

Subtitle J—Economic Dispatch

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

16 USC 824w.
Establishment.

“SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

“(a) **IN GENERAL.**—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

“(b) **MEMBERSHIP.**—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

“(c) **POWERS.**—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes ‘security constrained economic dispatch’ and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

“(d) **REPORT TO THE CONGRESS.**—Within 1 year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.”.

Energy Tax
Incentives Act of
2005.

TITLE XIII—ENERGY POLICY TAX INCENTIVES

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

26 USC 1 note.

(a) **SHORT TITLE.**—This title may be cited as the “Energy Tax Incentives Act of 2005”.

26 USC 1 *et seq.*

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Electricity Infrastructure

SEC. 1301. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT.

26 USC 45.

(a) **2-YEAR EXTENSION FOR CERTAIN FACILITIES.**—Section 45(d) (relating to qualified facilities) is amended—

(1) by striking “January 1, 2006” each place it appears in paragraphs (1), (2), (3), (5), (6), and (7) and inserting “January 1, 2008”, and

(2) by striking “January 1, 2006” in paragraph (4) and inserting “January 1, 2008 (January 1, 2006, in the case of a facility using solar energy)”.

(b) INCREASE IN CREDIT PERIOD.—Section 45(b)(4)(B) (relating to credit period) is amended—

(1) by inserting “or clause (iii)” after “clause (ii)” in clause (i), and

(2) by adding at the end the following:

“(iii) TERMINATION.—Clause (i) shall not apply to any facility placed in service after the date of the enactment of this clause.”.

(c) EXPANSION OF QUALIFIED RESOURCES TO CERTAIN HYDROPOWER.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) qualified hydropower production.”.

(2) CREDIT RATE.—Section 45(b)(4)(A) (relating to credit rate) is amended by striking “or (7)” and inserting “(7), or (9)”.

(3) DEFINITION OF RESOURCES.—Section 45(c) (relating to qualified energy resources and refined coal) is amended by adding at the end the following new paragraph:

“(8) QUALIFIED HYDROPOWER PRODUCTION.—

“(A) IN GENERAL.—The term ‘qualified hydropower production’ means—

“(i) in the case of any hydroelectric dam which was placed in service on or before the date of the enactment of this paragraph, the incremental hydropower production for the taxable year, and

“(ii) in the case of any nonhydroelectric dam described in subparagraph (C), the hydropower production from the facility for the taxable year.

“(B) DETERMINATION OF INCREMENTAL HYDROPOWER PRODUCTION.—

“(i) IN GENERAL.—For purposes of subparagraph (A), incremental hydropower production for any taxable year shall be equal to the percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity placed in service after the date of the enactment of this paragraph, determined by using the same water flow information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission.

“(ii) OPERATIONAL CHANGES DISREGARDED.—For purposes of clause (i), the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

“(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

“(i) the facility is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

“(ii) the facility was placed in service before the date of the enactment of this paragraph and did not produce hydroelectric power on the date of the enactment of this paragraph, and

“(iii) turbines or other generating devices are to be added to the facility after such date to produce hydroelectric power, but only if there is not any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of any additional water from the natural stream channel.”

26 USC 45.

(4) FACILITIES.—Section 45(d) (relating to qualified facilities) is amended by adding at the end the following new paragraph:

“(9) QUALIFIED HYDROPOWER FACILITY.—In the case of a facility producing qualified hydroelectric production described in subsection (c)(8), the term ‘qualified facility’ means—

“(A) in the case of any facility producing incremental hydropower production, such facility but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after the date of the enactment of this paragraph and before January 1, 2008, and

“(B) any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

“(C) CREDIT PERIOD.—In the case of a qualified facility described in subparagraph (A), the 10-year period referred to in subsection (a) shall be treated as beginning on the date the efficiency improvements or additions to capacity are placed in service.”

(d) INDIAN COAL.—

(1) PRODUCTION FACILITIES.—Subsection (e) of section 45 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(10) INDIAN COAL PRODUCTION FACILITIES.—

“(A) DETERMINATION OF CREDIT AMOUNT.—In the case of a producer of Indian coal, the credit determined under this section (without regard to this paragraph) for any taxable year shall be increased by an amount equal to the applicable dollar amount per ton of Indian coal—

“(i) produced by the taxpayer at an Indian coal production facility during the 7-year period beginning on January 1, 2006, and

“(ii) sold by the taxpayer—

“(I) to an unrelated person, and

“(II) during such 7-year period and such taxable year.

“(B) APPLICABLE DOLLAR AMOUNT.—

“(i) IN GENERAL.—The term ‘applicable dollar amount’ for any taxable year beginning in a calendar year means—

“(I) \$1.50 in the case of calendar years 2006 through 2009, and

“(II) \$2.00 in the case of calendar years beginning after 2009.

“(ii) INFLATION ADJUSTMENT.—In the case of any calendar year after 2006, each of the dollar amounts under clause (i) shall be equal to the product of such dollar amount and the inflation adjustment factor determined under paragraph (2)(B) for the calendar year, except that such paragraph shall be applied by substituting ‘2005’ for ‘1992’.

“(C) APPLICATION OF RULES.—Rules similar to the rules of the subsection (b)(3) and paragraphs (1), (3), (4), and (5) of this subsection shall apply for purposes of determining the amount of any increase under this paragraph.

“(D) TREATMENT AS SPECIFIED CREDIT.—The increase in the credit determined under subsection (a) by reason of this paragraph with respect to any facility shall be treated as a specified credit for purposes of section 38(c)(4)(A) during the 4-year period beginning on the later of January 1, 2006, or the date on which such facility is placed in service by the taxpayer.”.

Effective date.

(2) RESOURCE.—Subsection (c) of section 45 (relating to qualified energy resources and refined coal), as amended by this Act, is amended by adding at the end the following new paragraph:

26 USC 45.

“(9) INDIAN COAL.—

“(A) IN GENERAL.—The term ‘Indian coal’ means coal which is produced from coal reserves which, on June 14, 2005—

“(i) were owned by an Indian tribe, or

“(ii) were held in trust by the United States for the benefit of an Indian tribe or its members.

“(B) INDIAN TRIBE.—For purposes of this paragraph, the term ‘Indian tribe’ has the meaning given such term by section 7871(c)(3)(E)(ii).”.

(3) INDIAN COAL PRODUCTION FACILITY.—Subsection (d) of section 45, as amended by this Act, is amended by adding at the end the following new paragraph:

“(10) INDIAN COAL PRODUCTION FACILITY.—The term ‘Indian coal production facility’ means a facility which is placed in service before January 1, 2009.”.

(4) CONFORMING AMENDMENT.—The heading for section 45(c) is amended by striking “QUALIFIED ENERGY RESOURCES AND REFINED COAL” and inserting “RESOURCES”.

(e) TECHNICAL AMENDMENT RELATED TO TRASH COMBUSTION FACILITIES.—Section 45(d)(7) (relating to trash combustion facilities) is amended by adding at the end the following: “Such term shall include a new unit placed in service in connection with a facility placed in service on or before the date of the enactment of this paragraph, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.”.

(f) ADDITIONAL TECHNICAL AMENDMENTS RELATED TO SECTION 710 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Clause (ii) of section 45(b)(4)(B) is amended by striking “the date of the enactment of this Act” and inserting “January 1, 2005.”.

26 USC 45.

(2) Clause (ii) of section 45(c)(3)(A) is amended by inserting “or any nonhazardous lignin waste material” after “cellulosic waste material”.

(3) Subsection (e) of section 45 is amended by striking paragraph (6).

(4)(A) Paragraph (9) of section 45(e) is amended to read as follows:

“(9) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

“(A) IN GENERAL.—The term ‘qualified facility’ shall not include any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such biodegradation occurred in a facility (within the meaning of section 29) the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.

“(B) REFINED COAL FACILITIES.—The term ‘refined coal production facility’ shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.”.

(B) Subparagraph (C) of section 45(e)(8) is amended by striking “and (9)”.

26 USC 168.

(5) Subclause (I) of section 168(e)(3)(B)(vi) is amended to read as follows:

“(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if ‘solar and wind’ were substituted for ‘solar’ in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),”.

26 USC 45 note.

(6) Paragraph (4) of section 710(g) of the American Jobs Creation Act of 2004 is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

26 USC 45 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect of the date of the enactment of this Act.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (e) and (f) shall take effect as if included in the amendments made by section 710 of the American Jobs Creation Act of 2004.

SEC. 1302. APPLICATION OF SECTION 45 CREDIT TO AGRICULTURAL COOPERATIVES.

(a) IN GENERAL.—Section 45(e) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following:

“(11) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

“(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any patrons under subparagraph (A)—

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

“(ii) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

“(i) such reduction, over

“(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter.

“(D) ELIGIBLE COOPERATIVE DEFINED.—For purposes of this section the term ‘eligible cooperative’ means a cooperative organization described in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.”.

(b) CONFORMING AMENDMENT.—The last sentence of section 55(c)(1) is amended by inserting “45(e)(11)(C),” after “section”.

26 USC 55.

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

26 USC 45 note.

SEC. 1303. CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

“Subpart H—Nonrefundable Credit to Holders of Certain Bonds

“Sec. 54. Credit to holders of clean renewable energy bonds.

“SEC. 54. CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

“(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a clean renewable energy bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

“(b) AMOUNT OF CREDIT.—

“(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a clean renewable energy bond is 25 percent of the annual credit determined with respect to such bond.

“(2) ANNUAL CREDIT.—The annual credit determined with respect to any clean renewable energy bond is the product of—

“(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

“(B) the outstanding face amount of the bond.

“(3) DETERMINATION.—For purposes of paragraph (2), with respect to any clean renewable energy bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary’s designee estimates will permit the issuance of clean renewable energy bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

“(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term ‘credit allowance date’ means—

“(A) March 15,

“(B) June 15,

“(C) September 15, and

“(D) December 15.

Such term also includes the last day on which the bond is outstanding.

“(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

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

“(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(2) the sum of the credits allowable under this part (other than subpart C and this section).

“(d) CLEAN RENEWABLE ENERGY BOND.—For purposes of this section—

“(1) IN GENERAL.—The term ‘clean renewable energy bond’ means any bond issued as part of an issue if—

“(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable energy bond limitation under subsection (f)(2),

“(B) 95 percent or more of the proceeds of such issue are to be used for capital expenditures incurred by qualified borrowers for one or more qualified projects,

“(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

“(D) the issue meets the requirements of subsection (h).

“(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

“(A) IN GENERAL.—The term ‘qualified project’ means any qualified facility (as determined under section 45(d) without regard to paragraph (10) and to any placed in service date) owned by a qualified borrower.

“(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean renewable energy bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

“(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

Deadlines.

“(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean renewable energy bond,

“(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

“(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

“(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower or qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

“(e) MATURITY LIMITATIONS.—

“(1) DURATION OF TERM.—A bond shall not be treated as a clean renewable energy bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

“(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (1)(6) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

“(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

“(1) NATIONAL LIMITATION.—There is a national clean renewable energy bond limitation of \$800,000,000.

“(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than \$500,000,000 of the national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are governmental bodies.

“(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

“(h) SPECIAL RULES RELATING TO EXPENDITURES.—

“(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

“(A) at least 95 percent of the proceeds of such issue are to be spent for one or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond,

“(B) a binding commitment with a third party to spend at least 10 percent of the proceeds of such issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the proceeds of which are to be loaned to two or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower, and

“(C) such projects will be completed with due diligence and the proceeds of such issue will be spent with due diligence.

“(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified

issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

“(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

“(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a clean renewable energy bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

“(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

“(1) COOPERATIVE ELECTRIC COMPANY.—The term ‘cooperative electric company’ means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

“(2) CLEAN RENEWABLE ENERGY BOND LENDER.—The term ‘clean renewable energy bond lender’ means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

“(3) GOVERNMENTAL BODY.—The term ‘governmental body’ means any State, territory, possession of the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

“(4) QUALIFIED ISSUER.—The term ‘qualified issuer’ means—

- “(A) a clean renewable energy bond lender,
- “(B) a cooperative electric company, or
- “(C) a governmental body.

“(5) QUALIFIED BORROWER.—The term ‘qualified borrower’ means—

- “(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C), or
- “(B) a governmental body.

“(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

“(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) BOND.—The term ‘bond’ includes any obligation.

“(2) POOLED FINANCING BOND.—The term ‘pooled financing bond’ shall have the meaning given such term by section 149(f)(4)(A).

- Applicability. “(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—
- Regulations. “(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).
“(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.
- Procedures. “(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any clean renewable energy bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.
“(5) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section (determined without regard to subsection (c)) to a taxpayer by reason of holding a clean renewable energy bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.
“(6) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.
“(7) REPORTING.—Issuers of clean renewable energy bonds shall submit reports similar to the reports required under section 149(e).
“(m) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2007.”.
- (b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:
“(8) REPORTING OF CREDIT ON CLEAN RENEWABLE ENERGY BONDS.—
“(A) IN GENERAL.—For purposes of subsection (a), the term ‘interest’ includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).
“(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.
“(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.”.
- (c) CONFORMING AMENDMENTS.—
(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CERTAIN BONDS.”.

(2) Section 1397E(c)(2) is amended by inserting “, and subpart H thereof” after “refundable credits”.

(3) Subsection (h) of section 1397E is amended to read as follows:

“(h) CREDIT TREATED AS NONREFUNDABLE BONDHOLDER CREDIT.—For purposes of this title, the credit allowed by this section shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.”.

(4) Section 6401(b)(1) is amended by striking “and G” and inserting “G, and H”.

(d) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

Deadline.
26 USC 54 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2005.

26 USC 54 note.

SEC. 1304. TREATMENT OF INCOME OF CERTAIN ELECTRIC COOPERATIVES.

(a) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—Section 501(c)(12)(C) is amended by striking the last sentence.

(b) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12)(H) is amended by striking clause (x).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 501 note.

SEC. 1305. DISPOSITIONS OF TRANSMISSION PROPERTY TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking “2007” and inserting “2008”.

(b) TECHNICAL AMENDMENT RELATED TO SECTION 909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Clause (ii) of section 451(i)(4)(B) is amended by striking “the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2)” and inserting “December 31, 2007”.

(c) EFFECTIVE DATES.—

26 USC 451 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

SEC. 1306. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding after section 45I the following new section:

“SEC. 45J. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

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

“(1) 1.8 cents, multiplied by

“(2) the kilowatt hours of electricity—

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

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

“(b) NATIONAL LIMITATION.—

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

“(A) the national megawatt capacity limitation allocated to the facility, bears to

“(B) the total megawatt nameplate capacity of such facility.

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

“(3) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation in such manner as the Secretary may prescribe.

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

“(c) OTHER LIMITATIONS.—

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

“(A) the national megawatt capacity limitation allocated under subsection (b) to the facility, bears to

“(B) 1,000.

“(2) OTHER LIMITATIONS.—Rules similar to the rules of section 45(b)(1) shall apply for purposes of this section.

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

“(1) IN GENERAL.—The term ‘advanced nuclear power facility’ means any advanced nuclear facility—

“(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity, and

“(B) which is placed in service after the date of the enactment of this paragraph and before January 1, 2021.

“(2) ADVANCED NUCLEAR FACILITY.—For purposes of paragraph (1), the term ‘advanced nuclear facility’ means any nuclear facility the reactor design for which is approved after December 31, 1993, by the Nuclear Regulatory Commission

Deadline.

(and such design or a substantially similar design of comparable capacity was not approved on or before such date).

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

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by the Transportation Equity Act: A Legacy for Users, is amended by striking “plus” at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting “, plus”, and by adding at the end the following:

“(21) the advanced nuclear power facility production credit determined under section 45J(a).”.

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

“Sec. 45J. Credit for production from advanced nuclear power facilities.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

26 USC 38 note.

SEC. 1307. CREDIT FOR INVESTMENT IN CLEAN COAL FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2), and by adding at the end the following new paragraphs:

“(3) the qualifying advanced coal project credit, and

“(4) the qualifying gasification project credit.”.

(b) AMOUNT OF CREDITS.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new sections:

“SEC. 48A. QUALIFYING ADVANCED COAL PROJECT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying advanced coal project credit for any taxable year is an amount equal to—

“(1) 20 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(i), and

“(2) 15 percent of the qualified investment for such taxable year in the case of projects described in subsection (d)(3)(B)(ii).

“(b) QUALIFIED INVESTMENT.—

“(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced coal project—

“(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

“(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

“(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

“(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

“(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before

the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

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

“(1) QUALIFYING ADVANCED COAL PROJECT.—The term ‘qualifying advanced coal project’ means a project which meets the requirements of subsection (e).

“(2) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—The term ‘advanced coal-based generation technology’ means a technology which meets the requirements of subsection (f).

“(3) ELIGIBLE PROPERTY.—The term ‘eligible property’ means—

“(A) in the case of any qualifying advanced coal project using an integrated gasification combined cycle, any property which is a part of such project and is necessary for the gasification of coal, including any coal handling and gas separation equipment, and

“(B) in the case of any other qualifying advanced coal project, any property which is a part of such project.

“(4) COAL.—The term ‘coal’ means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

“(5) GREENHOUSE GAS CAPTURE CAPABILITY.—The term ‘greenhouse gas capture capability’ means an integrated gasification combined cycle technology facility capable of adding components which can capture, separate on a long-term basis, isolate, remove, and sequester greenhouse gases which result from the generation of electricity.

“(6) ELECTRIC GENERATION UNIT.—The term ‘electric generation unit’ means any facility at least 50 percent of the total annual net output of which is electrical power, including an otherwise eligible facility which is used in an industrial application.

“(7) INTEGRATED GASIFICATION COMBINED CYCLE.—The term ‘integrated gasification combined cycle’ means an electric generation unit which produces electricity by converting coal to synthesis gas which is used to fuel a combined-cycle plant which produces electricity from both a combustion turbine (including a combustion turbine/fuel cell hybrid) and a steam turbine.

Deadlines.

“(d) QUALIFYING ADVANCED COAL PROJECT PROGRAM.—

“(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies.

“(2) CERTIFICATION.—

“(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

“(B) REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION.—An application under subparagraph (A) shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements under subsection (e)(1). Any information contained in the

Trade secrets.
Confidential
information.

application shall be protected as provided in section 552(b)(4) of title 5, United States Code.

“(C) TIME TO ACT UPON APPLICATIONS FOR CERTIFICATION.—The Secretary shall issue a determination as to whether an applicant has met the requirements under subsection (e)(1) within 60 days following the date of submittal of the application for certification.

“(D) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the criteria set forth in subsection (e)(2) have been met.

“(E) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.

“(3) AGGREGATE CREDITS.—

“(A) IN GENERAL.—The aggregate credits allowed under subsection (a) for projects certified by the Secretary under paragraph (2) may not exceed \$1,300,000,000.

“(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

“(i) \$800,000,000 for integrated gasification combined cycle projects, and

“(ii) \$500,000,000 for projects which use other advanced coal-based generation technologies.

“(4) REVIEW AND REDISTRIBUTION.—

“(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the credits allocated under this section as of the date which is 6 years after the date of enactment of this section.

“(B) REDISTRIBUTION.—The Secretary may reallocate credits available under clauses (i) and (ii) of paragraph (3)(B) if the Secretary determines that—

“(i) there is an insufficient quantity of qualifying applications for certification pending at the time of the review, or

“(ii) any certification made pursuant to subsection paragraph (2) has been revoked pursuant to subsection paragraph (2)(D) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

“(C) REALLOCATION.—If the Secretary determines that credits under clause (i) or (ii) of paragraph (3)(B) are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.

“(e) QUALIFYING ADVANCED COAL PROJECTS.—

“(1) REQUIREMENTS.—For purposes of subsection (c)(1), a project shall be considered a qualifying advanced coal project that the Secretary may certify under subsection (d)(2) if the Secretary determines that, at a minimum—

“(A) the project uses an advanced coal-based generation technology—

“(i) to power a new electric generation unit; or

“(ii) to retrofit or repower an existing electric generation unit (including an existing natural gas-fired combined cycle unit);

“(B) the fuel input for the project, when completed, is at least 75 percent coal;

“(C) the project, consisting of one or more electric generation units at one site, will have a total nameplate generating capacity of at least 400 megawatts;

“(D) the applicant provides evidence that a majority of the output of the project is reasonably expected to be acquired or utilized;

“(E) the applicant provides evidence of ownership or control of a site of sufficient size to allow the proposed project to be constructed and to operate on a long-term basis; and

“(F) the project will be located in the United States.

“(2) REQUIREMENTS FOR CERTIFICATION.—For the purpose of subsection (d)(2)(D), a project shall be eligible for certification only if the Secretary determines that—

“(A) the applicant for certification has received all Federal and State environmental authorizations or reviews necessary to commence construction of the project; and

“(B) the applicant for certification, except in the case of a retrofit or repower of an existing electric generation unit, has purchased or entered into a binding contract for the purchase of the main steam turbine or turbines for the project, except that such contract may be contingent upon receipt of a certification under subsection (d)(2).

“(3) PRIORITY FOR INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—In determining which qualifying advanced coal projects to certify under subsection (d)(2), the Secretary shall—

“(A) certify capacity, in accordance with the procedures set forth in subsection (d), in relatively equal amounts to—

“(i) projects using bituminous coal as a primary feedstock,

“(ii) projects using subbituminous coal as a primary feedstock, and

“(iii) projects using lignite as a primary feedstock, and

“(B) give high priority to projects which include, as determined by the Secretary—

“(i) greenhouse gas capture capability,

“(ii) increased by-product utilization, and

“(iii) other benefits.

“(f) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—

“(1) IN GENERAL.—For the purpose of this section, an electric generation unit uses advanced coal-based generation technology if—

“(A) the unit—

“(i) uses integrated gasification combined cycle technology, or

“(ii) except as provided in paragraph (3), has a design net heat rate of 8530 Btu/kWh (40 percent efficiency), and

“(B) the unit is designed to meet the performance requirements in the following table:

Performance characteristic:	Design level for project:
SO ₂ (percent removal)	99 percent
NO _x (emissions)	0.07 lbs/MMBTU
PM* (emissions)	0.015 lbs/MMBTU
Hg (percent removal)	90 percent

“(2) DESIGN NET HEAT RATE.—For purposes of this subsection, design net heat rate with respect to an electric generation unit shall—

“(A) be measured in Btu per kilowatt hour (higher heating value),

“(B) be based on the design annual heat input to the unit and the rated net electrical power, fuels, and chemicals output of the unit (determined without regard to the cogeneration of steam by the unit),

“(C) be adjusted for the heat content of the design coal to be used by the unit—

“(i) if the heat content is less than 13,500 Btu per pound, but greater than 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1-[(13,500-design coal heat content, Btu per pound)/1,000]* 0.013]], and

“(ii) if the heat content is less than or equal to 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1-[(13,500-design coal heat content, Btu per pound)/1,000]* 0.018]], and

“(D) be corrected for the site reference conditions of—

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

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

“(iii) temperature, dry bulb of 63°F,

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

“(v) relative humidity of 55 percent.

“(3) EXISTING UNITS.—In the case of any electric generation unit in existence on the date of the enactment of this section, such unit uses advanced coal-based generation technology if, in lieu of the requirements under paragraph (1)(A)(ii), such unit achieves a minimum efficiency of 35 percent and an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

“(A) 7 percentage points for coal of more than 9,000 Btu,

“(B) 6 percentage points for coal of 7,000 to 9,000 Btu, or

“(C) 4 percentage points for coal of less than 7,000 Btu.

“(g) APPLICABILITY.—No use of technology (or level of emission reduction solely by reason of the use of the technology), and no achievement of any emission reduction by the demonstration of any technology or performance level, by or at one or more facilities with respect to which a credit is allowed under this section, shall

be considered to indicate that the technology or performance level is—

“(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411);

“(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

“(3) achievable in practice for purposes of section 171 of such Act (42 U.S.C. 7501).

“SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.

“(a) IN GENERAL.—For purposes of section 46, the qualifying gasification project credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

“(b) QUALIFIED INVESTMENT.—

“(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project—

“(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

“(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

“(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

“(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

“(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

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

“(1) QUALIFYING GASIFICATION PROJECT.—The term ‘qualifying gasification project’ means any project which—

“(A) employs gasification technology,

“(B) will be carried out by an eligible entity, and

“(C) any portion of the qualified investment of which is certified under the qualifying gasification program as eligible for credit under this section in an amount (not to exceed \$650,000,000) determined by the Secretary.

“(2) GASIFICATION TECHNOLOGY.—The term ‘gasification technology’ means any process which converts a solid or liquid product from coal, petroleum residue, biomass, or other materials which are recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

“(3) ELIGIBLE PROPERTY.—The term ‘eligible property’ means any property which is a part of a qualifying gasification project and is necessary for the gasification technology of such project.

“(4) BIOMASS.—

“(A) IN GENERAL.—The term ‘biomass’ means any—

“(i) agricultural or plant waste,

“(ii) byproduct of wood or paper mill operations, including lignin in spent pulping liquors, and

“(iii) other products of forestry maintenance.

“(B) EXCLUSION.—The term ‘biomass’ does not include paper which is commonly recycled.

“(5) CARBON CAPTURE CAPABILITY.—The term ‘carbon capture capability’ means a gasification plant design which is determined by the Secretary to reflect reasonable consideration for, and be capable of, accommodating the equipment likely to be necessary to capture carbon dioxide from the gaseous stream, for later use or sequestration, which would otherwise be emitted in the flue gas from a project which uses a nonrenewable fuel.

“(6) COAL.—The term ‘coal’ means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

“(7) ELIGIBLE ENTITY.—The term ‘eligible entity’ means any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to—

“(A) chemicals,

“(B) fertilizers,

“(C) glass,

“(D) steel,

“(E) petroleum residues,

“(F) forest products, and

“(G) agriculture, including feedlots and dairy operations.

“(8) PETROLEUM RESIDUE.—The term ‘petroleum residue’ means the carbonized product of high-boiling hydrocarbon fractions obtained in petroleum processing.

“(d) QUALIFYING GASIFICATION PROJECT PROGRAM.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying gasification project program to consider and award certifications for qualified investment eligible for credits under this section to qualifying gasification project sponsors under this section. The total amounts of credit that may be allocated under the program shall not exceed \$350,000,000 under rules similar to the rules of section 48A(d)(4).

Deadline.

“(2) PERIOD OF ISSUANCE.—A certificate of eligibility under paragraph (1) may be issued only during the 10-fiscal year period beginning on October 1, 2005.

Deadline.

“(3) SELECTION CRITERIA.—The Secretary shall not make a competitive certification award for qualified investment for credit eligibility under this section unless the recipient has documented to the satisfaction of the Secretary that—

“(A) the award recipient is financially viable without the receipt of additional Federal funding associated with the proposed project,

“(B) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is spent efficiently and effectively,

“(C) a market exists for the products of the proposed project as evidenced by contracts or written statements of intent from potential customers,

“(D) the fuels identified with respect to the gasification technology for such project will comprise at least 90 percent of the fuels required by the project for the production

of chemical feedstocks, liquid transportation fuels, or co-production of electricity,

“(E) the award recipient’s project team is competent in the construction and operation of the gasification technology proposed, with preference given to those recipients with experience which demonstrates successful and reliable operations of the technology on domestic fuels so identified, and

“(F) the award recipient has met other criteria established and published by the Secretary.

“(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48A.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking “and” at the end of clause (ii), by striking clause (iii), and by adding after clause (ii) the following new clauses:

“(iii) the basis of any property which is part of a qualifying advanced coal project under section 48A, and

“(iv) the basis of any property which is part of a qualifying gasification project under section 48B.”.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new items:

“Sec. 48A. Qualifying advanced coal project credit.

“Sec. 48B. Qualifying gasification project credit.”.

26 USC 46 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1308. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking “and” at the end of clause (v), by striking the period at the end of clause (vi) and inserting “, and”, and by adding at the end the following new clause:

“(vii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.”.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (E)(vi) the following new item:

“(E)(vii) 30”.

26 USC 168 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1309. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

(a) ELIGIBILITY OF POST-1975 POLLUTION CONTROL FACILITIES.—Subsection (d) of section 169 (relating to definitions) is amended by adding at the end the following:

“(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired—

“(A) paragraph (1) shall be applied without regard to the phrase ‘in operation before January 1, 1976’, and
“(B) this section shall be applied by substituting ‘84’ for ‘60’ each place it appears in subsections (a) and (b).”.

(b) TREATMENT AS NEW IDENTIFIABLE TREATMENT FACILITY.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

“(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting ‘April 11, 2005’ for ‘December 31, 1968’ each place it appears therein.”.

(c) CONFORMING AMENDMENT.—The heading for section 169(d) is amended by inserting “AND SPECIAL RULES” after “DEFINITIONS”.

(d) TECHNICAL AMENDMENT.—Section 169(d)(3) is amended by striking “Health, Education, and Welfare” and inserting “Health and Human Services”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

26 USC 169 note.

SEC. 1310. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

“(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.”.

(b) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

“(f) TRANSFERS INTO QUALIFIED FUNDS.—

“(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the

portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of this subsection.

“(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

“(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

“(C) TRANSFERS OF QUALIFIED FUNDS.—If—

“(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

“(ii) such Fund is transferred thereafter,
any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferor for the taxable year which includes such date.

“(D) SPECIAL RULES.—

“(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

“(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

“(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

“(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer’s basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.”

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

“(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and”

(c) NEW RULING AMOUNT REQUIRED UPON LICENSE RENEWAL.—Paragraph (1) of section 468A(d) (relating to request required) is amended by adding at the end the following new sentence: “For purposes of the preceding sentence, the taxpayer shall request a schedule of ruling amounts upon each renewal of the operating license of the nuclear powerplant.”

(d) CONFORMING AMENDMENT.—Section 468A(e)(3) (relating to review of amount) is amended by striking “The Fund” and inserting “Except as provided in subsection (f), the Fund”.

(e) TECHNICAL AMENDMENTS.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking “rate set forth in subparagraph (B)” in subparagraph (A) and inserting “rate of 20 percent”,

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

26 USC 468A
note.

SEC. 1311. FIVE-YEAR NET OPERATING LOSS CARRYOVER FOR CERTAIN LOSSES.

Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end the following new subparagraph:

“(I) TRANSMISSION PROPERTY AND POLLUTION CONTROL INVESTMENT.—

“(i) IN GENERAL.—At the election of the taxpayer in any taxable year ending after December 31, 2005, and before January 1, 2009, in the case of a net operating loss in a taxable year ending after December 31, 2002, and before January 1, 2006, there shall be a net operating loss carryback to each of the 5 years preceding the taxable year of such loss to the extent that such loss does not exceed 20 percent of the sum of electric transmission property capital expenditures and pollution control facility capital expenditures of the taxpayer for the taxable year preceding the taxable year in which such election is made.

“(ii) LIMITATIONS.—For purposes of this subsection—

“(I) not more than one election may be made under clause (i) with respect to any net operating loss in a taxable year, and

“(II) an election may not be made under clause (i) for more than 1 taxable year beginning in any calendar year.

“(iii) COORDINATION WITH ORDERING RULE.—For purposes of applying subsection (b)(2), the portion of any loss which is carried back 5 years by reason of clause (i) shall be treated in a manner similar to the manner in which a specified liability loss is treated.

“(iv) APPLICATION FOR ADJUSTMENT.—In the case of any portion of a net operating loss to which an election under clause (i) applies, an application under section 6411(a) with respect to such loss shall not fail to be treated as timely filed if filed within 24 months after the due date specified under such section.

Deadline.

“(v) SPECIAL RULES RELATING TO REFUND.—For purposes of a net operating loss to which an election under clause (i) applies, references in sections 6501(h), 6511(d)(2)(A), and 6611(f)(1) to the taxable year in which such net operating loss arises or result in a

net loss carryback shall be treated as references to the taxable year in which such election occurs.

“(vi) DEFINITIONS.—For purposes of this subparagraph—

“(I) ELECTRIC TRANSMISSION PROPERTY CAPITAL EXPENDITURES.—The term ‘electric transmission property capital expenditures’ means any expenditure, chargeable to capital account, made by the taxpayer which is attributable to electric transmission property used by the taxpayer in the transmission at 69 or more kilovolts of electricity for sale. Such term shall not include any expenditure which may be refunded or the purpose of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.

“(II) POLLUTION CONTROL FACILITY CAPITAL EXPENDITURES.—The term ‘pollution control facility capital expenditures’ means any expenditure, chargeable to capital account, made by an electric utility company (as defined in section 2(3) of the Public Utility Holding Company Act (15 U.S.C. 79b(3)), as in effect on the day before the date of the enactment of the Energy Tax Incentives Act of 2005) which is attributable to a facility which will qualify as a certified pollution control facility as determined under section 169(d)(1) by striking ‘before January 1, 1976,’ and by substituting ‘an identifiable’ for ‘a new identifiable’. Such term shall not include any expenditure which may be refunded or the purpose of which may be modified at the option of the taxpayer so as to cease to be treated as an expenditure within the meaning of such term.”.

Subtitle B—Domestic Fossil Fuel Security

SEC. 1321. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE FOR FACILITIES PRODUCING COKE OR COKE GAS.

(a) IN GENERAL.—Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end the following new subsection:

“(h) EXTENSION FOR FACILITIES PRODUCING COKE OR COKE GAS.—Notwithstanding subsection (f)—

“(1) IN GENERAL.—In the case of a facility for producing coke or coke gas which was placed in service before January 1, 1993, or after June 30, 1998, and before January 1, 2010, this section shall apply with respect to coke and coke gas produced in such facility and sold during the period—

“(A) beginning on the later of January 1, 2006, or the date that such facility is placed in service, and

“(B) ending on the date which is 4 years after the date such period began.

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

“(A) DAILY LIMIT.—The amount of qualified fuels sold during any taxable year which may be taken into account by reason of this subsection with respect to any facility shall not exceed an average barrel-of-oil equivalent of 4,000 barrels per day. Days before the date the facility is placed in service shall not be taken into account in determining such average.

“(B) EXTENSION PERIOD TO COMMENCE WITH UNADJUSTED CREDIT AMOUNT.—For purposes of applying subsection (b)(2) to the \$3 amount in subsection (a), in the case of fuels sold after 2005, subsection (d)(2)(B) shall be applied by substituting ‘2004’ for ‘1979’.

“(C) DENIAL OF DOUBLE BENEFIT.—This subsection shall not apply to any facility producing qualified fuels for which a credit was allowed under this section for the taxable year or any preceding taxable year by reason of subsection (g).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel produced and sold after December 31, 2005, in taxable years ending after such date.

26 USC 29 note.

SEC. 1322. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45K and by moving section 45K (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “, plus”, and by adding at the end the following:

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

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(3)(A) is amended by striking “sections 27 and 29” and inserting “section 27”.

(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and 613A(c)(6)(C) are each amended by striking “section 29(d)(2)(C)” and inserting “section 45K(d)(2)(C)”.

(C) Section 45(e)(9), as added by this Act, is amended—

(i) by striking “section 29” each place it appears and inserting “section 45K”, and

(ii) by inserting “(or under section 29, as in effect on the day before the date of enactment of the Energy Tax Incentives Act of 2005, for any prior taxable year)” before the period at the end thereof.

(D) Section 45I is amended—

(i) in subsection (c)(2)(A) by striking “section 29(d)(5)” and inserting “section 45K(d)(5)”, and

(ii) in subsection (d)(3) by striking “section 29” both places it appears and inserting “section 45K”.

(E) Section 45K(a), as redesignated by paragraph (1), is amended by striking “There shall be allowed as a credit against the tax imposed by this chapter for the taxable year” and inserting “For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is”.

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

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

(H) Section 55(c)(3) is amended by striking “29(b)(6),”.

(I) Subsection (a) of section 772 is amended by inserting “and” at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

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

(K) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(L) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45I the following new item:

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

(b) AMENDMENTS CONFORMING TO THE REPEAL OF THE NATURAL GAS POLICY ACT OF 1978.—

(1) IN GENERAL.—Section 29(c)(2)(A) (before redesignation under subsection (a) and as amended by section 1321) is amended—

(A) by inserting “(as in effect before the repeal of such section)” after “1978”, and

(B) by striking subsection (e) and redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

(2) CONFORMING AMENDMENTS.—Section 29(g)(1) (before redesignation under subsection (a) and paragraph (1) of this subsection) is amended—

(A) in subparagraph (A) by striking “subsection (f)(1)(B)” and inserting “subsection (e)(1)(B)”, and

(B) in subparagraph (B) by striking “subsection (f)” and inserting “subsection (e)”.

26 USC 29 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 1323. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

“(a) **TREATMENT AS EXPENSES.**—A taxpayer may elect to treat 50 percent of the cost of any qualified refinery property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified refinery property is placed in service.

“(b) **ELECTION.**—

“(1) **IN GENERAL.**—An election under this section for any taxable year shall be made on the taxpayer’s return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

“(2) **ELECTION IRREVOCABLE.**—Any election made under this section may not be revoked except with the consent of the Secretary.

“(c) **QUALIFIED REFINERY PROPERTY.**—

“(1) **IN GENERAL.**—The term ‘qualified refinery property’ means any portion of a qualified refinery—

“(A) the original use of which commences with the taxpayer,

“(B) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2012,

“(C) in the case any portion of a qualified refinery (other than a qualified refinery which is separate from any existing refinery), which meets the requirements of subsection (e),

“(D) which meets all applicable environmental laws in effect on the date such portion was placed in service,

“(E) no written binding contract for the construction of which was in effect on or before June 14, 2005, and

“(F)(i) the construction of which is subject to a written binding construction contract entered into before January 1, 2008,

“(ii) which is placed in service before January 1, 2008,

or

“(iii) in the case of self-constructed property, the construction of which began after June 14, 2005, and before January 1, 2008.

“(2) **SPECIAL RULE FOR SALE-LEASEBACKS.**—For purposes of paragraph (1)(A), if property is—

“(A) originally placed in service after the date of the enactment of this section by a person, and

“(B) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subparagraph (B).

“(3) **EFFECT OF WAIVER UNDER CLEAN AIR ACT.**—A waiver under the Clean Air Act shall not be taken into account in

determining whether the requirements of paragraph (1)(D) are met.

“(d) QUALIFIED REFINERY.—For purposes of this section, the term ‘qualified refinery’ means any refinery located in the United States which is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels (as defined in section 45K(c)).

“(e) PRODUCTION CAPACITY.—The requirements of this subsection are met if the portion of the qualified refinery—

“(1) enables the existing qualified refinery to increase total volume output (determined without regard to asphalt or lube oil) by 5 percent or more on an average daily basis, or

“(2) enables the existing qualified refinery to process qualified fuels (as defined in section 45K(c)) at a rate which is equal to or greater than 25 percent of the total throughput of such qualified refinery on an average daily basis.

“(f) INELIGIBLE REFINERY PROPERTY.—No deduction shall be allowed under subsection (a) for any qualified refinery property—

“(1) the primary purpose of which is for use as a topping plant, asphalt plant, lube oil facility, crude or product terminal, or blending facility, or

“(2) which is built solely to comply with consent decrees or projects mandated by Federal, State, or local governments.

“(g) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

“(1) IN GENERAL.—If—

“(A) a taxpayer to which subsection (a) applies is an organization to which part I of subchapter T applies, and

“(B) one or more persons directly holding an ownership interest in the taxpayer are organizations to which part I of subchapter T apply,

the taxpayer may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person’s ratable share of the total amount allocated, determined on the basis of the person’s ownership interest in the taxpayer. The taxable income of the taxpayer shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(2) FORM AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(3) WRITTEN NOTICE TO OWNERS.—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in paragraph (2) is due.

“(h) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the refineries of the taxpayer as the Secretary shall require.”

(b) CONFORMING AMENDMENTS.—

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

Deadline.

(2) Section 263(a)(1) is amended by striking “or” at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting “, or”, and by inserting after subparagraph (I) the following new subparagraph:

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

(3) Section 312(k)(3)(B) is amended by striking “179 179A, or 179B” each place it appears in the heading and text and inserting “179, 179A, 179B, or 179C”.

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179B the following new item:

“Sec. 179C. Election to expense certain refineries.”.

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

26 USC 179C
note.

SEC. 1324. PASS THROUGH TO OWNERS OF DEDUCTION FOR CAPITAL COSTS INCURRED BY SMALL REFINER COOPERATIVES IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Section 179B (relating to deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations) is amended by adding at the end the following new subsection:

“(e) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—

“(1) IN GENERAL.—If—

“(A) a small business refiner to which subsection (a) applies is an organization to which part I of subchapter T applies, and

“(B) one or more persons directly holding an ownership interest in the refiner are organizations to which part I of subchapter T apply,

the refiner may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person’s ratable share of the total amount allocated, determined on the basis of the person’s ownership interest in the taxpayer. The taxable income of the refiner shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(2) FORM AND EFFECT OF ELECTION.—An election under paragraph (1) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

“(3) WRITTEN NOTICE TO OWNERS.—If any portion of the deduction available under subsection (a) is allocated to owners under paragraph (1), the cooperative shall provide any owner receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in paragraph (2) is due.”.

Deadline.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 338(a) of the American Jobs Creation Act of 2004.

26 USC 179B
note.

SEC. 1325. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property), as amended by this Act, is amended by striking “and” at the end of clause (vi), by striking the period at the end of clause (vii) and by inserting “, and”, and by adding at the end the following new clause:

“(viii) any natural gas distribution line the original use of which commences with the taxpayer after April 11, 2005, and which is placed in service before January 1, 2011.”.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (E)(vii) the following new item:

“(E)(viii) 35”.

26 USC 168 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1326. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

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

“(iv) any natural gas gathering line the original use of which commences with the taxpayer after April 11, 2005, and”.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by inserting after paragraph (16) the following new paragraph:

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

“(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

“(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

“(i) a gas processing plant,

“(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

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

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

(c) **ALTERNATIVE SYSTEM.**—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes), as amended by this Act, is amended by inserting after the item relating to subparagraph (C)(iii) the following new item:

“(C)(iv) 14”.

(d) **ALTERNATIVE MINIMUM TAX EXCEPTION.**—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: “, or in section 168(e)(3)(C)(iv)”.

(e) **EFFECTIVE DATE.**—

26 USC 56 note.

(1) **IN GENERAL.**—The amendments made by this section shall apply to property placed in service after April 11, 2005.

(2) **EXCEPTION.**—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before April 11, 2005, or, in the case of self-constructed property, has started construction on or before such date.

SEC. 1327. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) **IN GENERAL.**—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

“(4) **SAFE HARBOR FOR PREPAID NATURAL GAS.**—

“(A) **IN GENERAL.**—The term ‘investment-type property’ does not include a prepayment under a qualified natural gas supply contract.

“(B) **QUALIFIED NATURAL GAS SUPPLY CONTRACT.**—For purposes of this paragraph, the term ‘qualified natural gas supply contract’ means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

“(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

“(C) **NATURAL GAS USED TO GENERATE ELECTRICITY.**—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

“(i) only if the electricity is generated by a utility owned by a governmental unit, and

Contracts.

“(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

“(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

“(i) NEW BUSINESS CUSTOMERS.—If—

“(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

“(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

“(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

“(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

“(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

“(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

“(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

“(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

“(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term ‘applicable share’ means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

“(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

“(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas used to transport such natural gas to the utility.

“(H) TESTING PERIOD.—For purposes of this paragraph, the term ‘testing period’ means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

“(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

“(i) any area throughout which such utility provided at all times during the testing period—

“(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

“(II) in the case of an electric utility, electricity distribution services,

“(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

“(iii) any area recognized as the service area of such utility under State or Federal law.”

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by adding at the end the following new subparagraph:

“(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).”

(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the end the following new paragraph:

“(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term ‘nongovernmental output property’ shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).”

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

26 USC 141 note.

SEC. 1328. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

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

“(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or one or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs

for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.”

26 USC 613A
note.

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

SEC. 1329. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) **IN GENERAL.**—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**—

“(1) **IN GENERAL.**—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

“(2) **HALF-YEAR CONVENTION.**—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

“(3) **EXCLUSIVE METHOD.**—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

“(4) **TREATMENT UPON ABANDONMENT.**—If any property with respect to which geological and geophysical expenses are paid or incurred is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.”

(b) **CONFORMING AMENDMENT.**—Section 263A(c)(3) is amended by inserting “167(h),” after “under section”.

26 USC 167 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 1331. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) **IN GENERAL.**—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

“SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

“(a) **IN GENERAL.**—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

“(b) **MAXIMUM AMOUNT OF DEDUCTION.**—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—

“(1) the product of—

“(A) \$1.80, and

“(B) the square footage of the building, over

“(2) the aggregate amount of the deductions under subsection (a) with respect to the building for all prior taxable years.

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

“(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term ‘energy efficient commercial building property’ means property—

“(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

“(B) which is installed on or in a building which is—

“(i) located in the United States, and

“(ii) within the scope of Standard 90.1-2001,

“(C) which is installed as part of—

“(i) the interior lighting systems,

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

“(iii) the building envelope, and

“(D) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 using methods of calculation under subsection (d)(2).

“(2) STANDARD 90.1-2001.—The term ‘Standard 90.1-2001’ means Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

“(d) SPECIAL RULES.—

“(1) PARTIAL ALLOWANCE.—

“(A) IN GENERAL.—Except as provided in subsection (f), if—

“(i) the requirement of subsection (c)(1)(D) is not met, but

“(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting ‘\$.60’ for ‘\$1.80’.

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

Regulations.

“(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

“(3) COMPUTER SOFTWARE.—

“(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

“(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term ‘qualified computer software’ means software—

“(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

“(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

“(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

“(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

“(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

“(6) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

“(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

“(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

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

“(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001.

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

“(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

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

“(i) 50, and

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

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

“(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1-2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

“(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

“(g) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

“(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

“(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(D) or (d)(1)(A) is not fully implemented.

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

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking “and” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, and”, and by adding at the end the following new paragraph:

“(32) to the extent provided in section 179D(e).”.

(2) Section 1245(a), as amended by this Act, is amended by inserting “179D,” after “179C,” both places it appears in paragraphs (2)(C) and (3)(C).

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

(4) Section 263(a)(1), as amended by this Act, is amended by striking “or” at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting “, or”, and by inserting after subparagraph (J) the following new subparagraph:

“(K) expenditures for which a deduction is allowed under section 179D.”.

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

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

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

26 USC 179D
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1332. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 45L. NEW ENERGY EFFICIENT HOME CREDIT.

“(a) ALLOWANCE OF CREDIT.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the new energy efficient home credit for the taxable year is the applicable amount for each qualified new energy efficient home which is—

“(A) constructed by the eligible contractor, and

“(B) acquired by a person from such eligible contractor for use as a residence during the taxable year.

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

“(A) in the case of a dwelling unit described in paragraph (1) or (2) of subsection (c), \$2,000, and

“(B) in the case of a dwelling unit described in paragraph (3) of subsection (c), \$1,000.

“(b) DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE CONTRACTOR.—The term ‘eligible contractor’ means—

“(A) the person who constructed the qualified new energy efficient home, or

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

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

“(A) located in the United States,

“(B) the construction of which is substantially completed after the date of the enactment of this section, and

“(C) which meets the energy saving requirements of subsection (c).

“(3) CONSTRUCTION.—The term ‘construction’ includes substantial reconstruction and rehabilitation.

“(4) ACQUIRE.—The term ‘acquire’ includes purchase.

“(c) ENERGY SAVING REQUIREMENTS.—A dwelling unit meets the energy saving requirements of this subsection if such unit is—

“(1) certified—

“(A) to have a level of annual heating and cooling energy consumption which is at least 50 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit—

“(i) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

“(ii) for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of completion of construction, and

“(B) to have building envelope component improvements account for at least $\frac{1}{5}$ of such 50 percent,

“(2) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which meets the requirements of paragraph (1), or

“(3) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which—

“(A) meets the requirements of paragraph (1) applied by substituting ‘30 percent’ for ‘50 percent’ both places it appears therein and by substituting ‘ $\frac{1}{3}$ ’ for ‘ $\frac{1}{5}$ ’ in subparagraph (B) thereof, or

“(B) meets the requirements established by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program.

“(d) CERTIFICATION.—

“(1) METHOD OF CERTIFICATION.—A certification described in subsection (c) shall be made in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

“(2) FORM.—Any certification described in subsection (c) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

“(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section in connection with any expenditure for any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

“(f) COORDINATION WITH INVESTMENT CREDIT.—For purposes of this section, expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

“(g) TERMINATION.—This section shall not apply to any qualified new energy efficient home acquired after December 31, 2007.”.

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

“(23) the new energy efficient home credit determined under section 45L(a).”.

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting “, and”, and by adding at the end the following new paragraph:

“(33) to the extent provided in section 45L(e), in the case of amounts with respect to which a credit has been allowed under section 45L.”.

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking “and” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, and”, and by adding after paragraph (12) the following new paragraph:

“(13) the new energy efficient home credit determined under section 45L(a).”.

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

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

26 USC 38 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified new energy efficient homes acquired after December 31, 2005, in taxable years ending after such date.

SEC. 1333. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. NONBUSINESS ENERGY PROPERTY.

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

“(1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year, and

“(2) the amount of the residential energy property expenditures paid or incurred by the taxpayer during such taxable year.

“(b) LIMITATIONS.—

“(1) LIFETIME LIMITATION.—The credit allowed under this section with respect to any taxpayer for any taxable year shall not exceed the excess (if any) of \$500 over the aggregate credits allowed under this section with respect to such taxpayer for all prior taxable years.

“(2) WINDOWS.—In the case of amounts paid or incurred for components described in subsection (c)(3)(B) by any taxpayer for any taxable year, the credit allowed under this section with respect to such amounts for such year shall not exceed the excess (if any) of \$200 over the aggregate credits allowed under this section with respect to such amounts for all prior taxable years.

“(3) LIMITATION ON RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The amount of the credit allowed under this section by reason of subsection (a)(2) shall not exceed—

“(A) \$50 for any advanced main air circulating fan,

“(B) \$150 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

“(C) \$300 for any item of energy-efficient building property.

“(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

“(A) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

“(B) the original use of such component commences with the taxpayer, and

“(C) such component reasonably can be expected to remain in use for at least 5 years.

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

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

“(B) exterior windows (including skylights),

“(C) exterior doors, and

“(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

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

“(d) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘residential energy property expenditures’ means expenditures made by the taxpayer for qualified energy property which is—

“(A) installed on or in connection with a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121), and

“(B) originally placed in service by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

“(2) QUALIFIED ENERGY PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified energy property’ means—

“(i) energy-efficient building property,

“(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or

“(iii) an advanced main air circulating fan.

“(B) PERFORMANCE AND QUALITY STANDARDS.—Property described under subparagraph (A) shall meet the performance and quality standards, and the certification requirements (if any), which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate), and

“(ii) are in effect at the time of the acquisition of the property, or at the time of the completion of the construction, reconstruction, or erection of the property, as the case may be.

“(C) REQUIREMENTS FOR STANDARDS.—The standards and requirements prescribed by the Secretary under subparagraph (B)—

“(i) in the case of the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

“(I) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

“(II) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency, and

“(ii) in the case of geothermal heat pumps—

“(I) shall be based on testing under the conditions of ARI/ISO Standard 13256-1 for Water Source Heat Pumps or ARI 870 for Direct Expansion GeoExchange Heat Pumps (DX), as appropriate, and

“(II) shall include evidence that water heating services have been provided through a desuperheater or integrated water heating system connected to the storage water heater tank.

“(3) ENERGY-EFFICIENT BUILDING PROPERTY.—The term ‘energy-efficient building property’ means—

“(A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

“(B) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13,

“(C) a geothermal heat pump which—

“(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

“(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

“(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

“(D) a central air conditioner which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2006, and

“(E) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

“(4) QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER.—The term ‘qualified natural gas, propane, or oil furnace or hot water boiler’ means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.

“(5) ADVANCED MAIN AIR CIRCULATING FAN.—The term ‘advanced main air circulating fan’ means a fan used in a natural gas, propane, or oil furnace and which has an annual electricity use of no more than 2 percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures).

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

“(1) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (4), (5), (6), (7), (8), and (9) of section 25D(e) shall apply.

“(2) JOINT OWNERSHIP OF ENERGY ITEMS.—

“(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to two or more dwelling units.

“(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

“(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

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

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and” at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting “, and”, and by adding at the end the following new paragraph:

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

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

“Sec. 25C. Nonbusiness energy property.”

26 USC 25C note.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1334. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

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

“SEC. 45M. ENERGY EFFICIENT APPLIANCE CREDIT.

“(a) **GENERAL RULE.**—

“(1) **IN GENERAL.**—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

“(2) **CREDIT AMOUNTS.**—The credit amount determined for any type of qualified energy efficient appliance is—

“(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

“(B) the eligible production for such type.

“(b) **APPLICABLE AMOUNT.**—

“(1) **IN GENERAL.**—For purposes of subsection (a)—

“(A) **DISHWASHERS.**—The applicable amount is the energy savings amount in the case of a dishwasher which—

“(i) is manufactured in calendar year 2006 or 2007, and

“(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

“(B) **CLOTHES WASHERS.**—The applicable amount is \$100 in the case of a clothes washer which—

“(i) is manufactured in calendar year 2006 or 2007, and

“(ii) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007.

“(C) **REFRIGERATORS.**—

“(i) **15 PERCENT SAVINGS.**—The applicable amount is \$75 in the case of a refrigerator which—

“(I) is manufactured in calendar year 2006, and

“(II) consumes at least 15 percent but not more than 20 percent less kilowatt hours per year than the 2001 energy conservation standards.

“(ii) 20 PERCENT SAVINGS.—The applicable amount is \$125 in the case of a refrigerator which—

“(I) is manufactured in calendar year 2006 or 2007, and

“(II) consumes at least 20 percent but not more than 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

“(iii) 25 PERCENT SAVINGS.—The applicable amount is \$175 in the case of a refrigerator which—

“(I) is manufactured in calendar year 2006 or 2007, and

“(II) consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards.

“(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

“(A) IN GENERAL.—The energy savings amount is the lesser of—

“(i) the product of—

“(I) \$3, and

“(II) 100 multiplied by the energy savings percentage, or

“(ii) \$100.

“(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

“(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

“(ii) the EF required by the Energy Star program for dishwashers in 2007.

“(c) ELIGIBLE PRODUCTION.—

“(1) IN GENERAL.—Except as provided in paragraphs (2), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

“(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

“(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

“(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

“(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

“(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

“(1) dishwashers described in subsection (b)(1)(A),

“(2) clothes washers described in subsection (b)(1)(B),

“(3) refrigerators described in subsection (b)(1)(C)(i),
 “(4) refrigerators described in subsection (b)(1)(C)(ii), and
 “(5) refrigerators described in subsection (b)(1)(C)(iii).

“(e) LIMITATIONS.—

“(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

“(2) AMOUNT ALLOWED FOR 15 PERCENT SAVINGS REFRIGERATORS.—In the case of refrigerators described in subsection (b)(1)(C)(i), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$20,000,000.

“(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

Applicability.

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

“(f) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

“(A) any dishwasher described in subsection (b)(1)(A),

“(B) any clothes washer described in subsection (b)(1)(B), and

“(C) any refrigerator described in subsection (b)(1)(C).

“(2) DISHWASHER.—The term ‘dishwasher’ means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

“(3) CLOTHES WASHER.—The term ‘clothes washer’ means a residential model clothes washer, including a residential style coin operated washer.

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

“(5) EF.—The term ‘EF’ means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

“(6) PRODUCED.—The term ‘produced’ includes manufactured.

“(7) 2001 ENERGY CONSERVATION STANDARD.—The term ‘2001 energy conservation standard’ means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

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

Applicability.

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

“(2) CONTROLLED GROUP.—

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

“(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

Applicability.

“(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.”.

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “, plus”, and by adding at the end the following new paragraph:

“(24) the energy efficient appliance credit determined under section 45M(a).”.

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2005.

26 USC 38 note.

SEC. 1335. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

“SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

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

“(1) 30 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

“(2) 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year, and

“(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

“(b) LIMITATIONS.—

“(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for any taxable year shall not exceed—

“(A) \$2,000 with respect to any qualified photovoltaic property expenditures,

“(B) \$2,000 with respect to any qualified solar water heating property expenditures, and

“(C) \$500 with respect to each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

“(2) CERTIFICATION OF SOLAR WATER HEATING PROPERTY.—No credit shall be allowed under this section for an item of property described in subsection (d)(1) unless such property is certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

“(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

“(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(c)(1)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

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

“(1) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in subsection (d) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

“(2) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (d) solely because it constitutes a structural component of the structure on which it is installed.

“(3) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

“(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by two or more individuals the following rules shall apply:

“(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

“(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to

the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

“(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (d).

Applicability.

“(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder’s proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

“(6) CONDOMINIUMS.—

“(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual’s proportionate share of any expenditures of such association.

“(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

“(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

“(8) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

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

“(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

“(9) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

“(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(g) **TERMINATION.**—The credit allowed under this section shall not apply to property placed in service after December 31, 2007.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 23(c) is amended by striking “this section and section 1400C” and inserting “this section, section 25D, and section 1400C”.

(2) Section 25(e)(1)(C) is amended by striking “this section and sections 23 and 1400C” and inserting “other than this section, section 23, section 25D, and section 1400C”.

(3) Section 1400C(d) is amended by striking “this section” and inserting “this section and section 25D”.

(4) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting “, and”, and by adding at the end the following new paragraph:

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

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

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

26 USC 23 note.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1336. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

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

“(iii) qualified fuel cell property or qualified microturbine property,”.

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

“(c) **QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.**—For purposes of this subsection—

“(1) **QUALIFIED FUEL CELL PROPERTY.**—

“(A) **IN GENERAL.**—The term ‘qualified fuel cell property’ means a fuel cell power plant which—

“(i) has a nameplate capacity of at least 0.5 kilowatt of electricity using an electrochemical process, and

“(ii) has an electricity-only generation efficiency greater than 30 percent.

“(B) **LIMITATION.**—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to \$500 for each 0.5 kilowatt of capacity of such property.

“(C) **FUEL CELL POWER PLANT.**—The term ‘fuel cell power plant’ means an integrated system comprised of

a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

“(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified fuel cell property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

“(E) TERMINATION.—The term ‘qualified fuel cell property’ shall not include any property for any period after December 31, 2007.

“(2) QUALIFIED MICROTURBINE PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified microturbine property’ means a stationary microturbine power plant which—

“(i) has a nameplate capacity of less than 2,000 kilowatts, and

“(ii) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

“(B) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal \$200 for each kilowatt of capacity of such property.

“(C) STATIONARY MICROTURBINE POWER PLANT.—The term ‘stationary microturbine power plant’ means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

“(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified microturbine property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

“(E) TERMINATION.—The term ‘qualified microturbine property’ shall not include any property for any period after December 31, 2007.”.

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

“(A) IN GENERAL.—The energy percentage is—

“(i) in the case of qualified fuel cell property, 30 percent, and

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

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting “except as provided in paragraph (1)(B) or (2)(B) of subsection (d),” before “the energy”.

26 USC 48 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1337. BUSINESS SOLAR INVESTMENT TAX CREDIT.

(a) INCREASE IN ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended to read as follows:

“(A) IN GENERAL.—The energy percentage is—

“(i) 30 percent in the case of—

“(I) qualified fuel cell property,

“(II) energy property described in paragraph (3)(A)(i) but only with respect to periods ending before January 1, 2008, and

“(III) energy property described in paragraph (3)(A)(ii), and

“(ii) in the case of any energy property to which clause (i) does not apply, 10 percent.”.

(b) HYBRID SOLAR LIGHTING SYSTEMS.—Subparagraph (A) of section 48(a)(3) is amended by striking “or” at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

“(ii) equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight but only with respect to periods ending before January 1, 2008, or”.

(c) LIMITATION ON USE OF SOLAR ENERGY TO HEAT SWIMMING POOLS.—Clause (i) of section 48(a)(3)(A) is amended by inserting “excepting property used to generate energy for the purposes of heating a swimming pool,” after “solar process heat,”.

26 USC 48 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

SEC. 1341. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

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

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

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

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

“(4) the new qualified alternative fuel motor vehicle credit determined under subsection (e).

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

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

“(A) \$8,000 (\$4,000 in the case of a vehicle placed in service after December 31, 2009), if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

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

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

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

“(2) INCREASE FOR FUEL EFFICIENCY.—

“(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

“(i) \$1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

“(ii) \$1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

“(iii) \$2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

“(iv) \$2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

“(v) \$3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

“(vi) \$3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

“(vii) \$4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

“(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

“(i) In the case of a passenger automobile:

“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.

“(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.

“(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term ‘vehicle inertia weight class’ has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

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

“(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

“(B) which, in the case of a passenger automobile or light truck, has received on or after the date of the enactment of this section a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

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

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

“(E) which is made by a manufacturer.

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

“(1) IN GENERAL.—For purposes of subsection (a), the new advanced lean burn technology motor vehicle credit determined under this subsection for the taxable year is the credit amount determined under paragraph (2) with respect to a new advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—

“(A) FUEL ECONOMY.—

“(i) IN GENERAL.—The credit amount determined under this paragraph shall be determined 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.

“(ii) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

“(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new advanced lean burn technology motor vehicle shall be increased by the conservation credit amount determined in accordance 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.

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

“(A) with an internal combustion engine which—

“(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

“(ii) incorporates direct injection,

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

“(iv) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds—

“(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

“(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

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

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

“(D) which is made by a manufacturer.

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

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

“(B) 120,000 divided by the city fuel economy for such vehicle.

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

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection for the taxable year is the credit amount determined under paragraph (2) with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year.

“(2) CREDIT AMOUNT.—

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

“(i) FUEL ECONOMY.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(A) if such vehicle were a vehicle referred to in such subsection.

“(ii) CONSERVATION CREDIT.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(B) if such vehicle were a vehicle referred to in such subsection.

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

“(i) IN GENERAL.—In the case of any new qualified hybrid motor vehicle to which subparagraph (A) does not apply, the amount determined under this paragraph is the amount equal to the applicable percentage of the qualified incremental hybrid cost of the vehicle as certified under clause (v).

“(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

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

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

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

“(iii) QUALIFIED INCREMENTAL HYBRID COST.—For purposes of this subparagraph, the qualified incremental hybrid cost of any vehicle is equal to the amount of the excess of the manufacturer’s suggested retail price for such vehicle over such price for a comparable vehicle, to the extent such amount does not exceed—

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

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

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

“(iv) COMPARABLE VEHICLE.—For purposes of this subparagraph, the term ‘comparable vehicle’ means, with respect to any new qualified hybrid motor vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in weight, size, and use to such vehicle.

“(v) CERTIFICATION.—A certification described in clause (i) shall be made by the manufacturer and shall be determined in accordance with guidance prescribed by the Secretary. Such guidance shall specify procedures and methods for calculating fuel economy savings and incremental hybrid costs.

“(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

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

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

“(II) a rechargeable energy storage system,

“(ii) which, in the case of a vehicle to which paragraph (2)(A) applies, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

“(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section

202(i) of the Clean Air Act for that make and model year vehicle, and

“(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

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

Applicability.

“(I) 4 percent in the case of a vehicle to which paragraph (2)(A) applies,

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

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

Applicability.

“(iv) which, in the case of a vehicle to which paragraph (2)(B) applies, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

“(v) the original use of which commences with the taxpayer,

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

“(vii) which is made by a manufacturer.

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

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

Applicability.

“(C) MAXIMUM AVAILABLE POWER.—

“(i) CERTAIN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a vehicle to which paragraph (2)(A) applies, the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

“(ii) OTHER MOTOR VEHICLES.—In the case of a vehicle to which paragraph (2)(B) applies, the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle’s total traction power. For purposes of the preceding sentence, the term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle

can be driven, the total traction power is the peak power of such storage system.

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

“(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

“(A) 50 percent, plus

“(B) 30 percent, if such vehicle—

“(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

“(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act of 2005.

“(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer’s suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

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

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

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

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

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

“(A) IN GENERAL.—The term ‘new qualified alternative fuel motor vehicle’ means any motor vehicle—

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

“(ii) the original use of which commences with the taxpayer,

“(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

“(iv) which is made by a manufacturer.

“(B) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

“(5) CREDIT FOR MIXED-FUEL VEHICLES.—

“(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

“(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

“(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

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

“(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

“(ii) either—

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

“(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

“(iii) the original use of which commences with the taxpayer,

“(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

“(v) which is made by a manufacturer.

“(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

“(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term ‘90/10 mixed-fuel vehicle’ means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

“(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

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

“(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after December 31, 2005, is at least 60,000.

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

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

“(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

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

“(4) CONTROLLED GROUPS.—

“(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

“(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

“(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term ‘qualified vehicle’ means any new qualified hybrid motor vehicle (described in subsection (d)(2)(A)) and any new advanced lean burn technology motor vehicle.

“(g) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax reduced by the sum of the credits allowable under subpart A and sections 27 and 30, over

“(B) the tentative minimum tax for the taxable year.

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

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

“(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of

Applicability.

subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

“(3) OTHER TERMS.—The terms ‘automobile’, ‘passenger automobile’, ‘medium duty passenger vehicle’, ‘light truck’, and ‘manufacturer’ have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

“(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (g)).

“(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

“(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (e) shall be reduced by the amount of such credit attributable to such cost, and

“(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

“(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (g)).

“(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

Regulations.

“(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

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

“(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

“(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

“(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

“(i) REGULATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

“(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

“(j) TERMINATION.—This section shall not apply to any property purchased after—

“(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2014,

“(2) in the case of a new advanced lean burn technology motor vehicle (as described in subsection (c)) or a new qualified hybrid motor vehicle (as described in subsection (d)(2)(A)), December 31, 2010,

“(3) in the case of a new qualified hybrid motor vehicle (as described in subsection (d)(2)(B)), December 31, 2009, and

“(4) in the case of a new qualified alternative fuel vehicle (as described in subsection (e)), December 31, 2010.”

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting “, and”, and by adding at the end the following new paragraph:

“(25) the portion of the alternative motor vehicle credit to which section 30B(g)(1) applies.”

(2) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, and”, and by adding at the end the following new paragraph:

“(36) to the extent provided in section 30B(h)(4).”

(3) Section 55(c)(2), as amended by this Act, is amended by inserting “30B(g)(2),” after “30(b)(2).”

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

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

26 USC 30B note.

SEC. 1342. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits), as amended by this Act, is amended by adding at the end the following new section:

“SEC. 30C. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

“(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the cost of any qualified alternative

fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

“(b) LIMITATION.—The credit allowed under subsection (a) with respect to any alternative fuel vehicle refueling property shall not exceed—

“(1) \$30,000 in the case of a property of a character subject to an allowance for depreciation, and

“(2) \$1,000 in any other case.

“(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘qualified alternative fuel vehicle refueling property’ has the meaning given to such term by section 179A(d), but only with respect to any fuel—

“(A) at least 85 percent of the volume of which consists of one or more of the following: ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, or hydrogen, or

“(B) any mixture of biodiesel (as defined in section 40A(d)(1)) and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.

“(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

“(d) APPLICATION WITH OTHER CREDITS.—

“(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

“(2) PERSONAL CREDIT.—The credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

“(A) the regular tax reduced by the sum of the credits allowable under subpart A and sections 27, 30, and 30B, over

“(B) the tentative minimum tax for the taxable year.

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

“(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

“(2) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

“(3) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with

respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

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

“(5) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

Applicability.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

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

“(1) in the case of property relating to hydrogen, after December 31, 2014, and

“(2) in the case of any other property, after December 31, 2009.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting “, and”, and by adding at the end the following new paragraph:

“(26) the portion of the alternative fuel vehicle refueling property credit to which section 30C(d)(1) applies.”.

(2) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting “, and”, and by adding at the end the following new paragraph:

“(37) to the extent provided in section 30C(f).”.

(3) Section 55(c)(2), as amended by this Act, is amended by inserting “30C(d)(2),” after “30B(g)(2),”.

(4) Section 6501(m) is amended by inserting “30C(e)(5),” after “30B(h)(9),”.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

“Sec. 30C. Clean-fuel vehicle refueling property credit.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

26 USC 30C note.

SEC. 1343. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

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

“(D) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least 14 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting ‘19.7 cents’ for ‘24.3 cents’. The preceding sentence shall not apply to the removal, sale, or use of diesel-water fuel emulsion unless the person so removing, selling, or using such fuel is registered under section 4101.”.

Applicability.

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

26 USC 6427.

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

“(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

“(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

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

“(A) REGULAR TAX RATE.—The term ‘regular tax rate’ means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

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

(2) LATER SEPARATION OF FUEL.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

“(c) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.”.

(3) CREDIT CLAIMS.—Paragraphs (1) and (2) of section 6427(i) are both amended by inserting “(m),” after “(l),”.

26 USC 4081 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

SEC. 1344. EXTENSION OF EXCISE TAX PROVISIONS AND INCOME TAX CREDIT FOR BIODIESEL.

(a) IN GENERAL.—Sections 40A(e), 6426(c)(6), and 6427(e)(4)(B) are each amended by striking “2006” and inserting “2008”.

26 USC 40A note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1345. SMALL AGRI-BIODIESEL PRODUCER CREDIT.

(a) IN GENERAL.—Subsection (a) of section 40A (relating to biodiesel used as a fuel) is amended to read as follows:

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

“(1) the biodiesel mixture credit, plus

“(2) the biodiesel credit, plus

“(3) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.”.

(b) SMALL AGRI-BIODIESEL PRODUCER CREDIT DEFINED.—Section 40A(b) (relating to definition of biodiesel mixture credit and

biodiesel credit) is amended by adding at the end the following new paragraph:

“(5) SMALL AGRI-BIODIESEL PRODUCER CREDIT.—

“(A) IN GENERAL.—The small agri-biodiesel producer credit of any eligible small agri-biodiesel producer for any taxable year is 10 cents for each gallon of qualified agri-biodiesel production of such producer.

“(B) QUALIFIED AGRI-BIODIESEL PRODUCTION.—For purposes of this paragraph, the term ‘qualified agri-biodiesel production’ means any agri-biodiesel (determined without regard to the last sentence of subsection (d)(2)) which is produced by an eligible small agri-biodiesel producer, and which during the taxable year—

“(i) is sold by such producer to another person—

“(I) for use by such other person in the production of a qualified biodiesel mixture in such other person’s trade or business (other than casual off-farm production),

“(II) for use by such other person as a fuel in a trade or business, or

“(III) who sells such agri-biodiesel at retail to another person and places such agri-biodiesel in the fuel tank of such other person, or

“(ii) is used or sold by such producer for any purpose described in clause (i).

“(C) LIMITATION.—The qualified agri-biodiesel production of any producer for any taxable year shall not exceed 15,000,000 gallons.”.

(c) DEFINITIONS AND SPECIAL RULES.—Section 40A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) DEFINITIONS AND SPECIAL RULES FOR SMALL AGRI-BIODIESEL PRODUCER CREDIT.—For purposes of this section—

“(1) ELIGIBLE SMALL AGRI-BIODIESEL PRODUCER.—The term ‘eligible small agri-biodiesel producer’ means a person who, at all times during the taxable year, has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons.

“(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(5)(C) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b)) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

“(3) PARTNERSHIP, S CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(5)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

“(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

“(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

Applicability.

“(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of agri-biodiesel during the taxable year, or

“(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.

“(6) ALLOCATION OF SMALL AGRI-BIODIESEL CREDIT TO PATRONS OF COOPERATIVE.—

“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

“(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

“(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—

“(i) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (a)(3) for the taxable year of the organization.

“(ii) PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

“(iii) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

“(I) such reduction, over

“(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any

credit under this chapter or for purposes of section 55.”

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 40A(b) is amended by striking “this section” and inserting “paragraph (1) or (2) of subsection (a)”.

(2) The heading of subsection (b) of section 40A is amended by striking “and Biodiesel Credit” and inserting “, Biodiesel Credit, and Small Agri-biodiesel Producer Credit”.

(3) Paragraph (3) of section 40A(d) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

“(C) PRODUCER CREDIT.—If—

“(i) any credit was determined under subsection (a)(3), and

“(ii) any person does not use such fuel for a purpose described in subsection (b)(5)(B), then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such agri-biodiesel.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 40A note.

SEC. 1346. RENEWABLE DIESEL.

(a) IN GENERAL.—Section 40A (relating to biodiesel used as fuel), as amended by this Act, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) RENEWABLE DIESEL.—For purposes of this title—

“(1) TREATMENT IN THE SAME MANNER AS BIODIESEL.—Except as provided in paragraph (2), renewable diesel shall be treated in the same manner as biodiesel.

“(2) EXCEPTIONS.—

“(A) RATE OF CREDIT.—Subsections (b)(1)(A) and (b)(2)(A) shall be applied with respect to renewable diesel by substituting ‘\$1.00’ for ‘50 cents’.

Applicability.

“(B) NONAPPLICATION OF CERTAIN CREDITS.—Subsections (b)(3) and (b)(5) shall not apply with respect to renewable diesel.

“(3) RENEWABLE DIESEL DEFINED.—The term ‘renewable diesel’ means diesel fuel derived from biomass (as defined in section 45K(c)(3)) using a thermal depolymerization process which meets—

“(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

“(B) the requirements of the American Society of Testing and Materials D975 or D396.”

(b) CLERICAL AMENDMENTS.—

(1) The heading for section 40A is amended by inserting “AND RENEWABLE DIESEL” after “Biodiesel”.

(2) The item in the table of contents for subpart D of part IV of subchapter A of chapter 1 relating to section 40A is amended to read as follows:

“Sec. 40A. Biodiesel and renewable diesel used as fuel.”

26 USC 40A note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to fuel sold or used after December 31, 2005.

SEC. 1347. MODIFICATION OF SMALL ETHANOL PRODUCER CREDIT.

(a) **DEFINITION OF SMALL ETHANOL PRODUCER.**—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking “30,000,000” each place it appears and inserting “60,000,000”.

(b) **WRITTEN NOTICE OF ELECTION TO ALLOCATE CREDIT TO PATRONS.**—Section 40(g)(6)(A)(ii) (relating to form and effect of election) is amended by adding at the end the following new sentence: “Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).”.

26 USC 40 note.

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

SEC. 1348. SUNSET OF DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

Subsection (f) of section 179A (relating to termination) is amended by striking “December 31, 2006” and inserting “December 31, 2005”.

Subtitle E—Additional Energy Tax Incentives

SEC. 1351. EXPANSION OF RESEARCH CREDIT.

(a) **CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.**—

(1) **IN GENERAL.**—Section 41(a) (relating to credit for increasing research activities) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.”.

(2) **ENERGY RESEARCH CONSORTIUM DEFINED.**—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

“(6) **ENERGY RESEARCH CONSORTIUM.**—

“(A) **IN GENERAL.**—The term ‘energy research consortium’ means any organization—

“(i) which is—

“(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

“(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

“(ii) which is not a private foundation,

“(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

“(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts received by such organization during such calendar year for energy research.

“(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).”.

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting “(other than an energy research consortium)” after “organization”.

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

“(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

“(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

“(I) an eligible small business,

“(II) an institution of higher education (as defined in section 3304(f)), or

“(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting ‘100 percent’ for ‘65 percent’.

“(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term ‘eligible small business’ means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

“(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

“(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

“(iii) SMALL BUSINESS.—For purposes of this subparagraph—

“(I) IN GENERAL.—The term ‘small business’ means, with respect to any calendar year, any person if the annual average number of employees employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

Applicability.

“(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

“(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term ‘Federal laboratory’ has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2005.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

26 USC 41 note.
Contracts.

SEC. 1352. NATIONAL ACADEMY OF SCIENCES STUDY AND REPORT.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with the production and consumption of energy that are not or may not be fully incorporated into the market price of such energy, or into the Federal tax or fee or other applicable revenue measure related to such production or consumption.

(b) REPORT.—Not later than 2 years after the date on which the agreement under subsection (a) is entered into, the National Academy of Sciences shall submit to Congress a report on the study conducted under subsection (a).

SEC. 1353. RECYCLING STUDY.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Energy, shall conduct a study—

(1) to determine and quantify the energy savings achieved through the recycling of glass, paper, plastic, steel, aluminum, and electronic devices, and

(2) to identify tax incentives which would encourage recycling of such material.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the study conducted under subsection (a).

Subtitle F—Revenue Raising Provisions

SEC. 1361. OIL SPILL LIABILITY TRUST FUND FINANCING RATE.

Section 4611(f) (relating to application of oil spill liability trust fund financing rate) is amended to read as follows:

“(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—

Effective date.

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after April 1, 2006, or if later, the date which is 30 days after the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than \$2,000,000,000.

“(2) FUND BALANCE.—The Oil Spill Liability Trust Fund financing rate shall not apply during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds \$2,700,000,000.

“(3) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2014.”.

SEC. 1362. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

(a) IN GENERAL.—Paragraph (3) of section 4081(d) (relating to Leaking Underground Storage Tank Trust Fund financing rate) is amended by striking “2005” and inserting “2011”.

(b) NO EXEMPTIONS FROM TAX EXCEPT FOR EXPORTS.—

(1) IN GENERAL.—Section 4082(a) (relating to exemptions for diesel fuel and kerosene) is amended by inserting “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)” after “section 4081”.

(2) AMENDMENTS RELATING TO SECTION 4041.—

(A) Subsections (a)(1)(B), (a)(2)(A), and (c)(2) of section 4041 are each amended by inserting “(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate)” after “section 4081”.

(B) Section 4041(b)(1)(A) is amended by striking “or (d)(1)”.

(C) Section 4041(d) is amended by adding at the end the following new paragraph:

“(5) NONAPPLICATION OF EXEMPTIONS OTHER THAN FOR EXPORTS.—For purposes of this section, the tax imposed under this subsection shall be determined without regard to subsections (f), (g) (other than with respect to any sale for export under paragraph (3) thereof), (h), and (l).”.

(3) NO REFUND.—

(A) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

“No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels destined for export.”.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

“Sec. 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.”.

(c) CERTAIN REFUNDS AND CREDITS NOT CHARGED TO LUST TRUST FUND.—Subsection (c) of section 9508 (relating to Leaking Underground Storage Tank Trust Fund) is amended to read as follows:

“(c) EXPENDITURES.—Amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect

on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986.”

26 USC 4041
note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2005.

(2) NO EXEMPTION.—The amendments made by subsection (b) shall apply to fuel entered, removed, or sold after September 30, 2005.

SEC. 1363. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 (relating to gain from dispositions of certain depreciable property) is amended by adding at the end the following new paragraph:

“(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

“(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.”

26 USC 1245
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SEC. 1364. CLARIFICATION OF TIRE EXCISE TAX.

(a) IN GENERAL.—Section 4072(e) (defining super single tire) is amended by adding at the end the following: “Such term shall not include any tire designed for steering.”

26 USC 4072
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 869 of the American Jobs Creation Act of 2004.

(c) STUDY.—

Effective date.

(1) IN GENERAL.—With respect to the 1-year period beginning on January 1, 2006, the Secretary of the Treasury shall conduct a study to determine—

(A) the amount of tax collected during such period under section 4071 of the Internal Revenue Code of 1986 with respect to each class of tire, and

(B) the number of tires in each such class on which tax is imposed under such section during such period.

(2) REPORT.—Not later than July 1, 2007, the Secretary of the Treasury shall submit to Congress a report on the study conducted under paragraph (1).