

109TH CONGRESS  
2D SESSION

# H. R. 5653

To amend the Internal Revenue Code of 1986 to promote investment in energy independence through coal to liquid technology, biomass, and oil shale.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2006

Mr. LEWIS of Kentucky introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to promote investment in energy independence through coal to liquid technology, biomass, and oil shale.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Investment in Energy Independence Act of 2006”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title, etc.

Sec. 2. Credit for investment in coal-to-liquid fuels projects.

Sec. 3. Temporary expensing for equipment used in coal-to-liquid fuels process.

Sec. 4. Expansion and extension of alternative fuel credit.

- Sec. 5. Modifications to enhanced oil, natural gas, and coalbed methane recovery credit.
- Sec. 6. Allowance of enhanced oil, natural gas, and coalbed methane recovery credit against the alternative minimum tax.
- Sec. 7. Expansion of expensing of oil and alternative fuel refineries.
- Sec. 8. Expensing for conversion of natural gas-fired facilities for the production ethanol to coal-fired facilities.

1 **SEC. 2. CREDIT FOR INVESTMENT IN COAL-TO-LIQUID**  
 2 **FUELS PROJECTS.**

3 (a) IN GENERAL.—Section 46 of the Internal Rev-  
 4 enue Code of 1986 (relating to amount of credit) is  
 5 amended by striking “and” at the end of paragraph (3),  
 6 by striking the period at the end of paragraph (4) and  
 7 inserting “, and”, and by adding at the end the following  
 8 new paragraph:

9 “(5) the qualifying coal-to-liquid fuels project  
 10 credit.”.

11 (b) AMOUNT OF CREDIT.—Subpart E of part IV of  
 12 subchapter A of chapter 1 of the Internal Revenue Code  
 13 of 1986 (relating to rules for computing investment credit)  
 14 is amended by inserting after section 48B the following  
 15 new section:

16 **“SEC. 48C. QUALIFYING COAL-TO-LIQUID FUELS PROJECT**  
 17 **CREDIT.**

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

22 “(b) QUALIFIED INVESTMENT.—

1           “(1) IN GENERAL.—For purposes of subsection  
2 (a), the qualified investment for any taxable year is  
3 the basis of property placed in service by the tax-  
4 payer during such taxable year which is part of a  
5 qualifying coal-to-liquid fuels project—

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

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

12           “(B) with respect to which depreciation (or  
13 amortization in lieu of depreciation) is allow-  
14 able.

15           “(2) APPLICABLE RULES.—For purposes of this  
16 section, rules similar to the rules of subsection  
17 (a)(4) and (b) of section 48 shall apply.

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

19           “(1) QUALIFYING COAL-TO-LIQUID FUELS  
20 PROJECT.—The term ‘qualifying coal-to-liquid fuels  
21 project’ means any domestic project which—

22           “(A) employs the Fischer-Tropsch process  
23 to produce at least 5,000 barrels per day of  
24 transportation grade liquid fuels from coal, in-  
25 cluding any property which allows for the cap-

1           ture, transportation, or sequestration of by-  
2           products resulting from such process, including  
3           carbon emissions, and

4                   “(B) any portion of the qualified invest-  
5           ment in which is certified under the qualifying  
6           coal-to-liquid program as eligible for credit  
7           under this section in an amount (not to exceed  
8           \$200,000,000) determined by the Secretary.

9                   “(2) COAL.—The term ‘coal’ means any carbon-  
10          ized or semicarbonized matter, including peat and  
11          biomass.

12                   “(3) BIOMASS.—The term ‘biomass’ means any  
13          organic material other than oil and natural gas (or  
14          any product thereof).

15                   “(d) QUALIFYING COAL-TO-LIQUID FUELS PROJECT  
16          PROGRAM.—

17                   “(1) IN GENERAL.—The Secretary, in consulta-  
18          tion with the Secretary of Energy, shall establish a  
19          qualifying coal-to-liquid fuels project program to  
20          consider and award certifications for qualified in-  
21          vestment eligible for credits under this section to 10  
22          qualifying coal-to-liquid fuels project sponsors under  
23          this section, not less than 2 of which shall not have  
24          the capacity to produce more than 10,000 barrels of  
25          transportation grade liquid fuels from coal per day.

1 The total qualified investment which may be award-  
2 ed eligibility for credit under the program shall not  
3 exceed \$2,000,000,000.

4 “(2) PERIOD OF ISSUANCE.—A certificate of  
5 eligibility under paragraph (1) may be issued only  
6 during the 10-fiscal year period beginning on Octo-  
7 ber 1, 2006.

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

13 “(A) the award recipient is financially via-  
14 ble without the receipt of additional Federal  
15 funding associated with the proposed project,

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

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

24 “(D) the fuels identified with respect to  
25 the gasification technology for such project will

1           comprise at least 90 percent of the fuels re-  
2           quired by the project for the production of  
3           transportation grade liquid fuels,

4           “(E) the award recipient’s project team is  
5           competent in the construction and operation of  
6           the Fischer-Tropsch process, with preference  
7           given to those recipients with experience which  
8           demonstrates successful and reliable operations  
9           of such process, and

10           “(F) the award recipient has met other cri-  
11           teria established and published by the Sec-  
12           retary.

13           “(e) DENIAL OF DOUBLE BENEFIT.—No deduction  
14           or other credit shall be allowed with respect to the basis  
15           of any property taken into account in determining the  
16           credit allowed under this section.”.

17           (c) CONFORMING AMENDMENTS.—

18           (1) Section 49(a)(1)(C) of the Internal Revenue  
19           Code of 1986 is amended by striking “and” at the  
20           end of clause (iii), by striking the period at the end  
21           of clause (iv) and inserting “, and”, and by adding  
22           after clause (iv) the following new clause:

23           “(v) the basis of any property which  
24           is part of a qualifying coal-to-liquid fuels  
25           project under section 48C.”.

1           (2) The table of sections for subpart E of part  
 2           IV of subchapter A of chapter 1 of such Code is  
 3           amended by inserting after the item relating to sec-  
 4           tion 48B the following new item:

“Sec. 48C. Qualifying coal-to-liquid fuels project credit.”.

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

11 **SEC. 3. TEMPORARY EXPENSING FOR EQUIPMENT USED IN**  
 12 **COAL-TO-LIQUID FUELS PROCESS.**

13           (a) **IN GENERAL.**—Part VI of subchapter B of chap-  
 14 ter 1 of the Internal Revenue Code of 1986 is amended  
 15 by inserting after section 179D the following new section:

16 **“SEC. 179E. ELECTION TO EXPENSE CERTAIN COAL-TO-LIQ-**  
 17 **UID FUELS FACILITIES.**

18           “(a) **TREATMENT AS EXPENSES.**—A taxpayer may  
 19 elect to treat the cost of any qualified coal-to-liquid fuels  
 20 process property as an expense which is not chargeable  
 21 to capital account. Any cost so treated shall be allowed  
 22 as a deduction for the taxable year in which the expense  
 23 is incurred.

24           “(b) **ELECTION.**—

1           “(1) IN GENERAL.—An election under this sec-  
2           tion for any taxable year shall be made on the tax-  
3           payer’s return of the tax imposed by this chapter for  
4           the taxable year. Such election shall be made in such  
5           manner as the Secretary may by regulations pre-  
6           scribe.

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

10          “(c) QUALIFIED COAL-TO-LIQUID FUELS PROCESS  
11          PROPERTY.—The term ‘qualified coal-to-liquid fuels proc-  
12          ess property’ means any property located in the United  
13          States—

14               “(1) which employs the Fischer-Tropsch process  
15               to produce transportation grade liquid fuels from  
16               coal (as defined in section 48C(c)(2)), including any  
17               property which allows for the capture, transpor-  
18               tation, or sequestration of by-products resulting  
19               from such process, including carbon emissions,

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

22               “(3) the construction of which—

23                       “(A) except as provided in subparagraph  
24                       (B), is subject to a binding construction con-  
25                       tract entered into after the date of the enact-

1           ment of this section and before January 1,  
2           2011, but only if there was no written binding  
3           construction contract entered into on or before  
4           such date of enactment, or

5           “(B) in the case of self-constructed prop-  
6           erty, began after the date of the enactment of  
7           this section and before January 1, 2011, and

8           “(4) which is placed in service by the taxpayer  
9           after the date of the enactment of this section and  
10          before January 1, 2016.

11          “(d) ELECTION TO ALLOCATE DEDUCTION TO COOP-  
12          ERATIVE OWNER.—If—

13               “(1) a taxpayer to which subsection (a) applies  
14               is an organization to which part I of subchapter T  
15               applies, and

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

19          the taxpayer may elect to allocate all or a portion of the  
20          deduction allowable under subsection (a) to such persons.

21          Such allocation shall be equal to the person’s ratable share  
22          of the total amount allocated, determined on the basis of  
23          the person’s ownership interest in the taxpayer. The tax-  
24          able income of the taxpayer shall not be reduced under

1 section 1382 by reason of any amount to which the pre-  
2 ceding sentence applies.

3 “(e) BASIS REDUCTION.—

4 “(1) IN GENERAL.—For purposes of this title,  
5 if a deduction is allowed under this section with re-  
6 spect to any qualified coal-to-liquid fuels process  
7 property, the basis of such property shall be reduced  
8 by the amount of the deduction so allowed.

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

15 “(f) APPLICATION WITH OTHER DEDUCTIONS AND  
16 CREDITS.—

17 “(1) OTHER DEDUCTIONS.—No deduction shall  
18 be allowed under any other provision of this chapter  
19 with respect to any expenditure with respect to  
20 which a deduction is allowed under subsection (a) to  
21 the taxpayer.

22 “(2) CREDITS.—No credit shall be allowed  
23 under section 38 with respect to any amount for  
24 which a deduction is allowed under subsection (a).

1       “(g) REPORTING.—No deduction shall be allowed  
2 under subsection (a) to any taxpayer for any taxable year  
3 unless such taxpayer files with the Secretary a report con-  
4 taining such information with respect to the operation of  
5 the property of the taxpayer as the Secretary shall re-  
6 quire.”.

7       (b) CONFORMING AMENDMENTS.—

8           (1) Section 1016(a) of the Internal Revenue  
9 Code of 1986 is amended by striking “and” at the  
10 end of paragraph (36), by striking the period at the  
11 end of paragraph (37) and inserting “, and”, and by  
12 adding at the end the following new paragraph:

13           “(38) to the extent provided in section  
14 179E(e)(1).”.

15           (2) Section 1245(a) of such Code is amended  
16 by inserting “179E,” after “179D,” both places it  
17 appears in paragraphs (2)(C) and (3)(C).

18           (3) Section 263(a)(1) of such Code is amended  
19 by striking “or” at the end of subparagraph (J), by  
20 striking the period at the end of subparagraph (K)  
21 and inserting “, or”, and by inserting after subpara-  
22 graph (K) the following new subparagraph:

23           “(L) expenditures for which a deduction is  
24 allowed under section 179E.”.

1           (4) Section 312(k)(3)(B) of such Code is  
2 amended by striking “or 179D” each place it ap-  
3 pears in the heading and text and inserting “179D,  
4 or 179E”.

5           (5) The table of sections for part VI of sub-  
6 chapter B of chapter 1 of such Code is amended by  
7 inserting after the item relating to section 179D the  
8 following new item:

“Sec. 179E. Election to expense certain coal-to-liquid fuels facilities.”.

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

12 **SEC. 4. EXPANSION AND EXTENSION OF ALTERNATIVE**  
13 **FUEL CREDIT.**

14           (a) EXPANSION.—

15           (1) Paragraph (2) of section 6426(d) of the In-  
16 ternal Revenue Code of 1986 (defining alternative  
17 fuel) is amended by striking “and” at the end of  
18 subparagraph (E), by striking the period at the end  
19 of subparagraph (F) and inserting “, and”, and by  
20 inserting after subparagraph (F) the following:

21                   “(G) any liquid fuel derived from oil shale  
22                   extracted in the United States.”.

23           (2) Subparagraph (E) of section 6426(d)(2)(d)  
24 of such Code is amended by inserting “and biomass

1 (as defined in section 45K(c)(3) without regard to  
2 subparagraph (B) thereof)” after “peat”.

3 (b) EXTENSION.—

4 (1) ALTERNATIVE FUEL CREDIT.—Paragraph  
5 (4) of section 6426(d) of such Code is amended to  
6 read as follows:

7 “(4) TERMINATION.—This subsection shall not  
8 apply to—

9 “(A) any sale or use involving liquified hy-  
10 drogen for any period after September 30,  
11 2020,

12 “(B) any sale or use involving liquid fuel  
13 derived from coal (including peat and biomass)  
14 through the Fischer-Tropsch process for any  
15 period after September 30, 2020,

16 “(C) any sale or use involving liquid hydro-  
17 carbons derived from biomass (as specified in  
18 paragraph (2)(F) for any period after Sep-  
19 tember 30, 2020,

20 “(D) any sale or use involving liquid fuel  
21 derived from oil shale for any period after Sep-  
22 tember 30, 2020,

23 “(E) any other sale or use for any period  
24 after September 30, 2009.”.

25 (2) PAYMENTS.—

1 (A) IN GENERAL.—Paragraph (5) of sec-  
2 tion 6427(e) of the Internal Revenue Code of  
3 1986 is amended by striking “and” and the end  
4 of subparagraph (C), by striking the period at  
5 the end of subparagraph (D) and inserting a  
6 comma, and by adding at the end the following  
7 new subparagraphs:

8 “(E) any alternative fuel or alternative fuel  
9 mixture (as so defined) involving liquid fuel de-  
10 rived from coal (including peat and biomass)  
11 through the Fischer-Tropsch process sold or  
12 used after September 30, 2020, and

13 “(F) any sale or use involving liquid de-  
14 rived from oil shale for any period after Sep-  
15 tember 30, 2020.”.

16 (B) CONFORMING AMENDMENT.—Section  
17 6427(e)(5)(C) of such Code is amended by  
18 striking “subparagraph (D)” and inserting  
19 “subparagraphs (D), (E), and (F)”.

20 **SEC. 5. MODIFICATIONS TO ENHANCED OIL, NATURAL GAS,**  
21 **AND COALBED METHANE RECOVERY CREDIT.**

22 (a) ENHANCED CREDIT FOR CARBON DIOXIDE IN-  
23 JECTIONS.—Section 43 of the Internal Revenue Code of  
24 1986 is amended by adding at the end the following new  
25 subsection:

1       “(f) ENHANCED CREDIT FOR PROJECTS USING  
2 QUALIFIED CARBON DIOXIDE.—

3           “(1) IN GENERAL.—For purposes of this sec-  
4 tion—

5           “(A) the term ‘qualified project’ includes a  
6 project described in paragraph (2), and

7           “(B) in the case of a project described in  
8 paragraph (2), subsection (a) shall be applied  
9 by substituting ‘50 percent’ for ‘15 percent’.

10       “(2) PROJECTS DESCRIBED.—

11           “(A) IN GENERAL.—A project is described  
12 in this paragraph if—

13           “(i) the project begins or is substan-  
14 tially expanded after December 31, 2006,  
15 and

16           “(ii) the project uses qualified carbon  
17 dioxide in an enhanced oil, natural gas, or  
18 coalbed methane recovery method which in-  
19 volves flooding or injection.

20       “(B) ENHANCED OIL RECOVERY.—For  
21 purposes of this subsection, the term ‘enhanced  
22 oil recovery’ means recovery of oil by injecting  
23 or flooding with qualified carbon dioxide.

24       “(C) ENHANCED NATURAL GAS RECOV-  
25 ERY.—The term ‘enhanced natural gas recov-

1           ery’ means recovery of natural gas by injecting  
2           or flooding with qualified carbon dioxide.

3           “(D) ENHANCED COALBED METHANE RE-  
4           COVERY.—The term ‘enhanced coalbed methane  
5           recovery’ means recovery of coalbed methane by  
6           injecting or flooding with qualified carbon diox-  
7           ide.

8           “(E) QUALIFIED CARBON DIOXIDE.—For  
9           purposes of this subsection, the term ‘qualified  
10          carbon dioxide’ means carbon dioxide that is—

11                   “(i) separated from natural gas and  
12                   natural gas liquids at a natural gas proc-  
13                   essing plant, or

14                   “(ii) from any other industrial source.

15          “(3) TERMINATION.—This subsection shall not  
16          apply to costs paid or incurred for any qualified en-  
17          hanced oil recovery project after December 31,  
18          2020.”.

19          (b) CONFORMING AMENDMENTS.—

20               (1) Section 43 of such Code is amended—

21                   (A) in subsection (a) by striking “en-  
22                   hanced oil recovery credit” and inserting “en-  
23                   hanced oil, natural gas, and coalbed methane  
24                   recovery credit”, and

1 (B) by striking “qualified enhanced oil re-  
 2 covery costs” each place it appears and insert-  
 3 ing “qualified costs”,

4 (C) by striking “qualified enhanced oil re-  
 5 covery project” each place it appears and in-  
 6 serting “qualified project”, and

7 (D) in the section heading by inserting “,  
 8 **NATURAL GAS, AND COALBED METHANE**”  
 9 after “**OIL**”.

10 (2) The item in the table of sections for subpart  
 11 D of part IV of subchapter A of chapter 1 of such  
 12 Code relating to section 43 is amended to read as  
 13 follows:

“Sec. 43. Enhanced oil, natural gas, and coalbed methane recovery credit.”.

14 (c) **EFFECTIVE DATE.**—The amendments made by  
 15 this section shall apply to costs paid or incurred in taxable  
 16 years ending after December 31, 2006.

17 **SEC. 6. ALLOWANCE OF ENHANCED OIL, NATURAL GAS,**  
 18 **AND COALBED METHANE RECOVERY CREDIT**  
 19 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

20 (a) **IN GENERAL.**—Subsection (c) of section 38 of the  
 21 Internal Revenue Code of 1986 (relating to limitation  
 22 based on amount of tax) is amended by redesignating  
 23 paragraph (4) as paragraph (5) and by inserting after  
 24 paragraph (3) the following new paragraph:

1           “(4) SPECIAL RULES FOR ENHANCED OIL, NAT-  
2           URAL GAS, AND COALBED METHANE RECOVERY  
3           CREDIT.—In the case of the enhanced oil, natural  
4           gas, and coalbed methane recovery credit determined  
5           under section 43—

6                   “(A) this section and section 39 shall be  
7                   applied separately with respect to such credit,  
8                   and

9                   “(B) in applying paragraph (1) to such  
10                  credit—

11                           “(i) the tentative minimum tax shall  
12                           be treated as being zero, and

13                           “(ii) the limitation under paragraph  
14                           (1) (as modified by clause (i)) shall be re-  
15                           duced by the credit allowed under sub-  
16                           section (a) for the taxable year (other than  
17                           the enhanced oil recovery credit).”.

18           (b) CONFORMING AMENDMENTS.—Paragraphs  
19           (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) of such  
20           Code are each amended by inserting “or the enhanced oil,  
21           natural gas, and coalbed methane recovery credit” after  
22           “employee credit”.

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

1 **SEC. 7. EXPANSION OF EXPENSING OF OIL AND ALTER-**  
2 **NATIVE FUEL REFINERIES.**

3 (a) EXTENSION OF PLACED IN SERVICE REQUIRE-  
4 MENT.—Subparagraph (B) of section 179C(e)(1) of the  
5 Internal Revenue Code of 1986 (defining qualified refinery  
6 property) is amended by striking “January 1, 2012” and  
7 inserting “January 1, 2016”.

8 (b) PRODUCTION CAPACITY.—Subsection (e) of sec-  
9 tion 179C of such Code (relating to production capacity)  
10 is amended by striking “or” at the end of paragraph (1),  
11 by striking the period at the end of paragraph (2) and  
12 inserting “, or”, and by inserting after paragraph (2) the  
13 following new paragraph:

14 “(3) enables the existing qualified refinery to  
15 process liquids from coal, oil shale, or biomass.”.

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

19 **SEC. 8. EXPENSING FOR CONVERSION OF NATURAL GAS-**  
20 **FIRE FACILITIES FOR THE PRODUCTION**  
21 **ETHANOL TO COAL-FIRED FACILITIES.**

22 (a) IN GENERAL.—Part VI of subchapter B of chap-  
23 ter 1 of the Internal Revenue Code of 1986 is amended  
24 by inserting after section 179E the following new section:

1 **“SEC. 179F. ELECTION TO EXPENSE COAL-FIRED FACILI-**  
2 **TIES FOR PRODUCTION OF ETHANOL.**

3 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
4 elect to treat 50 percent of the cost of any qualified eth-  
5 anol plant fueling property as an expense which is not  
6 chargeable to capital account. Any cost so treated shall  
7 be allowed as a deduction for the taxable year in which  
8 the qualified ethanol plant fueling property is placed in  
9 service.

10 “(b) ELECTION.—

11 “(1) IN GENERAL.—An election under this sec-  
12 tion for any taxable year shall be made on the tax-  
13 payer’s return of the tax imposed by this chapter for  
14 the taxable year. Such election shall be made in such  
15 manner as the Secretary may by regulations pre-  
16 scribe.

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

20 “(c) QUALIFIED ETHANOL PLANT FUELING PROP-  
21 erty.—

22 “(1) IN GENERAL.—The term ‘qualified ethanol  
23 plant fueling property’ means, with respect to a  
24 qualified ethanol refinery, property using coal to  
25 produce energy used to produce ethanol—

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

3           “(B) which is placed in service by the tax-  
4 payer after the date of the enactment of this  
5 section and before January 1, 2016, and

6           “(C) which meets all applicable environ-  
7 mental laws in effect on the date such portion  
8 was placed in service.

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

11           “(A) originally placed in service after the  
12 date of the enactment of this section by a per-  
13 son, and

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

17 such property shall be treated as originally placed in  
18 service not earlier than the date on which such prop-  
19 erty is used under the leaseback referred to in sub-  
20 paragraph (B).

21           “(3) EFFECT OF WAIVER UNDER CLEAN AIR  
22 ACT.—A waiver under the Clean Air Act shall not be  
23 taken into account in determining whether the re-  
24 quirements of paragraph (1)(C) are met.

1       “(d) QUALIFIED ETHANOL REFINERY.—For pur-  
2 poses of this section, the term ‘qualified ethanol refinery’  
3 means any refinery located in the United States which—

4               “(1) is designed to serve the primary purpose  
5 of processing material into ethanol,

6               “(2) on the date of the enactment of this sec-  
7 tion, used natural gas to produce energy in the eth-  
8 anol production process, and

9               “(3) after the date of the enactment of this sec-  
10 tion, converted to the use of coal to produce energy  
11 in the ethanol production process.

12       “(e) INELIGIBLE REFINERY PROPERTY.—No deduc-  
13 tion shall be allowed under subsection (a) for any qualified  
14 refinery property which is built solely to comply with con-  
15 sent decrees or projects mandated by Federal, State, or  
16 local governments.

17       “(f) ELECTION TO ALLOCATE DEDUCTION TO COOP-  
18 ERATIVE OWNER.—

19               “(1) IN GENERAL.—If—

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

23                       “(B) one or more persons directly holding  
24 an ownership interest in the taxpayer are orga-  
25 nizations to which part I of subchapter T apply,

1 the taxpayer may elect to allocate all or a portion of  
2 the deduction allowable under subsection (a) to such  
3 persons. Such allocation shall be equal to the per-  
4 son's ratable share of the total amount allocated, de-  
5 termined on the basis of the person's ownership in-  
6 terest in the taxpayer. The taxable income of the  
7 taxpayer shall not be reduced under section 1382 by  
8 reason of any amount to which the preceding sen-  
9 tence applies.

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

15       “(3) WRITTEN NOTICE TO OWNERS.—If any  
16 portion of the deduction available under subsection  
17 (a) is allocated to owners under paragraph (1), the  
18 cooperative shall provide any owner receiving an al-  
19 location written notice of the amount of the alloca-  
20 tion. Such notice shall be provided before the date  
21 on which the return described in paragraph (2) is  
22 due.

23       “(g) REPORTING.—No deduction shall be allowed  
24 under subsection (a) to any taxpayer for any taxable year  
25 unless such taxpayer files with the Secretary a report con-

1 taining such information with respect to the operation of  
2 the refineries of the taxpayer as the Secretary shall re-  
3 quire.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 1245(a) of such Code is amended  
6 by inserting “179F,” after “179E,” both places it  
7 appears in paragraphs (2)(C) and (3)(C).

8 (2) Section 263(a)(1) of such Code is amended  
9 by striking “or” at the end of subparagraph (K), by  
10 striking the period at the end of subparagraph (L)  
11 and inserting “, or”, and by inserting after subpara-  
12 graph (L) the following new subparagraph:

13 “(M) expenditures for which a deduction is  
14 allowed under section 179F.”.

15 (3) Section 312(k)(3)(B) of such Code is  
16 amended by striking “or 179E” each place it ap-  
17 pears in the heading and text and inserting “179E,  
18 or 179F”.

19 (4) The table of sections for part VI of sub-  
20 chapter B of chapter 1 is amended by inserting after  
21 the item relating to section 179E the following new  
22 item:

“Sec. 179F. Election to expense coal-fired facilities for production of ethanol.”.

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

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