
12 United States and used as a residence by the
13 taxpayer,

14 “(D) in the case of solar water heating
15 property, such property is certified for perform-
16 ance by the non-profit Solar Rating and Certifi-
17 cation Corporation or a comparable entity en-
18 dorsed by the government of the State in which
19 such property is installed,

20 “(E) in the case of fuel cell property, such
21 property meets the performance and quality
22 standards (if any) which have been prescribed
23 by the Secretary by regulations (after consulta-
24 tion with the Secretary of Energy), and

1 “(F) in the case of any photovoltaic prop-
2 erty, fuel cell property, or wind energy property,
3 such property meets appropriate fire and elec-
4 tric code requirements.

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

6 “(1) QUALIFIED SOLAR WATER HEATING PROP-
7 ERTY EXPENDITURE.—The term ‘qualified solar
8 water heating property expenditure’ means an ex-
9 penditure for property which uses solar energy to
10 heat water for use in a dwelling unit.

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

17 “(3) QUALIFIED WIND ENERGY PROPERTY EX-
18 PENDITURE.—The term ‘qualified wind energy prop-
19 erty expenditure’ means an expenditure for property
20 which uses wind energy to generate electricity for
21 use in a dwelling unit.

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

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

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

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

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

20 “(A) The amount of the credit allowable
21 under subsection (a) by reason of expenditures
22 made during such calendar year by any of such
23 individuals with respect to such dwelling unit
24 shall be determined by treating all of such indi-

1 viduals as 1 taxpayer whose taxable year is
2 such calendar year.

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

13 “(C) Subparagraphs (A) and (B) shall be
14 applied separately with respect to expenditures
15 described in paragraphs (1), (2), (3), and (4) of
16 subsection (c).

17 “(4) TENANT-STOCKHOLDER IN COOPERATIVE
18 HOUSING CORPORATION.—In the case of an indi-
19 vidual who is a tenant-stockholder (as defined in sec-
20 tion 216) in a cooperative housing corporation (as
21 defined in such section), such individual shall be
22 treated as having made the individual’s tenant-stock-
23 holder’s proportionate share (as defined in section
24 216(b)(3)) of any expenditures of such corporation.

25 “(5) CONDOMINIUMS.—

1 “(A) IN GENERAL.—In the case of an indi-
2 vidual who is a member of a condominium man-
3 agement association with respect to a condo-
4 minium which the individual owns, such indi-
5 vidual shall be treated as having made the indi-
6 vidual’s proportionate share of any expenditures
7 of such association.

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

16 “(6) ALLOCATION IN CERTAIN CASES.—Except
17 in the case of qualified wind energy property expend-
18 itures, if less than 80 percent of the use of an item
19 is for nonbusiness purposes, only that portion of the
20 expenditures for such item which is properly allo-
21 cable to use for nonbusiness purposes shall be taken
22 into account.

23 “(7) WHEN EXPENDITURE MADE; AMOUNT OF
24 EXPENDITURE.—

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

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

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

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

21 “(9) DENIAL OF DEPRECIATION ON WIND EN-
22 ERGY PROPERTY FOR WHICH CREDIT ALLOWED.—
23 No deduction shall be allowed under section 167 for
24 property which uses wind energy to generate elec-

1 tricity if the taxpayer is allowed a credit under this
2 section with respect to such property.

3 “(e) BASIS ADJUSTMENTS.—For purposes of this
4 subtitle, if a credit is allowed 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 allowed.

9 “(f) TERMINATION.—The credit allowed under this
10 section shall not apply to taxable years beginning after
11 December 31, 2006 (December 31, 2008, with respect to
12 qualified photovoltaic property expenditures).”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 1016(a) is amended by striking
15 “and” at the end of paragraph (27), by striking the
16 period at the end of paragraph (28) and inserting “,
17 and”, and by adding at the end the following new
18 paragraph:

19 “(29) to the extent provided in section 25C(e),
20 in the case of amounts with respect to which a credit
21 has been allowed under section 25C.”.

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

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

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

4 **SEC. 1302. EXTENSION AND EXPANSION OF CREDIT FOR**
5 **ELECTRICITY PRODUCED FROM CERTAIN RE-**
6 **NEWABLE RESOURCES.**

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

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

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

15 “(A) wind,

16 “(B) closed-loop biomass,

17 “(C) open-loop biomass,

18 “(D) geothermal energy,

19 “(E) solar energy,

20 “(F) small irrigation power, and

21 “(G) municipal solid waste.

22 “(2) CLOSED-LOOP BIOMASS.—The term
23 ‘closed-loop biomass’ means any organic material
24 from a plant which is planted exclusively for pur-

1 poses of being used at a qualified facility to produce
2 electricity.

3 “(3) OPEN-LOOP BIOMASS.—

4 “(A) IN GENERAL.—The term ‘open-loop
5 biomass’ means—

6 “(i) any agricultural livestock waste
7 nutrients, or

8 “(ii) any solid, nonhazardous, cel-
9 lulosic waste material which is segregated
10 from other waste materials and which is
11 derived from—

12 “(I) any of the following forest-
13 related resources: mill and harvesting
14 residues, precommercial thinnings,
15 slash, and brush,

16 “(II) solid wood waste materials,
17 including waste pallets, crates,
18 dunnage, manufacturing and con-
19 struction wood wastes (other than
20 pressure-treated, chemically-treated,
21 or painted wood wastes), and land-
22 scape or right-of-way tree trimmings,
23 but not including municipal solid
24 waste, gas derived from the bio-

1 degradation of solid waste, or paper
2 that is commonly recycled, or

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

7 Such term shall not include closed-loop biomass.

8 “(B) AGRICULTURAL LIVESTOCK WASTE
9 NUTRIENTS.—

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

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

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

23 “(5) SMALL IRRIGATION POWER.—The term
24 ‘small irrigation power’ means power—

1 “(A) generated without any dam or im-
2 poundment of water through an irrigation sys-
3 tem canal or ditch, and

4 “(B) the nameplate capacity rating of
5 which is not less than 150 kilowatts but is less
6 than 5 megawatts.

7 “(6) MUNICIPAL SOLID WASTE.—The term
8 ‘municipal solid waste’ has the meaning given the
9 term ‘solid waste’ under section 2(27) of the Solid
10 Waste Disposal Act (42 U.S.C. 6903).”.

11 (b) EXTENSION AND EXPANSION OF QUALIFIED FA-
12 CILITIES.—

13 (1) IN GENERAL.—Section 45 is amended by
14 redesignating subsection (d) as subsection (e) and by
15 inserting after subsection (c) the following new sub-
16 section:

17 “(d) QUALIFIED FACILITIES.—For purposes of this
18 section—

19 “(1) WIND FACILITY.—In the case of a facility
20 using wind to produce electricity, the term ‘qualified
21 facility’ means any facility owned by the taxpayer
22 which is originally placed in service after December
23 31, 1993, and before January 1, 2007.

24 “(2) CLOSED-LOOP BIOMASS FACILITY.—

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

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

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

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

21 “(i) the 10-year period referred to in
22 subsection (a) shall be treated as beginning
23 no earlier than the date of the enactment
24 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 SECTION 45K.—Section
8 45(e), as so redesignated, is amended by adding at the
9 end the following new paragraph:

10 “(8) COORDINATION WITH SECTION 45K.—The
11 term ‘qualified facility’ shall not include any facility
12 the production from which is allowed as a credit
13 under section 45K for the taxable year or any prior
14 taxable year.”.

15 (e) COORDINATION WITH SECTION 48.—Section
16 48(a)(3) (defining energy property) is amended by adding
17 at the end the following new sentence: “Such term shall
18 not include any facility the production from which is al-
19 lowed as a credit under section 45 for the taxable year
20 or any prior taxable year.”.

21 (f) ELIMINATION OF CERTAIN CREDIT REDUC-
22 TIONS.—Section 45(b)(3) (relating to credit reduced for
23 grants, tax-exempt bonds, subsidized energy financing,
24 and other credits) is amended—

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

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

7 (g) EFFECTIVE DATES.—

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

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

22 (3) CREDIT RATE AND PERIOD FOR NEW FA-
23 CILITIES.—The amendments made by subsection (c)
24 shall apply to electricity produced and sold after De-

1 cember 31, 2003, in taxable years ending after such
2 date.

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

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

1 **SEC. 1303. CREDIT FOR BUSINESS INSTALLATION OF**
2 **QUALIFIED FUEL CELLS.**

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

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

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

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

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

17 “(2) LIMITATION.—The energy credit with re-
18 spect to any qualified fuel cell property placed in
19 service during the taxable year shall not exceed an
20 amount equal to—

21 “(A) \$500 for each 0.5 kilowatt of capacity
22 of such property, reduced by

23 “(B) the aggregate energy credits allowed
24 with respect to such property for all prior tax-
25 able years.

1 “(3) FUEL CELL POWER PLANT.—The term
2 ‘fuel cell power plant’ means an integrated system
3 comprised of a fuel cell stack assembly and associ-
4 ated balance of plant components which converts a
5 fuel into electricity using electrochemical means.

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

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

12 “(A) IN GENERAL.—The energy percent-
13 age is—

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

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

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

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to property placed in service after
23 December 31, 2003, under rules similar to the rules of
24 section 48(m) of the Internal Revenue Code of 1986 (as

1 in effect on the day before the date of the enactment of
2 the Revenue Reconciliation Act of 1990).

3 **SEC. 1304. CREDIT FOR ENERGY EFFICIENCY IMPROVE-**
4 **MENTS TO EXISTING HOMES.**

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

9 **“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**
10 **ING HOMES.**

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

17 “(b) LIMITATIONS.—

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

21 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER
22 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a
23 credit was allowed to the taxpayer under subsection
24 (a) with respect to a dwelling unit in 1 or more prior
25 taxable years, the amount of the credit otherwise al-

1 lowable for the taxable year with respect to that
2 dwelling unit shall not exceed the amount of \$2,000
3 reduced by the sum of the credits allowed under sub-
4 section (a) to the taxpayer with respect to the dwell-
5 ing unit for all prior taxable years.

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

16 “(1) such component is installed in or on a
17 dwelling unit—

18 “(A) located in the United States,

19 “(B) owned and used by the taxpayer as
20 the taxpayer’s principal residence (within the
21 meaning of section 121), and

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

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

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

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

10 “(d) CERTIFICATION.—The certification described in
11 subsection (c) shall be—

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

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

1 “(3) made in writing in a manner that specifies
2 in readily verifiable fashion the energy efficient
3 building envelope components installed and their re-
4 spective energy efficiency levels.

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

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

9 “(A) any insulation material or system
10 which is specifically and primarily designed to
11 reduce the heat loss or gain of a dwelling unit
12 when installed in or on such dwelling unit,

13 “(B) exterior windows (including skylights)
14 and doors, and

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

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

1 “(3) APPLICATION OF RULES.—Rules similar to
2 the rules under paragraphs (4), (5), and (6) of sec-
3 tion 25C(d) shall apply.

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

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

13 (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

4 **SEC. 1305. CREDIT FOR CONSTRUCTION OF NEW ENERGY**
5 **EFFICIENT HOME.**

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

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

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

18 “(b) LIMITATIONS.—

19 “(1) MAXIMUM CREDIT.—

20 “(A) IN GENERAL.—The credit allowed by
21 this section with respect to a dwelling unit shall
22 not exceed—

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

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

3 “(B) PRIOR CREDIT AMOUNTS ON SAME
4 DWELLING UNIT TAKEN INTO ACCOUNT.—If a
5 credit was allowed under subsection (a) with re-
6 spect to a dwelling unit in 1 or more prior tax-
7 able years, the amount of the credit otherwise
8 allowable for the taxable year with respect to
9 such dwelling unit shall not exceed the dollar
10 amount under clause (i) or (ii) of subparagraph
11 (A) reduced by the sum of the credits allowed
12 under subsection (a) with respect to the dwell-
13 ing unit for all prior taxable years.

14 “(2) COORDINATION WITH CERTAIN CREDITS.—
15 For purposes of this section—

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

23 “(B) expenditures taken into account
24 under section 25D, 47, or 48(a) shall not be
25 taken into account under this section.

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

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

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

6 “(B) in the case of a qualified new energy
7 efficient home which is a manufactured home,
8 the manufactured home producer of such home.

9 If more than 1 person is described in subparagraph
10 (A) or (B) with respect to any qualified new energy
11 efficient home, such term means the person des-
12 ignated as such by the owner of such home.

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

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

23 “(A) located in the United States,

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

1 “(C) the original use of which after such
2 construction is reasonably expected to be used
3 as a residence by the person who acquires such
4 dwelling unit from the eligible contractor,

5 “(D) which is—

6 “(i) certified to have a level of annual
7 heating and cooling energy consumption
8 which is at least 30 percent below the an-
9 nual level of heating and cooling energy
10 consumption of a comparable dwelling unit
11 constructed in accordance with the stand-
12 ards of chapter 4 of the 2000 International
13 Energy Conservation Code, as such Code
14 (including supplements) is in effect on the
15 date of the enactment of this section, and
16 to have building envelope component im-
17 provements account for at least $\frac{1}{3}$ of such
18 30 percent,

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

25 “(iii) a manufactured home which—

1 “(I) conforms to Federal Manu-
2 factured Home Construction and
3 Safety Standards (section 3280 of
4 title 24, Code of Federal Regulations),
5 and

6 “(II) meets the applicable stand-
7 ards required by the Administrator of
8 the Environmental Protection Agency
9 under the Energy Star Labeled
10 Homes program.

11 “(4) CONSTRUCTION.—The term ‘construction’
12 includes substantial reconstruction and rehabilita-
13 tion.

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

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

20 “(A) any insulation material or system
21 which is specifically and primarily designed to
22 reduce the heat loss or gain of a dwelling unit
23 when installed in or on such dwelling unit,

24 “(B) exterior windows (including sky-
25 lights),

1 “(C) exterior doors, and

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

5 “(i) are specifically and primarily de-
6 signed to reduce the heat gain of such
7 dwelling unit, and

8 “(ii) meets the Energy Star program
9 requirements.

10 “(d) CERTIFICATION.—

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

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

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

1 “(B) in the case of a qualified new energy
2 efficient home which is a manufactured home,
3 accompanied by such documentation as required
4 by the Administrator of the Environmental Pro-
5 tection Agency under the Energy Star Labeled
6 Homes program.

7 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
8 title, if a credit is determined under this section for any
9 expenditure with respect to any property, the increase in
10 the 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 “(f) APPLICATION OF SECTION.—Subsection (a) shall
14 apply to qualified new energy efficient homes acquired
15 during the period beginning on January 1, 2004, and end-
16 ing on December 31, 2006.”.

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

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

1 (c) BASIS ADJUSTMENT.—Subsection (a) of section
2 1016, as amended by this Act, is amended by striking
3 “and” at the end of paragraph (29), by striking the period
4 at the end of paragraph (30) and inserting “, and”, and
5 by adding at the end the following new paragraph:

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

9 (d) LIMITATION ON CARRYBACK.—

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

12 “(d) TRANSITIONAL RULE.—No portion of the un-
13 used business credit for any taxable year which is attrib-
14 utable to a credit specified in section 38(b) may be carried
15 back to any taxable year before the first taxable year for
16 which such specified credit is allowable.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by paragraph (1) shall apply with respect to taxable
19 years beginning after December 31, 2003.

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

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

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

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

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

9 **SEC. 1306. ENERGY CREDIT FOR COMBINED HEAT AND**
10 **POWER SYSTEM PROPERTY.**

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

16 “(iv) combined heat and power system
17 property,”.

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

22 “(d) COMBINED HEAT AND POWER SYSTEM PROP-
23 ERTY.—For purposes of subsection (a)(3)(A)(iv)—

24 “(1) COMBINED HEAT AND POWER SYSTEM
25 PROPERTY.—The term ‘combined heat and power

1 system property' means property comprising a
2 system—

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

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

14 “(C) which produces—

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

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

23 “(D) the energy efficiency percentage of
24 which exceeds 60 percent, and

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

3 “(2) SPECIAL RULES.—

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

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

13 “(ii) the denominator of which is the
14 lower heating value of the fuel sources for
15 the system.

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

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

1 “(D) PUBLIC UTILITY PROPERTY.—

2 “(i) ACCOUNTING RULE FOR PUBLIC
3 UTILITY PROPERTY.—If the combined heat
4 and power system property is public utility
5 property (as defined in section 168(i)(10)),
6 the taxpayer may only claim the credit
7 under subsection (a) if, with respect to
8 such property, the taxpayer uses a normal-
9 ization method of accounting.

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

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

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

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this subsection shall apply to periods after December 31,
3 2003, in taxable years ending after such date, under rules
4 similar to the rules of section 48(m) of the Internal Rev-
5 enue Code of 1986 (as in effect on the day before the date
6 of the enactment of the Revenue Reconciliation Act of
7 1990).

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

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

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

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

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

19 “(2) the tier II appliance amount,

20 with respect to qualified energy efficient appliances pro-
21 duced by the taxpayer during the calendar year ending
22 with or within the taxable year.

23 “(b) APPLIANCE AMOUNTS.—For purposes of sub-
24 section (a)—

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

3 “(A) \$100, multiplied by

4 “(B) an amount (rounded to the nearest
5 whole number) equal to the applicable percent-
6 age of the eligible production.

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

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

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

19 “(A) the number of such appliances which
20 are produced by the taxpayer during such cal-
21 endar year, over

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

1 “(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—

2 For purposes of this section—

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

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

8 “(A) a clothes washer which is produced
9 with at least a 1.50 MEF, or

10 “(B) a refrigerator which consumes at
11 least 15 percent (20 percent in the case of a re-
12 frigerator produced after 2006) less kilowatt
13 hours per year than the energy conservation
14 standards for refrigerators promulgated by the
15 Department of Energy and effective on July 1,
16 2001.

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

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

1 “(5) REFRIGERATOR.—The term ‘refrigerator’
2 means an automatic defrost refrigerator-freezer
3 which has an internal volume of at least 16.5 cubic
4 feet.

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

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

10 “(d) LIMITATION ON MAXIMUM CREDIT.—

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

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

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

4 “(e) SPECIAL RULES.—

5 “(1) IN GENERAL.—Rules similar to the rules
6 of subsections (c), (d), and (e) of section 52 shall
7 apply for purposes of this section.

8 “(2) AGGREGATION RULES.—All persons treat-
9 ed as a single employer under subsection (a) or (b)
10 of section 52 or subsection (m) or (o) of section 414
11 shall be treated as 1 person for purposes of sub-
12 section (a).

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

17 “(g) TERMINATION.—This section shall not apply
18 with respect to appliances produced after December 31,
19 2007.”.

20 (b) CREDIT MADE PART OF GENERAL BUSINESS
21 CREDIT.—Section 38(b) (relating to current year business
22 credit), as amended by this Act, is amended by striking
23 “plus” at the end of paragraph (15), by striking the period
24 at the end of paragraph (16) and inserting “, plus”, and
25 by adding at the end the following new paragraph:

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

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

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

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

10 **SEC. 1308. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
11 **DEDUCTION.**

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

16 **“SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
17 **DEDUCTION.**

18 “(a) IN GENERAL.—There shall be allowed as a de-
19 duction an amount equal to cost of energy efficient com-
20 mercial building property placed in service during the tax-
21 able year.

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

1 “(1) \$1.50, and

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

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

4 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-
5 ING PROPERTY.—The term ‘energy efficient commer-
6 cial building property’ means section 1245
7 property—

8 “(A) which is installed on or in a
9 building—

10 “(i) which is located in the United
11 States, and

12 “(ii) which is the type of structure to
13 which the Standard 90.1–2001 is applica-
14 ble,

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

16 “(i) the lighting systems,

17 “(ii) the heating, cooling, ventilation,
18 and hot water systems, or

19 “(iii) the building envelope, and

20 “(C) which is certified in accordance with
21 subsection (d)(4) as being installed as part of
22 a plan designed to reduce the total annual en-
23 ergy and power costs with respect to the light-
24 ing, heating, cooling, ventilation, and hot water
25 supply systems of the building by 50 percent or

1 more in comparison to a reference building
2 which meets the minimum requirements of
3 Standard 90.1–2001 using methods of calcula-
4 tion under subsection (d)(2).

5 “(2) STANDARD 90.1–2001.—The term ‘Stand-
6 ard 90.1–2001’ means Standard 90.1–2001 of the
7 American Society of Heating, Refrigerating, and Air
8 Conditioning Engineers and the Illuminating Engi-
9 neering Society of North America (as in effect on
10 April 2, 2003).

11 “(d) SPECIAL RULES.—

12 “(1) PARTIAL ALLOWANCE.—

13 “(A) IN GENERAL.—Except as provided in
14 subsection (f), in the case of a building placed
15 in service on or before the date of the enact-
16 ment of this section, if—

17 “(i) the requirement of subsection
18 (c)(1)(C) is not met, but

19 “(ii) there is a certification in accord-
20 ance with subsection (d)(4) that any sys-
21 tem referred to in subsection (c)(1)(B) sat-
22 isfies the energy-savings targets estab-
23 lished by the Secretary under subpara-
24 graph (B) with respect to such system,

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

10 “(B) REGULATIONS.—The Secretary, after
11 consultation with the Secretary of Energy, shall
12 establish a target for each system described in
13 subsection (c)(1)(B) which, if such targets were
14 not met for all such systems, would be equiva-
15 lent to a target which meets the requirements
16 of subsection (c)(1)(C).

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

22 “(3) NOTICE TO OWNER.—Each certification
23 required under this section shall include an expla-
24 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 CREDIT 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 of 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 credit otherwise allowable under this
5 section with respect to such property shall be
6 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 credit al-
16 lowed under this section if the plan described in sub-
17 section (c)(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) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to property placed in service after
15 the date of the enactment of this Act, in taxable years
16 ending after such date.

17 **SEC. 1310. CREDIT FOR PRODUCTION FROM ADVANCED NU-**
18 **CLEAR POWER FACILITIES.**

19 (a) IN GENERAL.—Subpart D of part IV of sub-
20 chapter A of chapter 1 (relating to business related cred-
21 its), as amended by this Act, is amended by adding after
22 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) 1000.

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 originally placed in service
15 after the date of the enactment of this para-
16 graph and before 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 “(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 ating 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 for any reason
23 the tax imposed with respect to any patron of
24 a cooperative organization would, but for this
25 subparagraph, be increased by any amount by

1 reason of a credit apportioned to such patron
2 under this paragraph—

3 “(i) the amount of such increase in
4 tax shall not be imposed on such patron,
5 and

6 “(ii) the tax imposed by this chapter
7 on such organization shall be increased by
8 such amount.

9 The increase under clause (ii) shall not be
10 treated as tax imposed by this chapter for pur-
11 poses of determining the amount of any credit
12 under this chapter or for purposes of section
13 55.”.

14 (b) DEFINITION OF SMALL ETHANOL PRODUCER.—
15 Section 40(g) (relating to definitions and special rules for
16 eligible small ethanol producer credit) is amended by strik-
17 ing “30,000,000” each place it appears and inserting
18 “60,000,000”.

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

23 “(k) CROSS REFERENCE.—For provisions relating to
24 the apportionment of the alcohol fuels credit between coop-

1 erative organizations and their patrons, see section
2 40(g)(6).”.

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

6 **SEC. 1314. INCENTIVES FOR BIODIESEL.**

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

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

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

15 “(1) the biodiesel mixture credit, plus

16 “(2) the biodiesel credit.

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

19 “(1) BIODIESEL MIXTURE CREDIT.—

20 “(A) IN GENERAL.—The biodiesel mixture
21 credit of any taxpayer for any taxable year is
22 50 cents for each gallon of biodiesel used by the
23 taxpayer in the production of a qualified bio-
24 diesel mixture.

1 “(B) QUALIFIED BIODIESEL MIXTURE.—

2 The term ‘qualified biodiesel mixture’ means a
3 mixture of biodiesel and a taxable fuel (within
4 the meaning of section 4083(a)(1)) which—

5 “(i) is sold by the taxpayer producing
6 such mixture to any person for use as a
7 fuel, or

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

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

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

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

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

23 “(2) BIODIESEL CREDIT.—

24 “(A) IN GENERAL.—The biodiesel credit of
25 any taxpayer for any taxable year is 50 cents

1 for each gallon of biodiesel which is not in a
2 mixture and which during the taxable year—

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

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

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

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

17 “(4) CERTIFICATION FOR BIODIESEL.—No
18 credit shall be allowed under this section unless the
19 taxpayer obtains a certification (in such form and
20 manner as prescribed by the Secretary) from the
21 producer of the biodiesel which identifies the product
22 produced and the percentage of biodiesel and agri-
23 biodiesel in the product.

24 “(c) COORDINATION WITH CREDIT AGAINST EXCISE
25 TAX.—The amount of the credit determined under this

1 section with respect to any biodiesel shall be properly re-
2 duced to take into account any benefit provided with re-
3 spect to such biodiesel solely by reason of the application
4 of section 6426.

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

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

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

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

16 “(2) AGRI-BIODIESEL.—The term ‘agri-bio-
17 diesel’ means biodiesel derived solely from virgin oils,
18 including esters derived from virgin vegetable oils
19 from corn, soybeans, sunflower seeds, cottonseeds,
20 canola, crambe, rapeseeds, safflowers, flaxseeds, rice
21 bran, and mustard seeds, and from animal fats.

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

24 “(A) MIXTURES.—If—

1 “(i) any credit was determined under
2 this section with respect to biodiesel used
3 in the production of any qualified biodiesel
4 mixture, and

5 “(ii) any person—

6 “(I) separates the biodiesel from
7 the mixture, or

8 “(II) without separation, uses the
9 mixture other than as a fuel,

10 then there is hereby imposed on such person a
11 tax equal to the product of the rate applicable
12 under subsection (b)(1)(A) and the number of
13 gallons of such biodiesel in such mixture.

14 “(B) BIODIESEL.—If—

15 “(i) any credit was determined under
16 this section with respect to the retail sale
17 of any biodiesel, and

18 “(ii) any person mixes such biodiesel
19 or uses such biodiesel other than as a fuel,

20 then there is hereby imposed on such person a
21 tax equal to the product of the rate applicable
22 under subsection (b)(2)(A) and the number of
23 gallons of such biodiesel.

24 “(C) APPLICABLE LAWS.—All provisions of
25 law, including penalties, shall, insofar as appli-

1 cable and not inconsistent with this section,
2 apply in respect of any tax imposed under sub-
3 paragraph (A) or (B) as if such tax were im-
4 posed by section 4081 and not by this chapter.

5 “(4) PASS-THRU IN THE CASE OF ESTATES AND
6 TRUSTS.—Under regulations prescribed by the Sec-
7 retary, rules similar to the rules of subsection (d) of
8 section 52 shall apply.

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

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

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

19 (c) CONFORMING AMENDMENTS.—

20 (1)(A) Section 87 is amended to read as fol-
21 lows:

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

23 “Gross income includes—

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

4 “(2) the biodiesel fuels credit determined with
5 respect to the taxpayer for the taxable year under
6 section 40A(a).”.

7 (B) The item relating to section 87 in the table
8 of sections for part II of subchapter B of chapter 1
9 is amended by striking “fuel credit” and inserting
10 “and biodiesel fuels credits”.

11 (2) Section 196(c), as amended by this Act, is
12 amended by striking “and” at the end of paragraph
13 (11), by striking the period at the end of paragraph
14 (12) and inserting “, and”, and by adding at the
15 end the following new paragraph:

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

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

 “Sec. 40A. Biodiesel used as fuel.”.

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

1 **SEC. 1315. ALCOHOL FUEL AND BIODIESEL MIXTURES EX-**
2 **CISE TAX CREDIT.**

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

6 **“SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL**
7 **MIXTURES.**

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

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

12 “(2) the biodiesel mixture credit.

13 “(b) ALCOHOL FUEL MIXTURE CREDIT.—

14 “(1) IN GENERAL.—For purposes of this sec-
15 tion, the alcohol fuel mixture credit is the product
16 of the applicable amount and the number of gallons
17 of alcohol used by the taxpayer in producing any al-
18 cohool fuel mixture for sale or use in a trade or busi-
19 ness of the taxpayer.

20 “(2) APPLICABLE AMOUNT.—For purposes of
21 this subsection—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), the applicable amount is 52
24 cents (51 cents in the case of any sale or use
25 after 2004).

1 “(B) MIXTURES NOT CONTAINING ETH-
2 ANOL.—In the case of an alcohol fuel mixture
3 in which none of the alcohol consists of ethanol,
4 the applicable amount is 60 cents.

5 “(3) ALCOHOL FUEL MIXTURE.—For purposes
6 of this subsection, the term ‘alcohol fuel mixture’
7 means a mixture of alcohol and a taxable fuel
8 which—

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

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

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

15 “(4) OTHER DEFINITIONS.—For purposes of
16 this subsection—

17 “(A) ALCOHOL.—The term ‘alcohol’ in-
18 cludes methanol and ethanol but does not
19 include—

20 “(i) alcohol produced from petroleum,
21 natural gas, or coal (including peat), or

22 “(ii) alcohol with a proof of less than
23 190 (determined without regard to any
24 added denaturants).

1 Such term also includes an alcohol gallon equiv-
2 alent of ethyl tertiary butyl ether or other
3 ethers produced from such alcohol.

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

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

10 “(c) BIODIESEL MIXTURE CREDIT.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the biodiesel mixture credit is the product of
13 the applicable amount and the number of gallons of
14 biodiesel used by the taxpayer in producing any bio-
15 diesel mixture for sale or use in a trade or business
16 of the taxpayer.

17 “(2) APPLICABLE AMOUNT.—For purposes of
18 this subsection—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), the applicable amount is 50
21 cents.

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

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

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

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

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

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 “(5) OTHER DEFINITIONS.—Any term used in
18 this subsection which is also used in section 40A
19 shall have the meaning given such term by section
20 40A.

21 “(6) TERMINATION.—This subsection shall not
22 apply to any sale, use, or removal for any period
23 after December 31, 2005.

24 “(d) MIXTURE NOT USED AS A FUEL, ETC.—

25 “(1) IMPOSITION OF TAX.—If—

1 “(A) any credit was determined under this
2 section with respect to alcohol or biodiesel used
3 in the production of any alcohol fuel mixture or
4 biodiesel mixture, respectively, and

5 “(B) any person—

6 “(i) separates the alcohol or biodiesel
7 from the mixture, or

8 “(ii) without separation, uses the mix-
9 ture other than as a fuel,

10 then there is hereby imposed on such person a
11 tax equal to the product of the applicable
12 amount and the number of gallons of such alco-
13 hol or biodiesel.

14 “(2) APPLICABLE LAWS.—All provisions of law,
15 including penalties, shall, insofar as applicable and
16 not inconsistent with this section, apply in respect of
17 any tax imposed under paragraph (1) as if such tax
18 were imposed by section 4081 and not by this sec-
19 tion.”.

20 (b) REGISTRATION REQUIREMENT.—Section 4101(a)
21 (relating to registration) is amended by inserting “and
22 every person producing biodiesel (as defined in section
23 40A(d)(1)) or alcohol (as defined in section
24 6426(b)(4)(A))” after “4091”.

25 (c) ADDITIONAL AMENDMENTS.—

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

4 (2) Section 40(e)(1) is amended—

5 (A) by striking “2007” in subparagraph

6 (A) and inserting “2010”, and

7 (B) by striking “2008” in subparagraph

8 (B) and inserting “2011”.

9 (3) Section 40(h) is amended—

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

11 and inserting “2010”, and

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

13 table contained in paragraph (2) and inserting

14 “through 2010”.

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

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

17 following new section:

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

19 **CLAIMING CERTAIN TAX BENEFITS.**

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

21 person claiming tax benefits under the provisions of sec-

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

23 6427(f) to file a quarterly return (in such manner as the

24 Secretary may prescribe) providing such information relat-

25 ing to such benefits and the coordination of such benefits

1 as the Secretary may require to ensure the proper admin-
2 istration and use of such benefits.

3 “(b) ENFORCEMENT.—With respect to any person
4 described in subsection (a) and subject to registration re-
5 quirements under this title, rules similar to rules of section
6 4222(c) shall apply with respect to any requirement under
7 this section.”.

8 (B) The table of sections for subpart C of
9 part III of subchapter A of chapter 32 is
10 amended by adding at the end the following
11 new item:

“Sec. 4104. Information reporting for persons claiming certain tax bene-
fits.”.

12 (5) Section 6427(i)(3) is amended—

13 (A) by adding at the end of subparagraph
14 (A) the following new flush sentence:

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

18 (B) by striking “20 days of the date of the
19 filing of such claim” in subparagraph (B) and
20 inserting “45 days of the date of the filing of
21 such claim (20 days in the case of an electronic
22 claim)”.

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

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

4 (d) CLERICAL AMENDMENT.—The table of sections
5 for subchapter B of chapter 65 is amended by inserting
6 after the item relating to section 6425 the following new
7 item:

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

8 (e) EFFECTIVE DATES.—

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

13 (2) SUBSECTION (c)(4).—The amendments
14 made by subsection (c)(4) shall take effect on Janu-
15 ary 1, 2004.

16 (3) SUBSECTION (c)(5).—The amendments
17 made by subsection (c)(5) shall apply to claims filed
18 after December 31, 2004.

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

1 **SEC. 1316. NONAPPLICATION OF EXPORT EXEMPTION TO**
2 **DELIVERY OF FUEL TO MOTOR VEHICLES RE-**
3 **MOVED FROM UNITED STATES.**

4 (a) IN GENERAL.—Section 4221(d)(2) (defining ex-
5 port) is amended by adding at the end the following new
6 sentence: “Such term does not include the delivery of a
7 taxable fuel (as defined in section 4083(a)(1)) into a fuel
8 tank of a motor vehicle which is shipped or driven out
9 of the United States.”.

10 (b) CONFORMING AMENDMENTS.—

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

17 (2) Clause (iv) of section 4081(a)(1)(A) (relat-
18 ing to tax on removal, entry, or sale) is amended by
19 inserting “or at a duty-free sales enterprise (as de-
20 fined in section 555(b)(8) of the Tariff Act of
21 1930)” after “section 4101”.

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

1 **SEC. 1317. REPEAL OF PHASEOUTS FOR QUALIFIED ELEC-**
2 **TRIC VEHICLE CREDIT AND DEDUCTION FOR**
3 **CLEAN FUEL-VEHICLES.**

4 (a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—
5 Subsection (b) of section 30 (relating to limitations) is
6 amended by striking paragraph (2) and redesignating
7 paragraph (3) as paragraph (2).

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

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

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

18 “(B) in the case of any truck or van with
19 a gross vehicle weight rating greater than
20 10,000 pounds but not greater than 26,000
21 pounds, \$5,000, or

22 “(C) \$50,000 in the case of—

23 “(i) a truck or van with a gross vehi-
24 cle weight rating greater than 26,000
25 pounds, or

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

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.

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

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

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

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

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

17 “(2) the advanced lean burn technology motor
18 vehicle credit determined under subsection (c),

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

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

23 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
24 CREDIT.—

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

“In the case of a vehicle which has a gross vehicle weight rating of—	The new qualified fuel cell motor vehicle credit is—
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.

7 “(2) INCREASE FOR FUEL EFFICIENCY.—

8 “(A) IN GENERAL.—The amount deter-
 9 mined under paragraph (1)(A) with respect to
 10 a new qualified fuel cell motor vehicle which is
 11 a passenger automobile or light truck shall be
 12 increased by the additional credit amount.

13 “(B) ADDITIONAL CREDIT AMOUNT.—The
 14 additional credit amount shall be determined in
 15 accordance with the following table:

“In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The additional credit amount is—
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.

1 “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-
2 CLE.—For purposes of this subsection, the term
3 ‘new qualified fuel cell motor vehicle’ means a motor
4 vehicle—

5 “(A) which is propelled by power derived
6 from one or more cells which convert chemical
7 energy directly into electricity by combining ox-
8 ygen with hydrogen fuel which is stored on
9 board the vehicle in any form and may or may
10 not require reformation prior to use,

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

13 “(i) a certificate of conformity under
14 the Clean Air Act and meets or exceeds the
15 equivalent qualifying California low emis-
16 sion vehicle standard under section
17 243(e)(2) of the Clean Air Act for that
18 make and model year, and

19 “(ii) a certificate that such vehicle
20 meets or exceeds the Bin 5 Tier II emis-
21 sion standard established in regulations
22 prescribed by the Administrator of the En-
23 vironmental Protection Agency under sec-
24 tion 202(i) of the Clean Air Act for that
25 make and model year vehicle,

1 “(C) the original use of which commences
2 with the taxpayer,

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

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

6 “(c) ADVANCED LEAN BURN TECHNOLOGY MOTOR
7 VEHICLE CREDIT.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a), the advanced lean burn technology motor vehicle
10 credit determined under this subsection with respect
11 to a new advanced lean burn technology motor vehi-
12 cle placed in service by the taxpayer during the tax-
13 able year is the credit amount determined under
14 paragraph (2).

15 “(2) CREDIT AMOUNT.—

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

“In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The credit amount is—
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.

19 “(B) CONSERVATION CREDIT.—The
20 amount determined under subparagraph (A)

1 with respect to a new advanced lean burn tech-
 2 nology motor vehicle shall be increased by the
 3 conservation credit amount determined in ac-
 4 cordance with the following table:

“In the case of a vehicle which achieves a lifetime fuel savings (expressed in gallons of gasoline) of—	The conservation credit amount is—
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.

5 “(3) DEFINITIONS.—For purposes of this
 6 subsection—

7 “(A) ADVANCED LEAN BURN TECHNOLOGY
 8 MOTOR VEHICLE.—The term ‘advanced lean
 9 burn technology motor vehicle’ means a pas-
 10 senger automobile or a light truck with an in-
 11 ternal combustion engine that—

12 “(i) is designed to operate primarily
 13 using more air than is necessary for com-
 14 plete combustion of the fuel,

15 “(ii) incorporates direct injection,

16 “(iii) achieves at least 125 percent of
 17 the 2002 model year city fuel economy,
 18 and

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

1 “(I) in the case of a vehicle hav-
2 ing a gross vehicle weight rating of
3 6,000 pounds or less, the Bin 5 Tier
4 II emission standard established in
5 regulations prescribed by the Adminis-
6 trator of the Environmental Protec-
7 tion Agency under section 202(i) of
8 the Clean Air Act for that make and
9 model year vehicle, and

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

16 “(B) LIFETIME FUEL SAVINGS.—The term
17 ‘lifetime fuel savings’ means, in the case of any
18 new lean burn technology motor vehicle, an
19 amount equal to the excess (if any) of—

20 “(i) 120,000 divided by the 2002
21 model year city fuel economy for the vehi-
22 cle inertia weight class, over

23 “(ii) 120,000 divided by the city fuel
24 economy 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 subparagraph is the sum of
17 the amounts determined under clauses (i) and
18 (ii).

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

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

1 amount which would be determined under
2 subsection (c)(2)(B) if such vehicle were a
3 vehicle referred to in such subsection.

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

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

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

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

22 “(II) 30 percent if the vehicle
23 achieves a fuel economy of at least a
24 40 percent but less than 50 percent

1 increase in city fuel economy relative
2 to a comparable vehicle, and

3 “(III) 40 percent if the vehicle
4 achieves a fuel economy of at least a
5 50 percent increase in city fuel econ-
6 omy relative to a comparable vehicle.

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

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

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

22 “(III) \$30,000, if such vehicle
23 has a gross vehicle weight rating of
24 more than 26,000 pounds.

1 “(iv) COMPARABLE VEHICLE.—For
2 purposes of this subparagraph, the term
3 ‘comparable vehicle’ means, with respect to
4 any new qualified hybrid motor vehicle,
5 any vehicle which is powered solely by a
6 gasoline or diesel internal combustion en-
7 gine and which is comparable in weight,
8 size, and use to such vehicle.

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

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

19 “(A) IN GENERAL.—The term ‘new quali-
20 fied hybrid motor vehicle’ means a motor
21 vehicle—

22 “(i) which draws propulsion energy
23 from onboard sources of stored energy
24 which are both—

1 “(I) an internal combustion or
2 heat engine using consumable fuel,
3 and

4 “(II) a rechargeable energy stor-
5 age system,

6 “(ii) which, in the case of a vehicle to
7 which paragraph (2)(A) applies, has
8 received—

9 “(I) a certificate of conformity
10 under the Clean Air Act and meets or
11 exceeds the equivalent qualifying Cali-
12 fornia low emission vehicle standard
13 under section 243(e)(2) of the Clean
14 Air Act for that make and model year,
15 and

16 “(II) a certificate that such vehi-
17 cle meets or exceeds the Bin 5 Tier II
18 emission standard established in regu-
19 lations prescribed by the Adminis-
20 trator of the Environmental Protec-
21 tion Agency under section 202(i) of
22 the Clean Air Act for that make and
23 model year vehicle,

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 that has a gross vehicle weight
6 rating or more than 8,500 pounds and
7 not than 14,000 pounds, and

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

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

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

23 “(vi) which is acquired for use or
24 lease by the taxpayer and not for resale,
25 and

1 able power’ means the maximum power
2 available from the rechargeable energy
3 storage system, during a standard 10 sec-
4 ond pulse power or equivalent test, divided
5 by the vehicle’s total traction power. For
6 purposes of the preceding sentence, the
7 term ‘total traction power’ means the sum
8 of the peak power from the rechargeable
9 energy storage system and the heat engine
10 peak power of the vehicle, except that if
11 such storage system is the sole means by
12 which the vehicle can be driven, the total
13 traction power is the peak power of such
14 storage system.

15 “(e) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
16 VEHICLE CREDIT.—

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

24 “(2) APPLICABLE PERCENTAGE.—For purposes
25 of paragraph (1), the applicable percentage with re-

1 spect to any new qualified alternative fuel motor ve-
2 hicle is—

3 “(A) 40 percent, plus

4 “(B) 30 percent, if such vehicle—

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

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

23 For purposes of the preceding sentence, in the case
24 of any new qualified alternative fuel motor vehicle
25 which has a gross vehicle weight rating of more than

1 14,000 pounds, the most stringent standard avail-
2 able shall be such standard available for certification
3 on the date of the enactment of the Energy Tax Pol-
4 icy Act of 2003.

5 “(3) INCREMENTAL COST.—For purposes of
6 this subsection, the incremental cost of any new
7 qualified alternative fuel motor vehicle is equal to
8 the amount of the excess of the manufacturer’s sug-
9 gested retail price for such vehicle over such price
10 for a gasoline or diesel fuel motor vehicle of the
11 same model, to the extent such amount does not
12 exceed—

13 “(A) \$5,000, if such vehicle has a gross ve-
14 hicle weight rating of not more than 8,500
15 pounds,

16 “(B) \$10,000, if such vehicle has a gross
17 vehicle weight rating of more than 8,500
18 pounds but not more than 14,000 pounds,

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

22 “(D) \$40,000, if such vehicle has a gross
23 vehicle weight rating of more than 26,000
24 pounds.

1 “(4) NEW QUALIFIED ALTERNATIVE FUEL
2 MOTOR VEHICLE.—For purposes of this
3 subsection—

4 “(A) IN GENERAL.—The term ‘new quali-
5 fied alternative fuel motor vehicle’ means any
6 motor vehicle—

7 “(i) which is only capable of operating
8 on an alternative fuel,

9 “(ii) the original use of which com-
10 mences with the taxpayer,

11 “(iii) which is acquired by the tax-
12 payer for use or lease, but not for resale,
13 and

14 “(iv) which is made by a manufac-
15 turer.

16 “(B) ALTERNATIVE FUEL.—The term ‘al-
17 ternative fuel’ means compressed natural gas,
18 liquefied natural gas, liquefied petroleum gas,
19 hydrogen, and any liquid at least 85 percent of
20 the volume of which consists of methanol.

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

22 “(A) IN GENERAL.—In the case of a
23 mixed-fuel vehicle placed in service by the tax-
24 payer during the taxable year, the credit deter-

1 mined under this subsection is an amount equal
2 to—

3 “(i) in the case of a 75/25 mixed-fuel
4 vehicle, 70 percent of the credit which
5 would have been allowed under this sub-
6 section if such vehicle was a qualified alter-
7 native fuel motor vehicle, and

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

13 “(B) MIXED-FUEL VEHICLE.—For pur-
14 poses of this subsection, the term ‘mixed-fuel
15 vehicle’ means any motor vehicle described in
16 subparagraph (C) or (D) of paragraph (3),
17 which—

18 “(i) is certified by the manufacturer
19 as being able to perform efficiently in nor-
20 mal operation on a combination of an al-
21 ternative fuel and a petroleum-based fuel,

22 “(ii) either—

23 “(I) has received a certificate of
24 conformity under the Clean Air Act,
25 or

1 “(II) has received an order certi-
2 fying the vehicle as meeting the same
3 requirements as vehicles which may be
4 sold or leased in California and meets
5 or exceeds the low emission vehicle
6 standard under section 88.105–94 of
7 title 40, Code of Federal Regulations,
8 for that make and model year vehicle,
9 “(iii) the original use of which com-
10 mences with the taxpayer,
11 “(iv) which is acquired by the tax-
12 payer for use or lease, but not for resale,
13 and
14 “(v) which is made by a manufac-
15 turer.
16 “(C) 75/25 MIXED-FUEL VEHICLE.—For
17 purposes of this subsection, the term ‘75/25
18 mixed-fuel vehicle’ means a mixed-fuel vehicle
19 which operates using at least 75 percent alter-
20 native fuel and not more than 25 percent petro-
21 leum-based fuel.
22 “(D) 90/10 MIXED-FUEL VEHICLE.—For
23 purposes of this subsection, the term ‘90/10
24 mixed-fuel vehicle’ means a mixed-fuel vehicle
25 which operates using at least 90 percent alter-

1 native fuel and not more than 10 percent petro-
2 leum-based fuel.

3 “(f) LIMITATION ON NUMBER OF QUALIFIED HY-
4 BRID AND ADVANCE LEAN-BURN TECHNOLOGY VEHI-
5 CLES ELIGIBLE FOR CREDIT.—

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

10 “(2) PHASEOUT PERIOD.—For purposes of this
11 subsection, the phaseout period is the period begin-
12 ning with the second calendar quarter following the
13 calendar quarter which includes the date on which
14 the number of qualified vehicles manufactured by
15 the manufacturer of the vehicle referred to in para-
16 graph (1) sold for use in the United States after the
17 date of the enactment of this section is at least
18 80,000.

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

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

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

1 “(C) 0 percent for each calendar quarter
2 thereafter.

3 “(4) CONTROLLED GROUPS.—

4 “(A) IN GENERAL.—For purposes of this
5 subsection, all persons treated as a single em-
6 ployer under subsection (b), (c), (m), or (o) of
7 section 414 shall be treated as a single manu-
8 facturer.

9 “(B) INCLUSION OF FOREIGN CORPORA-
10 TIONS.—For purposes of subparagraph (A), in
11 applying subsections (b) and (c) of section 414
12 to this section—

13 “(i) the phrase ‘more than 50 percent’
14 shall be substituted for the phrase ‘at least
15 80 percent’ each place it appears in section
16 1563(a)(1), and

17 “(ii) section 1563 shall be applied
18 without regard to subsection (b)(2)(C)
19 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 ad-
23 vanced 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 30A for the taxable
9 year.

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

12 “(1) MOTOR VEHICLE.—The term ‘motor vehi-
13 cle’ has the meaning given such term by section
14 30(c)(2).

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

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

24 “(A) IN GENERAL.—The 2002 model year
25 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:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
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:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
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 TO NOT 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 with respect to property of a character
16 subject to the allowance for depreciation exceeds the
17 limitation under subsection (g) for such taxable
18 year, such excess shall be allowed as a credit
19 carryback and carryforward under rules similar to
20 the rules of section 39.

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

1 sions of sections 30101 through 30169 of title 49,
2 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 an advance lean burn tech-
19 nology motor vehicle or a new qualified hybrid motor
20 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 Energy Regulatory Commission as an
 2 interstate transmission pipeline,
 3 “(iii) an interconnection with an
 4 intrastate transmission pipeline, or
 5 “(iv) a direct interconnection with a
 6 local distribution company, a gas storage
 7 facility, or an industrial consumer.”.

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

“(C)(ii) 14”.

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

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

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

21 (a) IN GENERAL.—Subparagraph (E) of section
 22 168(e)(3) (relating to classification of certain property) is
 23 amended by striking “and” at the end of clause (ii), by
 24 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. For purposes of calculating such aver-
9 age daily domestic refinery runs, only refineries of the re-
10 finer or a related person (within the meaning of section
11 613A(d)(3)) on April 1, 2003, shall be taken into account.

12 “(c) BASIS REDUCTION.—

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

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

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

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 263(a)(1), as amended by this Act,
3 is amended by striking “or” at the end of subpara-
4 graph (H), by striking the period at the end of sub-
5 paragraph (I) and inserting “; or”, and by adding
6 at the end the following new subparagraph:

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

9 (2) Section 263A(c)(3) is amended by inserting
10 “179C,” after “section”.

11 (3) Section 312(k)(3)(B), as amended by this
12 Act, is amended by striking “or 179B” each place
13 it appears in the heading and text and inserting
14 “179B, or 179C”.

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

20 “(34) to the extent provided in section
21 179C(e).”

22 (5) Paragraphs (2)(C) and (3)(C) of section
23 1245(a), as amended by this Act, are each amended
24 by inserting “179C,” after “179B,”.

1 (5) The table of sections for part VI of sub-
2 chapter B of chapter 1, as amended by this Act, is
3 amended by inserting after the item relating to sec-
4 tion 179B the following new item:

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

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

9 **SEC. 1325. CREDIT FOR PRODUCTION OF LOW SULFUR DIE-**
10 **SEL FUEL.**

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

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

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

24 “(b) **MAXIMUM CREDIT.**—

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

4 “(A) 25 percent of the qualified capital
5 costs incurred by the small business refiner
6 with respect to such facility, reduced by

7 “(B) the aggregate credits determined
8 under this section for all prior taxable years
9 with respect to such facility.

10 “(2) REDUCED PERCENTAGE.—In the case of a
11 small business refiner with average daily domestic
12 refinery runs for the 1-year period ending on De-
13 cember 31, 2002, in excess of 155,000 barrels, the
14 number of percentage points described in paragraph
15 (1) shall be reduced (not below zero) by the product
16 of such number (before the application of this para-
17 graph) and the ratio of such excess to 50,000 bar-
18 rels. For purposes of calculating such average daily
19 domestic refinery runs, only refineries of the refiner
20 or a related person (within the meaning of section
21 613A(d)(3)) on April 1, 2003, shall be taken into
22 account.

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

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

4 “(A) with respect to which not more than
5 1,500 individuals are engaged in the refinery
6 operations of the business on any day during
7 such taxable year, and

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

13 For purposes of calculating such average daily do-
14 mestic refinery run or retained production, only re-
15 fineries of the refiner or a related person (within the
16 meaning of section 613A(d)(3)) on April 1, 2003,
17 shall be taken into account.

18 “(2) QUALIFIED CAPITAL COSTS.—The term
19 ‘qualified capital costs’ means, with respect to any
20 facility, those costs paid or incurred during the ap-
21 plicable period for compliance with the applicable
22 EPA regulations with respect to such facility, includ-
23 ing expenditures for the construction of new process
24 operation units or the dismantling and reconstruc-
25 tion of existing process units to be used in the pro-

1 duction of low sulfur diesel fuel, associated adjacent
2 or offsite equipment (including tankage, catalyst,
3 and power supply), engineering, construction period
4 interest, and sitework.

5 “(3) APPLICABLE EPA REGULATIONS.—The
6 term ‘applicable EPA regulations’ means the High-
7 way Diesel Fuel Sulfur Control Requirements of the
8 Environmental Protection Agency.

9 “(4) APPLICABLE PERIOD.—The term ‘applica-
10 ble period’ means, with respect to any facility, the
11 period beginning on January 1, 2003, and ending on
12 the earlier of the date which is 1 year after the date
13 on which the taxpayer must comply with the applica-
14 ble EPA regulations with respect to such facility or
15 December 31, 2009.

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

19 “(6) SPECIAL RULE FOR DETERMINATION OF
20 REFINERY RUNS.—Refinery runs shall be deter-
21 mined under rules similar to the rules under section
22 613A(d)(4).

23 “(d) REDUCTION IN BASIS.—For purposes of this
24 subtitle, if a credit is determined under this section for
25 any expenditure with respect to any property, the increase

1 in basis of such property which would (but for this sub-
2 section) result from such expenditure shall be reduced by
3 the amount of the credit so determined.

4 “(e) CERTIFICATION.—

5 “(1) REQUIRED.—No credit shall be allowed
6 unless, not later than the date which is 30 months
7 after the first day of the first taxable year in which
8 the low sulfur diesel fuel production credit is allowed
9 with respect to a facility, the small business refiner
10 obtains certification from the Secretary, after con-
11 sultation with the Administrator of the Environ-
12 mental Protection Agency, that the taxpayer’s quali-
13 fied capital costs with respect to such facility will re-
14 sult in compliance with the applicable EPA regula-
15 tions.

16 “(2) CONTENTS OF APPLICATION.—An applica-
17 tion for certification shall include relevant informa-
18 tion regarding unit capacities and operating charac-
19 teristics sufficient for the Secretary, after consulta-
20 tion with the Administrator of the Environmental
21 Protection Agency, to determine that such qualified
22 capital costs are necessary for compliance with the
23 applicable EPA regulations.

24 “(3) REVIEW PERIOD.—Any application shall
25 be reviewed and notice of certification, if applicable,

1 shall be made within 60 days of receipt of such ap-
2 plication. In the event the Secretary does not notify
3 the taxpayer of the results of such certification with-
4 in such period, the taxpayer may presume the cer-
5 tification to be issued until so notified.

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

8 “(A) the statutory period for the assess-
9 ment of any deficiency attributable to such
10 credit shall not expire before the end of the 3-
11 year period ending on the date that the review
12 period described in paragraph (3) ends with re-
13 spect to the taxpayer, and

14 “(B) such deficiency may be assessed be-
15 fore the expiration of such 3-year period not-
16 withstanding the provisions of any other law or
17 rule of law which would otherwise prevent such
18 assessment.

19 “(f) COOPERATIVE ORGANIZATIONS.—

20 “(1) APPORTIONMENT OF CREDIT.—

21 “(A) IN GENERAL.—In the case of a coop-
22 erative organization described in section
23 1381(a), any portion of the credit determined
24 under subsection (a) for the taxable year may,
25 at the election of the organization, be appor-

1 tioned among patrons eligible to share in pa-
2 tronage dividends on the basis of the quantity
3 or value of business done with or for such pa-
4 trons for the taxable year.

5 “(B) FORM AND EFFECT OF ELECTION.—
6 An election under subparagraph (A) for any
7 taxable year shall be made on a timely filed re-
8 turn for such year. Such election, once made,
9 shall be irrevocable for such taxable year.

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

12 “(A) ORGANIZATIONS.—The amount of the
13 credit not apportioned to patrons pursuant to
14 paragraph (1) shall be included in the amount
15 determined under subsection (a) for the taxable
16 year of the organization.

17 “(B) PATRONS.—The amount of the credit
18 apportioned to patrons pursuant to paragraph
19 (1) shall be included in the amount determined
20 under subsection (a) for the first taxable year
21 of each patron ending on or after the last day
22 of the payment period (as defined in section
23 1382(d)) for the taxable year of the organiza-
24 tion or, if earlier, for the taxable year of each
25 patron ending on or after the date on which the

1 patron receives notice from the cooperative of
2 the apportionment.

3 “(3) SPECIAL RULE.—If for any reason the tax
4 imposed with respect to any patron of a cooperative
5 organization would, but for this paragraph, be in-
6 creased by any amount by reason of a credit appor-
7 tioned to such patron under this subsection—

8 “(A) the amount of such increase in tax
9 shall not be imposed on such patron, and

10 “(B) the tax imposed by this chapter on
11 such organization shall be increased by such
12 amount.

13 The increase under subparagraph (B) shall not be
14 treated as tax imposed by this chapter for purposes
15 of determining the amount of any credit under this
16 chapter or for purposes of section 55.”.

17 (b) CREDIT MADE PART OF GENERAL BUSINESS
18 CREDIT.—Subsection (b) of section 38 (relating to general
19 business credit), as amended by this Act, is amended by
20 striking “plus” at the end of paragraph (17), by striking
21 the period at the end of paragraph (18) and inserting “,
22 plus”, and by adding at the end the following new para-
23 graph:

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

4 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
5 (relating to certain expenses for which credits are allow-
6 able) is amended by adding after subsection (d) the fol-
7 lowing new subsection:

8 “(e) LOW SULFUR DIESEL FUEL PRODUCTION
9 CREDIT.—No deduction shall be allowed for that portion
10 of the expenses otherwise allowable as a deduction for the
11 taxable year which is equal to the amount of the credit
12 determined for the taxable year under section 45I(a).”.

13 (d) BASIS ADJUSTMENT.—Section 1016(a) (relating
14 to adjustments to basis), as amended by this Act, is
15 amended by striking “and” at the end of paragraph (33),
16 by striking the period at the end of paragraph (34) and
17 inserting “, and”, and by adding at the end the following
18 new paragraph:

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

22 (e) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1,
24 as amended by this Act, is amended by adding at the end
25 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 to 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 (c) CONFORMING AMENDMENT.—Section 141(d) is
6 amended by adding at the end the following new para-
7 graph:

8 “(7) EXCEPTION FOR QUALIFIED ELECTRIC
9 AND NATURAL GAS SUPPLY CONTRACTS.—The term
10 ‘nongovernmental output property’ shall not include
11 any contract for the prepayment of electricity or nat-
12 ural gas which is not investment property under sec-
13 tion 148(b)(2).”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to obligations issued after the date
16 of the enactment of this Act.

17 **Subtitle C—Production**

18 **PART I—OIL AND GAS PROVISIONS**

19 **SEC. 1341. OIL AND GAS FROM MARGINAL WELLS.**

20 (a) IN GENERAL.—Subpart D of part IV of sub-
21 chapter A of chapter 1 (relating to business credits), as
22 amended by this Act, is amended by adding at the end
23 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 costs paid or incurred in taxable
24 years beginning after the date of the enactment of this
25 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.—In the case of
24 a well producing qualified fuels described in sub-
25 paragraph (A) or (B)(i) of subsection (c)(1) or nat-
26 ural gas and byproducts produced by coal gasifi-

1 cation from lignite, subsection (f)(2) shall be applied
2 by substituting ‘2007’ for ‘2003’ with respect to
3 wells described in subsection (f)(1)(A) with respect
4 to such fuels.

5 “(3) EXTENSION FOR FACILITIES PRODUCING
6 QUALIFIED FUEL FROM LANDFILL GAS.—

7 “(A) IN GENERAL.—In the case of a facil-
8 ity for producing qualified fuel from landfill gas
9 which was placed in service after June 30,
10 1998, and before January 1, 2007, this section
11 shall apply to fuel produced at such facility and
12 sold during the period—

13 “(i) beginning on the later of January
14 1, 2004, or the date that such facility is
15 placed in service, and

16 “(ii) ending on the earlier of the date
17 which is 4 years after the date such period
18 began or December 31, 2009.

19 “(B) REDUCTION OF CREDIT FOR CERTAIN
20 LANDFILL FACILITIES.—In the case of a facility
21 to which subparagraph (A) applies and which is
22 located at a landfill which is required pursuant
23 to section 60.751(b)(2) or section 60.33c of
24 title 40, Code of Federal Regulations (as in ef-
25 fect on April 3, 2003) to install and operate a

1 collection and control system which captures
2 gas generated within the landfill, subsection
3 (a)(1) shall be applied to gas so captured by
4 substituting ‘\$2’ for ‘\$3’ for the taxable year
5 during which such system is required to be in-
6 stalled and operated.

7 “(4) FACILITIES PRODUCING FUELS FROM AG-
8 RICULTURAL AND ANIMAL WASTE.—

9 “(A) IN GENERAL.—In the case of any fa-
10 cility for producing liquid, gaseous, or solid
11 fuels from qualified agricultural and animal
12 wastes, including such fuels when used as feed-
13 stocks, which was placed in service after the
14 date of the enactment of this subsection and be-
15 fore January 1, 2007, this section shall apply
16 with respect to fuel produced at such facility
17 and sold during the period—

18 “(i) beginning on the later of January
19 1, 2004, or the date that such facility is
20 placed in service, and

21 “(ii) ending on the earlier of the date
22 which is 4 years after the date such period
23 began or December 31, 2009.

24 “(B) QUALIFIED AGRICULTURAL AND ANI-
25 MAL WASTE.—For purposes of this paragraph,

1 the term ‘qualified agricultural and animal
2 waste’ means agriculture and animal waste, in-
3 cluding by-products, packaging, and any mate-
4 rials associated with the processing, feeding,
5 selling, transporting, or disposal of agricultural
6 or animal products or wastes.

7 “(5) FACILITIES PRODUCING REFINED COAL.—

8 “(A) IN GENERAL.—In the case of a facil-
9 ity described in subparagraph (C) for producing
10 refined coal which was placed in service after
11 the date of the enactment of this subsection
12 and before January 1, 2008, this section shall
13 apply with respect to fuel produced at such fa-
14 cility and sold before the close of the 5-year pe-
15 riod beginning on the date such facility is
16 placed in service.

17 “(B) REFINED COAL.—For purposes of
18 this paragraph, the term ‘refined coal’ means a
19 fuel which is a liquid, gaseous, or solid syn-
20 thetic fuel produced from coal (including lig-
21 nite) or high carbon fly ash, including such fuel
22 used as a feedstock.

23 “(C) COVERED FACILITIES.—

24 “(i) IN GENERAL.—A facility is de-
25 scribed in this subparagraph if such facil-

1 ity produces refined coal using a tech-
2 nology which the taxpayer certifies (in
3 such manner as the Secretary may pre-
4 scribe) results in—

5 “(I) a qualified emission reduc-
6 tion, and

7 “(II) a qualified enhanced value.

8 “(ii) QUALIFIED EMISSION REDUC-
9 TION.—For purposes of this subparagraph,
10 the term ‘qualified emission reduction’
11 means a reduction of at least 20 percent of
12 the emissions of nitrogen oxide and either
13 sulfur dioxide or mercury released when
14 burning the refined coal (excluding any di-
15 lution caused by materials combined or
16 added during the production process), as
17 compared to the emissions released when
18 burning the feedstock coal or comparable
19 coal predominantly available in the market-
20 place as of January 1, 2003.

21 “(iii) QUALIFIED ENHANCED
22 VALUE.—For purposes of this subpara-
23 graph, the term ‘qualified enhanced value’
24 means an increase of at least 50 percent in
25 the market value of the refined coal (ex-

1 cluding any increase caused by materials
2 combined or added during the production
3 process), as compared to the value of the
4 feedstock coal.

5 “(iv) ADVANCED CLEAN COAL TECH-
6 NOLOGY UNITS EXCLUDED.—A facility de-
7 scribed in this subparagraph shall not in-
8 clude any advanced clean coal technology
9 unit (as defined in section 48A(e)).

10 “(6) COALMINE GAS.—

11 “(A) IN GENERAL.—This section shall
12 apply to coalmine gas—

13 “(i) captured or extracted by the tax-
14 payer during the period beginning on the
15 day after the date of the enactment of this
16 subsection and ending on December 31,
17 2006, and

18 “(ii) utilized as a fuel source or sold
19 by or on behalf of the taxpayer to an unre-
20 lated person during such period.

21 “(B) COALMINE GAS.—For purposes of
22 this paragraph, the term ‘coalmine gas’ means
23 any methane gas which is—

24 “(i) liberated during or as a result of
25 coal mining operations, or

1 “(ii) extracted up to 10 years in ad-
2 vance of coal mining operations as part of
3 a specific plan to mine a coal deposit.

4 “(C) SPECIAL RULE FOR ADVANCED EX-
5 TRACTION.—In the case of coalmine gas which
6 is captured in advance of coal mining oper-
7 ations, the credit under subsection (a) shall be
8 allowed only after the date the coal extraction
9 occurs in the immediate area where the
10 coalmine gas was removed.

11 “(D) NONCOMPLIANCE WITH POLLUTION
12 LAWS.—This paragraph shall not apply to the
13 capture or extraction of coalmine gas from coal
14 mining operations with respect to any period in
15 which such coal mining operations are not in
16 compliance with applicable Federal pollution
17 prevention, control, and permit requirements.

18 “(7) COKE AND COKE GAS.—In the case of a
19 facility for producing coke or coke gas which was
20 placed in service before January 1, 1993, or after
21 June 30, 1998, and before January 1, 2007, this
22 section shall apply with respect to coke and coke gas
23 produced in such facility and sold during the during
24 the period—

1 “(A) beginning on the later of January 1,
2 2004, or the date that such facility is placed in
3 service, and

4 “(B) ending on the earlier of the date
5 which is 4 years after the date such period
6 began or December 31, 2009.

7 “(8) SPECIAL RULES.—In determining the
8 amount of credit allowable under this section solely
9 by reason of this subsection—

10 “(A) FUELS TREATED AS QUALIFIED
11 FUELS.—Any fuel described in paragraph (3),
12 (4), (5), or (6) shall be treated as a qualified
13 fuel for purposes of this section.

14 “(B) DAILY LIMIT.—The amount of quali-
15 fied fuels sold during any taxable year which
16 may be taken into account by reason of this
17 subsection with respect to any project shall not
18 exceed an average barrel-of-oil equivalent of
19 200,000 cubic feet of natural gas per day. Days
20 before the date the project is placed in service
21 shall not be taken into account in determining
22 such average.

23 “(C) EXTENSION PERIOD TO COMMENCE
24 WITH UNADJUSTED CREDIT AMOUNT AND NEW
25 PHASEOUT ADJUSTMENT.—For purposes of ap-

1 plying subsection (b)(2), in the case of fuels
2 sold after 2003—

3 “(i) paragraphs (1)(A) and (2) of sub-
4 section (b) shall be applied by substituting
5 ‘\$35.00’ for ‘\$23.50’, and

6 “(ii) subparagraph (B) of subsection
7 (d)(2) shall be applied by substituting
8 ‘2002’ for ‘1979’ in determining such dol-
9 lar amounts.

10 “(D) DENIAL OF DOUBLE BENEFIT.—This
11 subsection shall not apply to any facility pro-
12 ducing qualified fuels for which a credit was al-
13 lowed under this section for the taxable year or
14 any preceding taxable year by reason of sub-
15 section (g).”.

16 (b) TREATMENT AS BUSINESS CREDIT.—

17 (1) CREDIT MOVED TO SUBPART RELATING TO
18 BUSINESS RELATED CREDITS.—The Internal Rev-
19 enue Code of 1986 is amended by redesignating sec-
20 tion 29, as amended by this Act, as section 45K and
21 by moving section 45K (as so redesignated) from
22 subpart B of part IV of subchapter A of chapter 1
23 to the end of subpart D of part IV of subchapter A
24 of chapter 1.

1 (2) CREDIT TREATED AS BUSINESS CREDIT.—
2 Section 38(b) is amended by striking “plus” at the
3 end of paragraph (19), by striking the period at the
4 end of paragraph (20) and inserting “, plus”, and
5 by adding at the end the following:

6 “(21) the nonconventional source production
7 credit determined under section 45K(a).”.

8 (3) CONFORMING AMENDMENTS.—

9 (A) Section 30(b)(2)(A), as redesignated
10 by section 1317(a), is amended by striking
11 “sections 27 and 29” and inserting “section
12 27”.

13 (B) Sections 43(b)(2) and 613A(c)(6)(C)
14 are each amended by striking “section
15 29(d)(2)(C)” and inserting “section
16 45K(d)(2)(C)”.

17 (C) Section 45K(a), as redesignated by
18 paragraph (1), is amended by striking “At the
19 election of the taxpayer, there shall be allowed
20 as a credit against the tax imposed by this
21 chapter for the taxable year” and inserting
22 “For purposes of section 38, if the taxpayer
23 elects to have this section apply, the nonconven-
24 tional source production credit determined
25 under this section for the taxable year is”.

1 (D) Section 45K(b), as so redesignated, is
2 amended by striking paragraph (6).

3 (E) Section 53(d)(1)(B)(iii) is amended by
4 striking “under section 29” and all that follows
5 through “or not allowed”.

6 (F) Section 55(c)(2) is amended by strik-
7 ing “29(b)(6),”.

8 (G) Subsection (a) of section 772 is
9 amended by inserting “and” at the end of para-
10 graph (9), by striking paragraph (10), and by
11 redesignating paragraph (11) as paragraph
12 (10).

13 (H) Paragraph (5) of section 772(d) is
14 amended by striking “the foreign tax credit,
15 and the credit allowable under section 29” and
16 inserting “and the foreign tax credit”.

17 (I) The table of sections for subpart B of
18 part IV of subchapter A of chapter 1 is amend-
19 ed by striking the item relating to section 29.

20 (J) The table of sections for subpart D of
21 part IV of subchapter A of chapter 1, as
22 amended by this Act, is amended by inserting
23 after the item relating to section 45J the fol-
24 lowing new item:

“Sec. 45K. Credit for producing fuel from a nonconventional
source.”.

1 (c) DETERMINATIONS UNDER NATURAL GAS POLICY
2 ACT OF 1978.—Subparagraph (A) of section 45K(c)(2), as
3 redesignated by subsection (b)(1), is amended—

4 (1) by inserting “by the Secretary, after con-
5 sultation with the Federal Energy Regulatory Com-
6 mission,” after “shall be made”, and

7 (2) by inserting “(as in effect before the repeal
8 of such section)” after “1978”.

9 (d) EFFECTIVE DATES.—

10 (1) IN GENERAL.—The amendment made by
11 subsection (a) shall apply to fuel produced and sold
12 after December 31, 2003, in taxable years ending
13 after such date.

14 (2) TREATMENT AS BUSINESS CREDIT.—The
15 amendments made by subsection (b) shall apply to
16 taxable years ending after December 31, 2003.

17 **PART II—ALTERNATIVE MINIMUM TAX**

18 **PROVISIONS**

19 **SEC. 1346. NEW NONREFUNDABLE PERSONAL CREDITS AL-**
20 **LOWED AGAINST REGULAR AND MINIMUM**
21 **TAXES.**

22 (a) IN GENERAL.—

23 (1) SECTION 25C.—Section 25C(b), as added
24 by section 1301 of this Act, is amended by adding
25 at the end the following new paragraph:

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

4 “(A) the sum of the regular tax liability
5 (as defined in section 26(b)) plus the tax im-
6 posed by section 55, over

7 “(B) the sum of the credits allowable
8 under this subpart (other than this section and
9 section 25D) and section 27 for the taxable
10 year.”.

11 (2) SECTION 25D.—Section 25D(b), as added
12 by section 1304 of this Act, is amended by adding
13 at the end the following new paragraph:

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

17 “(A) the sum of the regular tax liability
18 (as defined in section 26(b)) plus the tax im-
19 posed by section 55, over

20 “(B) the sum of the credits allowable
21 under this subpart (other than this section) and
22 section 27 for the taxable year.”.

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 23(b)(4)(B) is amended by inserting
25 “and sections 25C and 25D” after “this section”.

1 (2) Section 24(b)(3)(B) is amended by striking
2 “and 25B” and inserting “, 25B, 25C, and 25D”.

3 (3) Section 25(e)(1)(C) is amended by inserting
4 “25C, and 25D” after “25B,”.

5 (4) Section 25B(g)(2) is amended by striking
6 “section 23” and inserting “sections 23, 25C, and
7 25D”.

8 (5) Section 26(a)(1) is amended by striking
9 “and 25B” and inserting “25B, 25C, and 25D”.

10 (6) Section 904(h) is amended by striking “and
11 25B” and inserting “25B, 25C, and 25D”.

12 (7) Section 1400C(d) is amended by striking
13 “and 25B” and inserting “25B, 25C, and 25D”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years beginning after
16 December 31, 2003.

17 **SEC. 1347. BUSINESS RELATED ENERGY CREDITS ALLOWED**
18 **AGAINST REGULAR AND MINIMUM TAX.**

19 (a) IN GENERAL.—Subsection (c) of section 38 (re-
20 lating to limitation based on amount of tax) is amended
21 by redesignating paragraph (4) as paragraph (5) and by
22 inserting after paragraph (3) the following new paragraph:

23 “(4) SPECIAL RULES FOR SPECIFIED ENERGY
24 CREDITS.—

1 “(A) IN GENERAL.—In the case of speci-
2 fied energy credits—

3 “(i) this section and section 39 shall
4 be applied separately with respect to such
5 credits, and

6 “(ii) in applying paragraph (1) to
7 such credits—

8 “(I) the tentative minimum tax
9 shall be treated as being zero, and

10 “(II) the limitation under para-
11 graph (1) (as modified by subclause
12 (I)) shall be reduced by the credit al-
13 lowed under subsection (a) for the
14 taxable year (other than the specified
15 energy credits).

16 “(B) SPECIFIED ENERGY CREDITS.—For
17 purposes of this subsection, the term ‘specified
18 energy credits’ means the credits determined
19 under sections 45G, 45H, 45I, and 45J. For
20 taxable years beginning after December 31,
21 2003, such term includes the credit determined
22 under section 40. For taxable years beginning
23 after December 31, 2003, and before January
24 1, 2006, such term includes the credit deter-
25 mined under section 43.

1 “(C) SPECIAL RULE FOR ELECTRICITY
2 PRODUCED FROM QUALIFIED FACILITIES.—For
3 purposes of this subsection, the term ‘specified
4 energy credits’ shall include the credit deter-
5 mined under section 45 to the extent that such
6 credit is attributable to electricity produced—

7 “(i) at a facility which is originally
8 placed in service after the date of the en-
9 actment of this paragraph, and

10 “(ii) during the 4-year period begin-
11 ning on the date that such facility was
12 originally placed in service.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Paragraph (2)(A)(ii)(II) of section 38(c) is
15 amended by striking “or” and inserting a comma
16 and by inserting “, and the specified energy credits”
17 after “employee credit”.

18 (2) Paragraph (3)(A)(ii)(II) of section 38(c) is
19 amended by inserting “and the specified energy
20 credits” after “employee credit”.

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

1 **SEC. 1348. TEMPORARY REPEAL OF ALTERNATIVE MIN-**
2 **IMUM TAX PREFERENCE FOR INTANGIBLE**
3 **DRILLING COSTS.**

4 (a) **IN GENERAL.**—Clause (ii) of section 57(a)(2)(E)
5 is amended by adding at the end the following new sen-
6 tence: “The preceding sentence shall not apply to taxable
7 years beginning after December 31, 2003, and before Jan-
8 uary 1, 2006.”.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 this section shall apply to taxable years beginning after
11 December 31, 2003.

12 **PART III—CLEAN COAL INCENTIVES**

13 **SEC. 1351. CREDIT FOR CLEAN COAL TECHNOLOGY UNITS.**

14 (a) **IN GENERAL.**—Subpart E of part IV of sub-
15 chapter A of chapter 1 (relating to rules for computing
16 investment credit) is amended by inserting after section
17 48 the following new section:

18 **“SEC. 48A. CLEAN COAL TECHNOLOGY CREDIT.**

19 “(a) **IN GENERAL.**—For purposes of section 46, the
20 clean coal technology credit for any taxable year is an
21 amount equal to the applicable percentage of the basis of
22 qualified clean coal property placed in service during such
23 year.

24 “(b) **APPLICABLE PERCENTAGE.**—For purposes of
25 this section, the applicable percentage is—

1 “(1) 15 percent in the case of property placed
2 in service in connection with any basic clean coal
3 technology unit, and

4 “(2) 17.5 percent in the case of property placed
5 in service in connection with any advanced clean coal
6 technology unit.

7 “(c) QUALIFIED CLEAN COAL PROPERTY.—For pur-
8 poses of this section—

9 “(1) IN GENERAL.—The term ‘qualified clean
10 coal property’ means section 1245 property—

11 “(A) which is installed in connection
12 with—

13 “(i) an existing coal-based unit as
14 part of the conversion of such unit to any
15 basic or advanced clean coal technology
16 unit, or

17 “(ii) any new advanced clean coal
18 technology unit,

19 “(B) which is placed in service after De-
20 cember 31, 2003, and before—

21 “(i) in the case of property to which
22 subsection (b)(1) applies, January 1, 2014,
23 and

24 “(ii) in the case of property to which
25 subsection (b)(2) applies, January 1, 2017

1 (January 1, 2013, in the case of property
2 installed in connection with an eligible ad-
3 vanced pulverized coal or atmospheric flu-
4 idized bed combustion technology unit),

5 “(C) the original use of which commences
6 with the taxpayer, and

7 “(D) which has a useful life of not less
8 than 4 years.

9 “(2) EXISTING COAL-BASED UNIT.—The term
10 ‘existing coal-based unit’ means a coal-based elec-
11 tricity generating steam generator-turbine unit—

12 “(A) which is not a basic or advanced
13 clean coal technology unit, and

14 “(B) which is in operation before January
15 1, 2004.

16 In the case of a unit being converted to a basic clean
17 coal technology unit, such term shall not include a
18 unit having a nameplate capacity rating of more
19 than 300 megawatts.

20 “(3) NEW ADVANCED CLEAN COAL TECH-
21 NOLOGY UNIT.—The term ‘new advanced clean coal
22 technology unit’ means any advanced clean coal
23 technology unit which is placed in service after De-
24 cember 31, 2003, and the original use of which com-
25 mences with the taxpayer.

1 “(d) BASIC CLEAN COAL TECHNOLOGY UNIT.—For
2 purposes of this section—

3 “(1) IN GENERAL.—The term ‘basic clean coal
4 technology unit’ means a unit which—

5 “(A) uses clean coal technology (including
6 advanced pulverized coal or atmospheric fluid-
7 ized bed combustion, pressurized fluidized bed
8 combustion, and integrated gasification com-
9 bined cycle) for the production of electricity,

10 “(B) uses an input of at least 75 percent
11 coal to produce at least 50 percent of its ther-
12 mal output as electricity,

13 “(C) has a design net heat rate of at least
14 500 less than that the existing coal-based unit
15 prior to its conversion,

16 “(D) has a maximum design net heat rate
17 of not more than 9,500, and

18 “(E) meets the pollution control require-
19 ments of paragraph (2).

20 Such term shall not include an advanced clean coal
21 technology unit.

22 “(2) POLLUTION CONTROL REQUIREMENTS.—

23 “(A) IN GENERAL.—A unit meets the re-
24 quirements of this paragraph if—

1 “(i) its emissions of sulfur dioxide, ni-
2 trogen oxide, or particulates meet the
3 lower of the emission levels for each such
4 emission specified in—

5 “(I) subparagraph (B), or

6 “(II) the new source performance
7 standards of the Clean Air Act (42
8 U.S.C. 7411) which are in effect for
9 the category of source at the time of
10 the retrofitting, repowering, or re-
11 placement of the unit, and

12 “(ii) its emissions do not exceed any
13 relevant emission level specified by regula-
14 tion pursuant to the hazardous air pollut-
15 ant requirements of the Clean Air Act (42
16 U.S.C. 7412) in effect at the time of the
17 retrofitting, repowering, or replacement.

18 “(B) SPECIFIC LEVELS.—The levels speci-
19 fied in this subparagraph are—

20 “(i) in the case of sulfur dioxide emis-
21 sions, 50 percent of the sulfur dioxide
22 emission levels specified in the new source
23 performance standards of the Clean Air
24 Act (42 U.S.C. 7411) in effect on the date

1 of the enactment of this section for the
2 category of source,

3 “(ii) in the case of nitrogen oxide
4 emissions—

5 “(I) 0.1 pound per million Btu of
6 heat input if the unit is not a cyclone-
7 fired boiler, and

8 “(II) if the unit is a cyclone-fired
9 boiler, 15 percent of the uncontrolled
10 nitrogen oxide emissions from such
11 boilers, and

12 “(iii) in the case of particulate emis-
13 sions, 0.02 pound per million Btu of heat
14 input.

15 “(3) DESIGN NET HEAT RATE.—The design net
16 heat rate with respect to any unit, measured in Btu
17 per kilowatt hour (HHV)—

18 “(A) shall be based on the design annual
19 heat input to and the design annual net elec-
20 trical power, fuels, and chemicals output from
21 such unit (determined without regard to such
22 unit’s co-generation of steam),

23 “(B) shall be adjusted for the heat content
24 of the design coal to be used by the unit if it

1 is less than 12,000 Btu per pound according to
2 the following formula:

3 Design net heat rate = Unit net heat rate \times [1–
4 {((12,000–design coal heat content, Btu per pound)/
5 1,000) \times 0.013}],

6 “(C) shall be corrected for the site ref-
7 erence conditions of—

8 “(i) elevation above sea level of 500
9 feet,

10 “(ii) air pressure of 14.4 pounds per
11 square inch absolute (psia),

12 “(iii) temperature, dry bulb of 63°F,

13 “(iv) temperature, wet bulb of 54°F,

14 and

15 “(v) relative humidity of 55 percent,

16 and

17 “(D) if carbon capture controls have been
18 installed with respect to any qualifying unit and
19 such controls remove at least 50 percent of the
20 unit’s carbon dioxide emissions, shall be ad-
21 justed up to the design heat rate level which
22 would have resulted without the installation of
23 such controls.

24 “(4) HHV.—The term ‘HHV’ means higher
25 heating value.

1 “(e) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

2 For purposes of this section—

3 “(1) IN GENERAL.—The term ‘advanced clean
4 coal technology unit’ means any electricity gener-
5 ating unit of the taxpayer—

6 “(A) which is—

7 “(i) an eligible advanced pulverized
8 coal or atmospheric fluidized bed combus-
9 tion technology unit,

10 “(ii) an eligible pressurized fluidized
11 bed combustion technology unit,

12 “(iii) an eligible integrated gasifi-
13 cation combined cycle technology unit, or

14 “(iv) an eligible other technology unit,

15 “(B) which uses an input of at least 75
16 percent coal to produce at least 50 percent of
17 its thermal output as electricity, and

18 “(C) which meets the carbon emission rate
19 requirements of paragraph (6).

20 “(2) ELIGIBLE ADVANCED PULVERIZED COAL
21 OR ATMOSPHERIC FLUIDIZED BED COMBUSTION
22 TECHNOLOGY UNIT.—The term ‘eligible advanced
23 pulverized coal or atmospheric fluidized bed combus-
24 tion technology unit’ means a clean coal technology
25 unit using advanced pulverized coal or atmospheric

1 fluidized bed combustion technology which has a de-
2 sign net heat rate of not more than 8,500 (8,900 in
3 the case of units placed in service before 2009).

4 “(3) ELIGIBLE PRESSURIZED FLUIDIZED BED
5 COMBUSTION TECHNOLOGY UNIT.—The term ‘eligi-
6 ble pressurized fluidized bed combustion technology
7 unit’ means a clean coal technology unit using pres-
8 surized fluidized bed combustion technology which
9 has a design net heat rate of not more than 7,720
10 (8,900 in the case of units placed in service before
11 2009, and 8,500 in the case of units placed in serv-
12 ice after 2008 and before 2013).

13 “(4) ELIGIBLE INTEGRATED GASIFICATION
14 COMBINED CYCLE TECHNOLOGY UNIT.—The term
15 ‘eligible integrated gasification combined cycle tech-
16 nology unit’ means a clean coal technology unit
17 using integrated gasification combined cycle tech-
18 nology, with or without fuel or chemical co-
19 production—

20 “(A) which has a design net heat rate of
21 not more than 7,720 (8,900 in the case of units
22 placed in service before 2009, and 8,500 in the
23 case of units placed in service after 2008 and
24 before 2013), and

1 “(B) has a net thermal efficiency (HHV)
2 using coal with fuel or chemical co-production
3 of not less than 44.2 percent (38.4 percent in
4 the case of units placed in service before 2009,
5 and 40.2 percent in the case of units placed in
6 service after 2008 and before 2013).

7 “(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—
8 The term ‘eligible other technology unit’ means a
9 clean coal technology unit—

10 “(A) which uses any other technology for
11 the production of electricity, and

12 “(B) which has a design net heat rate
13 which meets the requirement of paragraph (2).

14 “(6) CARBON EMISSION RATE REQUIRE-
15 MENTS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), a unit meets the require-
18 ments of this paragraph if—

19 “(i) in the case of a unit using design
20 coal with a heat content of not more than
21 9,000 Btu per pound, the carbon emission
22 rate is less than 0.60 pound of carbon per
23 kilowatt hour, and

24 “(ii) in the case of a unit using design
25 coal with a heat content of more than

1 9,000 Btu per pound, the carbon emission
2 rate is less than 0.54 pound of carbon per
3 kilowatt hour.

4 “(B) ELIGIBLE OTHER TECHNOLOGY
5 UNIT.—In the case of an eligible other tech-
6 nology unit, subparagraph (A) shall be applied
7 by substituting ‘0.51’ and ‘0.459’ for ‘0.60’ and
8 ‘0.54’, respectively.

9 “(f) NATIONAL LIMITATIONS ON CREDIT.—For pur-
10 poses of this section—

11 “(1) IN GENERAL.—The amount of credit
12 which would (but for this subsection) be allowed
13 with respect to any property shall not exceed the
14 amount which bears the same ratio to such amount
15 of credit as—

16 “(A) the national megawatt capacity limi-
17 tation allocated to the taxpayer with respect to
18 the basic or advanced clean coal technology unit
19 to which such property relates, bears to

20 “(B) the total megawatt capacity of such
21 unit.

22 The capacity described in subparagraph (B) shall be
23 the reasonably expected capacity after the installa-
24 tion of the property.

25 “(2) AMOUNT OF NATIONAL LIMITATION.—

1 “(A) ADVANCED UNITS.—The national
2 megawatt capacity limitation for advanced clean
3 coal technology units shall be 6,000 megawatts.
4 Of such amount, the national megawatt capac-
5 ity limitation is—

6 “(i) for advanced clean coal tech-
7 nology units using advanced pulverized
8 coal or atmospheric fluidized bed combus-
9 tion technology, not more than 1,500
10 megawatts (not more than 750 megawatts
11 in the case of units placed in service before
12 2009),

13 “(ii) for such units using pressurized
14 fluidized bed combustion technology, not
15 more than 750 megawatts (not more than
16 375 megawatts in the case of units placed
17 in service before 2009),

18 “(iii) for such units using integrated
19 gasification combined cycle technology,
20 with or without fuel or chemical co-produc-
21 tion, not more than 3,000 megawatts (not
22 more than 1,250 megawatts in the case of
23 units placed in service before 2009), and

24 “(iv) for such units using other tech-
25 nology for the production of electricity, not

1 more than 750 megawatts (not more than
2 375 megawatts in the case of units placed
3 in service before 2009).

4 “(B) BASIC UNITS.—The national mega-
5 watt capacity limitation for basic clean coal
6 technology units shall be 4,000 megawatts.

7 “(3) ALLOCATION OF LIMITATION.—The Sec-
8 retary shall allocate the national megawatt capacity
9 limitations in such manner as the Secretary may
10 prescribe, except that the Secretary may not allocate
11 more than 300 megawatts to any basic clean coal
12 technology unit.

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

22 “(A) to encourage that units with the high-
23 est thermal efficiencies, when adjusted for the
24 heat content of the design coal and site ref-
25 erence conditions, and environmental perform-

1 ance, be placed in service as soon as possible,
2 and

3 “(B) to allocate capacity to taxpayers
4 which have a definite and credible plan for plac-
5 ing into commercial operation a qualifying clean
6 coal technology unit, including—

7 “(i) a site,

8 “(ii) contractual commitments for
9 procurement and construction or, in the
10 case of regulated utilities, the agreement of
11 the State utility commission,

12 “(iii) filings for all necessary
13 preconstruction approvals,

14 “(iv) a demonstrated record of having
15 successfully completed comparable projects
16 on a timely basis, and

17 “(v) such other factors that the Sec-
18 retary determines are appropriate.

19 “(g) SPECIAL RULES.—For purposes of this
20 section—

21 “(1) CERTAIN PROGRESS EXPENDITURE RULES
22 MADE APPLICABLE.—Rules similar to the rules of
23 subsections (c)(4) and (d) of section 46 (as in effect
24 on the day before the date of the enactment of the

1 Revenue Reconciliation Act of 1990) shall apply for
2 purposes of this section.

3 “(2) PROPERTY FINANCED BY SUBSIDIZED FI-
4 NANCING OR INDUSTRIAL DEVELOPMENT BONDS.—
5 Rules similar to the rules of section 45(b)(3) shall
6 apply for purposes of this section.

7 “(3) NONCOMPLIANCE WITH POLLUTION
8 LAWS.—The terms ‘basic clean coal technology unit’
9 and ‘advanced clean coal technology unit’ shall not
10 include any unit which is not in compliance with the
11 applicable Federal pollution prevention, control, and
12 permit requirements at any time during the period
13 applicable under subsection (c)(1)(B).

14 “(3) DENIAL OF CREDIT FOR UNITS RECEIVING
15 CERTAIN OTHER FEDERAL ASSISTANCE.—The terms
16 ‘basic clean coal technology unit’ and ‘advanced
17 clean coal technology unit’ shall not include any unit
18 if, at any time during the period applicable under
19 subsection (c)(1)(B), any funding is provided to such
20 unit under the Clean Coal Technology Program, the
21 Power Plant Improvement Initiative, or the Clean
22 Coal Power Initiative administered by the Secretary
23 of Energy.

24 “(4) COORDINATION WITH OTHER CREDITS.—
25 This section shall not apply to any property with re-

1 spect to which the rehabilitation credit under section
2 47, the energy credit under section 48, or any credit
3 under section 45 or 45K is allowable unless the tax-
4 payer elects to waive the application of such credit
5 to such property.”.

6 (b) SPECIAL RECAPTURE RULES.—

7 (1) Subsection (a) of section 50 is amended by
8 redesignating paragraph (3), (4), and (5) as para-
9 graphs (4), (5), and (6), respectively, and by insert-
10 ing after paragraph (2) the following new para-
11 graph:

12 “(3) SPECIAL RULES FOR CLEAN COAL TECH-
13 NOLOGY CREDITS.—

14 “(A) EARLY DISPOSITION, ETC.—If, dur-
15 ing any taxable year, qualified clean coal prop-
16 erty is disposed of, or otherwise ceases to be
17 part of a basic or advanced clean coal tech-
18 nology unit with respect to the taxpayer, before
19 the close of the recovery period under section
20 168 for such unit, then the tax under this chap-
21 ter for such taxable year shall be increased
22 by—

23 “(i) the aggregate decrease in the
24 credits allowed under section 38 for all
25 prior taxable years which would have re-

1 sulted solely from reducing to zero any
2 credit determined under section 48A with
3 respect to such property, multiplied by

4 “(ii) a fraction—

5 “(I) the numerator of which is
6 the number of years in the period be-
7 ginning with the year of such dispo-
8 sition or cessation and ending with the
9 last year of such recovery period, and

10 “(II) the denominator of which is
11 the total number of years in such re-
12 covery period.

13 “(B) PROPERTY CEASES TO QUALIFY FOR
14 PROGRESS EXPENDITURES.—Rules similar to
15 the rules of this paragraph shall apply in cases
16 where qualified progress expenditures were
17 taken into account under the rules referred to
18 in section 48A(g)(1).

19 “(C) INCREASED RECAPTURE IN CERTAIN
20 CASES.—The fraction in subparagraph (A)(ii)
21 shall be 1 in any case in which the property
22 ceases to be a basic or advanced clean coal
23 technology unit by reason of paragraph (3), (4),
24 or (5) of section 48A(g).

1 “(D) COORDINATION WITH OTHER RECAP-
2 TURE RULES.—Paragraphs (1) and (2) shall
3 not apply to qualified clean coal property.

4 “(E) DEFINITIONS.—Terms used in this
5 section which are also used in section 48A shall
6 have the meanings given to such terms in sec-
7 tion 48A.”

8 (2) Paragraph (4) of section 50(a), as redesign-
9 ated by paragraph (1), is amended by striking “or
10 (2)” and inserting “, (2), or (3)”.

11 (3) Paragraph (5) of section 50(a), as so redesi-
12 gnated, is amended by striking “and (2)” and in-
13 serting “, (2), and (3)”.

14 (c) TECHNICAL AMENDMENTS.—

15 (1) Section 46 (relating to amount of credit) is
16 amended by striking “and” at the end of paragraph
17 (2), by striking the period at the end of paragraph
18 (3) and inserting “, and”, and by adding at the end
19 the following new paragraph:

20 “(4) the clean coal technology credit.”.

21 (2) Section 49(a)(1)(C) is amended by striking
22 “and” at the end of clause (ii), by striking the pe-
23 riod at the end of clause (iii) and inserting “, and”,
24 and by adding at the end the following new clause:

1 its structural components, other than a building
2 which is exclusively a treatment facility) which
3 is of a character subject to the allowance for
4 depreciation provided in section 167, which is
5 identifiable as a treatment facility, and which is
6 property—

7 “(A) the construction, reconstruction, or
8 erection of which is completed by the taxpayer,
9 or

10 “(B) the original use of the property com-
11 mences with the taxpayer.”

12 (b) COORDINATION WITH SECTION 48A INVESTMENT
13 CREDIT.—Section 169 is amended by redesignating sub-
14 sections (e) through (j) as subsection (f) through (k), re-
15 spectively, and by inserting after subsection (d) the fol-
16 lowing new subsection:

17 “(e) COORDINATION WITH SECTION 48A INVEST-
18 MENT CREDIT.—

19 “(1) IN GENERAL.—In the case of any treat-
20 ment facility used in connection with a plant or
21 other property to which an amount is allocated
22 under section 48A(f), this section shall apply only if
23 such plant or other property was in operation before
24 January 1, 1976.

1 (b) ALTERNATIVE SYSTEM.—The table contained in
 2 section 168(g)(3)(B) (relating to special rule for certain
 3 property assigned to classes) is amended by inserting after
 4 the item relating to subparagraph (B)(iii) the following
 5 new item:

“(B)(vii) 20”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to property placed in service after
 8 the date of the enactment of this Act in taxable years end-
 9 ing after such date.

10 **PART IV—HIGH VOLUME NATURAL GAS**
 11 **PROVISIONS**

12 **SEC. 1355. HIGH VOLUME NATURAL GAS PIPE TREATED AS**
 13 **7-YEAR PROPERTY.**

14 (a) IN GENERAL.—Section 168(e)(3)(C) (defining 7-
 15 year property), as amended by this Act, is amended by
 16 striking “and” at the end of clause (ii), by redesignating
 17 clause (iii) as clause (iv), and by inserting after clause (ii)
 18 the following new clause:

19 “(iii) any high volume natural gas
 20 pipe the original use of which commences
 21 with the taxpayer after the date of the en-
 22 actment of this clause, and”.

23 (b) HIGH VOLUME NATURAL GAS PIPE.—Section
 24 168(i) (relating to definitions and special rules), as

1 amended by this Act, is amended by adding at the end
2 the following new paragraph:

3 “(17) HIGH VOLUME NATURAL GAS PIPE.—The
4 term ‘high volume natural gas pipe’ means—

5 “(A) pipe which has an interior diameter
6 of at least 42 inches and which is part of a nat-
7 ural gas pipeline system, and

8 “(B) any related equipment and appur-
9 tenances used in connection with such pipe.”.

10 (c) ALTERNATIVE SYSTEM.—The table contained in
11 section 168(g)(3)(B) (relating to special rule for certain
12 property assigned to classes), as amended by this Act, is
13 amended by inserting after the item relating to subpara-
14 graph (C)(ii) the following new item:

“(C)(iii) 22”.

15 “(d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to property placed in service on
17 or after the date of the enactment of this Act.

18 **SEC. 1356. EXTENSION OF ENHANCED OIL RECOVERY**
19 **CREDIT TO HIGH VOLUME NATURAL GAS FA-**
20 **CILITIES.**

21 (a) IN GENERAL.—Section 43(e)(1) (defining quali-
22 fied enhanced oil recovery costs) is amended by adding at
23 the end the following new subparagraph:

24 “(D) Any amount which is paid or in-
25 curred during the taxable year in connection

1 with the construction of a gas treatment plant
2 which—

3 “(i) prepares natural gas for transpor-
4 tation through a pipeline with a capacity of
5 at least 1,000,000,000,000 Btu of natural
6 gas per day, and

7 “(ii) produces carbon dioxide which is
8 injected into hydrocarbon-bearing geologi-
9 cal formations.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to costs paid or incurred in taxable
12 years beginning after December 31, 2003.

13 **Subtitle D—Additional Provisions**

14 **SEC. 1361. EXTENSION OF ACCELERATED DEPRECIATION** 15 **BENEFIT FOR ENERGY-RELATED BUSINESSES** 16 **ON INDIAN RESERVATIONS.**

17 Paragraph (8) of section 168(j) (relating to termi-
18 nation) is amended by adding at the end the following new
19 sentence: “The preceding sentence shall be applied by sub-
20 stituting ‘December 31, 2005’ for ‘December 31, 2004’
21 in the case of property placed in service as part of a facil-
22 ity for—

23 “(A) the generation or transmission of
24 electricity (including from any qualified energy
25 resource, as defined in section 45(e)),

1 “(B) an oil or gas well,

2 “(C) the transmission or refining of oil or

3 gas, or

4 “(D) the production of any qualified fuel

5 (as defined in section 45K(c)).”.

6 **SEC. 1362. PAYMENT OF DIVIDENDS ON STOCK OF CO-**

7 **OPERATIVES WITHOUT REDUCING PATRON-**

8 **AGE DIVIDENDS.**

9 (a) **IN GENERAL.**—Subsection (a) of section 1388
10 (relating to patronage dividend defined) is amended by
11 adding at the end the following: “For purposes of para-
12 graph (3), net earnings shall not be reduced by amounts
13 paid during the year as dividends on capital stock or other
14 proprietary capital interests of the organization to the ex-
15 tent that the articles of incorporation or bylaws of such
16 organization or other contract with patrons provide that
17 such dividends are in addition to amounts otherwise pay-
18 able to patrons which are derived from business done with
19 or for patrons during the taxable year.”.

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

1 **SEC. 1363. DISTRIBUTIONS FROM PUBLICLY TRADED PART-**
2 **NERSHIPS TREATED AS QUALIFYING INCOME**
3 **OF REGULATED INVESTMENT COMPANIES.**

4 (a) IN GENERAL.—Paragraph (2) of section 851(b)
5 (defining regulated investment company) is amended to
6 read as follows:

7 “(2) at least 90 percent of its gross income is
8 derived from—

9 “(A) dividends, interest, payments with re-
10 spect to securities loans (as defined in section
11 512(a)(5)), and gains from the sale or other
12 disposition of stock or securities (as defined in
13 section 2(a)(36) of the Investment Company
14 Act of 1940, as amended) or foreign currencies,
15 or other income (including but not limited to
16 gains from options, futures or forward con-
17 tracts) derived with respect to its business of
18 investing in such stock, securities, or currencies,
19 and

20 “(B) distributions or other income derived
21 from an interest in a qualified publicly traded
22 partnership (as defined in subsection (h)); and”

23 (b) SOURCE FLOW-THROUGH RULE NOT TO
24 APPLY.—The last sentence of section 851(b) is amended
25 by inserting “(other than a qualified publicly traded part-

1 nership as defined in subsection (h))” after “derived from
2 a partnership”.

3 (c) LIMITATION ON OWNERSHIP.—Subsection (c) of
4 section 851 is amended by redesignating paragraph (5)
5 as paragraph (6) and inserting after paragraph (4) the
6 following new paragraph:

7 “(5) The term ‘outstanding voting securities of
8 such issuer’ shall include the equity securities of a
9 qualified publicly traded partnership (as defined in
10 subsection (h)).”.

11 (d) DEFINITION OF QUALIFIED PUBLICLY TRADED
12 PARTNERSHIP.—Section 851 is amended by adding at the
13 end the following new subsection:

14 “(h) QUALIFIED PUBLICLY TRADED PARTNER-
15 SHIP.—For purposes of this section, the term ‘qualified
16 publicly traded partnership’ means a publicly traded part-
17 nership described in section 7704(b) other than a partner-
18 ship which would satisfy the gross income requirements
19 of section 7704(c)(2) if qualifying income included only
20 income described in subsection (b)(2)(A).”.

21 (e) DEFINITION OF QUALIFYING INCOME.—Section
22 7704(d)(4) is amended by striking “section 851(b)(2)”
23 and inserting “section 851(b)(2)(A)”.

1 (f) LIMITATION ON COMPOSITION OF ASSETS.—Sub-
2 paragraph (B) of section 851(b)(3) is amended to read
3 as follows:

4 “(B) not more than 25 percent of the
5 value of its total assets is invested in—

6 “(i) the securities (other than Govern-
7 ment securities or the securities of other
8 regulated investment companies) of any
9 one issuer,

10 “(ii) the securities (other than the se-
11 curities of other regulated investment com-
12 panies) of two or more issuers which the
13 taxpayer controls and which are deter-
14 mined, under regulations prescribed by the
15 Secretary, to be engaged in the same or
16 similar trades or businesses or related
17 trades or businesses, or

18 “(iii) the securities of one or more
19 qualified publicly traded partnerships (as
20 defined in subsection (h)).”.

21 (g) APPLICATION OF SPECIAL PASSIVE ACTIVITY
22 RULE TO REGULATED INVESTMENT COMPANIES.—Sub-
23 section (k) of section 469 (relating to separate application
24 of section in case of publicly traded partnerships) is

1 amended by adding at the end the following new para-
2 graph:

3 “(4) APPLICATION TO REGULATED INVEST-
4 MENT COMPANIES.—For purposes of this section, a
5 regulated investment company (as defined in section
6 851) holding an interest in a qualified publicly trad-
7 ed partnership (as defined in section 851(h)) shall
8 be treated as a taxpayer described in subsection
9 (a)(2) with respect to items attributable to such in-
10 terest.”.

11 (h) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 the date of the enactment of this Act.

14 **SEC. 1364. CEILING FANS.**

15 (a) IN GENERAL.—Subchapter II of chapter 99 of
16 the Harmonized Tariff Schedule of the United States is
17 amended by inserting in numerical sequence the following
18 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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19 (b) EFFECTIVE DATE.—The amendment made by
20 this section applies to goods entered, or withdrawn from
21 warehouse, for consumption on or after the 15th day after
22 the date of enactment of this Act.

1 **SEC. 1365. CERTAIN STEAM GENERATORS, AND CERTAIN**
 2 **REACTOR VESSEL HEADS, USED IN NUCLEAR**
 3 **FACILITIES.**

4 (a) CERTAIN STEAM GENERATORS.—Heading
 5 9902.84.02 of the Harmonized Tariff Schedule of the
 6 United States is amended by striking “12/31/2006” and
 7 inserting “12/31/2008”.

8 (b) CERTAIN REACTOR VESSEL HEADS.—Sub-
 9 chapter II of chapter 99 of the Harmonized Tariff Sched-
 10 ule of the United States is amended by inserting in numer-
 11 ical sequence the following new heading:

“	9902.84.03	Reactor vessel heads for nuclear reactors (pro- vided for in sub- heading 8401.40.00)	Free	No change	No change	On or before 12/31/2007	”.
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12 (c) EFFECTIVE DATE.—

13 (1) SUBSECTION (a).—The amendment made
 14 by subsection (a) shall take effect on the date of the
 15 enactment of this Act.

16 (2) SUBSECTION (b).—The amendment made
 17 by subsection (b) shall apply to goods entered, or
 18 withdrawn from warehouse for consumption, on or
 19 after the 15th day after the date of the enactment
 20 of this Act.

1 **SEC. 1366. BROWNFIELDS DEMONSTRATION PROGRAM FOR**
2 **QUALIFIED GREEN BUILDING AND SUSTAIN-**
3 **ABLE DESIGN PROJECTS.**

4 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
5 section (a) of section 142 (relating to the definition of ex-
6 empt facility bond) is amended by striking “or” at the
7 end of paragraph (12), by striking the period at the end
8 of paragraph (13) and inserting “, or”, and by inserting
9 at the end the following new paragraph:

10 “(14) qualified green building and sustainable
11 design projects.”.

12 (b) QUALIFIED GREEN BUILDING AND SUSTAINABLE
13 DESIGN PROJECTS.—Section 142 (relating to exempt fa-
14 cility bonds) is amended by adding at the end thereof the
15 following new subsection:

16 “(1) QUALIFIED GREEN BUILDING AND SUSTAIN-
17 ABLE DESIGN PROJECTS.—

18 “(1) IN GENERAL.—For purposes of subsection
19 (a)(14), the term ‘qualified green building and sus-
20 tainable design project’ means any project that is
21 designated by the Secretary, after consultation with
22 the Administrator of the Environmental Protection
23 Agency, as a qualified green building and sustain-
24 able design project and that meets the requirements
25 of clauses (i), (ii), (iii), and (iv) of paragraph (4)(A).

26 “(2) DESIGNATIONS.—

1 “(A) IN GENERAL.—Within 60 days after
2 the end of the application period described in
3 paragraph (3)(A), the Secretary, after consulta-
4 tion with the Administrator of the Environ-
5 mental Protection Agency, shall designate quali-
6 fied green building and sustainable design
7 projects. At least one of the projects designated
8 shall be located in, or within a 10-mile radius
9 of, an empowerment zone as designated pursu-
10 ant to section 1391. No more than one project
11 shall be designated in a State. A project shall
12 not be designated if such project includes a sta-
13 dium or arena for professional sports exhibi-
14 tions or games.

15 “(B) MINIMUM CONSERVATION AND TECH-
16 NOLOGY INNOVATION OBJECTIVES.—The Sec-
17 retary, after consultation with the Adminis-
18 trator of the Environmental Protection Agency,
19 shall ensure that, in the aggregate, the projects
20 designated shall—

21 “(i) reduce electric consumption by
22 more than 150 megawatts annually as
23 compared to conventional construction;

1 “(ii) reduce daily sulfur dioxide emis-
2 sions by at least 10 tons compared to coal
3 generation power;

4 “(iii) expand by 75 percent the do-
5 mestic solar photovoltaic market in the
6 United States (measured in megawatts) as
7 compared to the expansion of that market
8 from 2001 to 2002; and

9 “(iv) use at least 25 megawatts of
10 fuel cell energy generation.

11 “(3) LIMITED DESIGNATIONS.—A project may
12 not be designated under this subsection unless—

13 “(A) the project is nominated by a State
14 or local government within 180 days of the en-
15 actment of this subsection; and

16 “(B) such State or local government pro-
17 vides written assurances that the project will
18 satisfy the eligibility criteria described in para-
19 graph (4).

20 “(4) APPLICATION.—

21 “(A) IN GENERAL.—A project may not be
22 designated under this subsection unless the ap-
23 plication for such designation includes a project
24 proposal that describes the energy efficiency, re-
25 newable energy, and sustainable design features

1 of the project and demonstrates that the project
2 satisfies the following eligibility criteria:

3 “(i) GREEN BUILDING AND SUSTAIN-
4 ABLE DESIGN.—At least 75 percent of the
5 square footage of buildings which are part
6 of the project is registered for United
7 States Green Building Council’s LEED
8 certification and is reasonably expected (at
9 the time of the designation) to meet such
10 certification.

11 “(ii) BROWNFIELD REDEVELOP-
12 MENT.—The project includes a brownfield
13 site as defined by section 101(39) of the
14 Comprehensive Environmental Response,
15 Compensation, and Liability Act of 1980
16 (42 U.S.C. 9601), including a site de-
17 scribed in subparagraph (D)(ii)(II)(aa)
18 thereof.

19 “(iii) STATE AND LOCAL SUPPORT.—
20 The project receives specific State or local
21 government resources that will support the
22 project in an amount equal to at least
23 \$5,000,000. For purposes of the preceding
24 sentence, the term ‘resources’ includes tax

1 abatement benefits and contributions in
2 kind.

3 “(iv) SIZE.—The project includes at
4 least one of the following:

5 “(I) At least 1,000,000 square
6 feet of building.

7 “(II) At least 20 acres.

8 “(v) USE OF TAX BENEFIT.—The
9 project proposal includes a description of
10 the net benefit of the tax-exempt financing
11 provided under this subsection which will
12 be allocated for financing of one or more
13 of the following:

14 “(I) The purchase, construction,
15 integration, or other use of energy ef-
16 ficiency, renewable energy, and sus-
17 tainable design features of the project.

18 “(II) Compliance with LEED
19 certification standards.

20 “(III) The purchase, remediation,
21 and foundation construction and prep-
22 aration of the brownfields site.

23 “(vi) EMPLOYMENT.—The project is
24 projected to provide permanent employ-
25 ment of at least 1,500 full time equivalents

1 when completed and construction employ-
2 ment of at least 1,000 full time equiva-
3 lents.

4 The application shall include an independent
5 analysis that describes the project's economic
6 impact, including the amount of projected em-
7 ployment.

8 “(B) PROJECT DESCRIPTION.—Each appli-
9 cation described in subparagraph (A) shall con-
10 tain for each project a description of—

11 “(i) the amount of electric consump-
12 tion reduced as compared to conventional
13 construction;

14 “(ii) the amount of sulfur dioxide
15 daily emissions reduced compared to coal
16 generation;

17 “(iii) the amount of the gross in-
18 stalled capacity of the project's solar pho-
19 tovoltaic capacity measured in megawatts;
20 and

21 “(iv) the amount, in megawatts, of
22 the project's fuel cell energy generation.

23 “(5) CERTIFICATION OF USE OF TAX BEN-
24 EFIT.—No later than 30 days after the completion
25 of the project, each project must certify to the Sec-

1 retary that the net benefit of the tax-exempt financ-
2 ing was used for the purposes described in para-
3 graph (4).

4 “(6) DEFINITIONS.—For purposes of this sub-
5 section:

6 “(A) LOCAL GOVERNMENT.—The term
7 ‘local government’ has the meaning given such
8 term by section 1393(a)(5).

9 “(B) NET BENEFIT OF TAX-EXEMPT FI-
10 NANCING.—The term ‘net benefit of tax-exempt
11 financing’ means the present value of the inter-
12 est savings (determined by a calculation estab-
13 lished by the Secretary) that result from the
14 tax-exempt status of the bonds.

15 “(7) AGGREGATE FACE AMOUNT OF TAX-EX-
16 EMPT FINANCING.—

17 “(A) IN GENERAL.—An issue shall not be
18 treated as an issue described in subsection
19 (a)(14) if the aggregate face amount of bonds
20 issued by the State or local government pursu-
21 ant thereto for a project (when added to the ag-
22 gregate face amount of bonds previously so
23 issued for such project) exceeds an amount des-
24 ignated by the Secretary as part of the designa-
25 tion.

1 “(B) LIMITATION ON AMOUNT OF
2 BONDS.—There is a national green bond and
3 sustainable design project bond limitation of
4 \$2,000,000,000. The Secretary may not allo-
5 cate authority to issue qualified green building
6 and sustainable design project bonds in an ag-
7 gregate face amount exceeding \$2,000,000,000.

8 “(8) TERMINATION.—Subsection (a)(14) shall
9 not apply with respect to any bond issued after Oc-
10 tober 1, 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 education
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) Any asset financed with bonds issued pursu-
17 ant to this section shall be ineligible for any credit
18 or deduction established under the Energy Tax Pol-
19 icy 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, after consultation with the

1 Administrator of the Environmental Protection
2 Agency, shall determine whether the project financed
3 with such bonds has substantially complied with the
4 terms and conditions described in section 142(l)(4)
5 of the Internal Revenue Code of 1986 (as added by
6 this section). If the Secretary, after such consulta-
7 tion, certifies that the project has substantially com-
8 plied with such terms and conditions, amounts in the
9 reserve account, including all interest, shall be re-
10 leased to the project. If the Secretary determines
11 that the project has not substantially complied with
12 such terms and conditions, amounts in the reserve
13 account, including all interest, shall be paid to the
14 United States Treasury.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to bonds issued after the date of
17 the enactment of this Act.