

110TH CONGRESS  
1ST SESSION

# H. R. 683

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

JANUARY 24, 2007

Mr. LEWIS of Kentucky (for himself, Mr. LINCOLN DAVIS of Tennessee, Mr. NUNES, Mr. ROGERS of Kentucky, Mrs. CAPITO, Mr. DAVIS of Kentucky, Mr. WHITFIELD, Mr. PICKERING, Mr. SHIMKUS, and Mr. MCCOTTER) 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.

1 “(b) QUALIFIED INVESTMENT.—

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

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

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

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

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

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

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

23 “(A) employs the Fischer-Tropsch process  
24 to produce at least 5,000 barrels per day of  
25 transportation grade liquid fuels from coal, in-

cluding any property which allows for the capture, transportation, or sequestration of by-products resulting from such process, including carbon emissions, and

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

“(2) COAL.—The term ‘coal’ means any carbonized or semicarbonized matter, including peat and biomass.

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

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

“(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish a qualifying coal-to-liquid fuels project program to consider and award certifications for qualified investment eligible for credits under this section to 10 qualifying coal-to-liquid fuels project sponsors under this section, not less than 2 of which shall not have the capacity to produce more than 10,000 barrels of

1 transportation grade liquid fuels from coal per day.  
2 The total qualified investment which may be award-  
3 ed eligibility for credit under the program shall not  
4 exceed \$2,000,000,000.

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

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

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

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

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

1           “(D) the fuels identified with respect to  
2           the gasification technology for such project will  
3           comprise at least 90 percent of the fuels re-  
4           quired by the project for the production of  
5           transportation grade liquid fuels,

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

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

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

19          (c) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

1 as a deduction for the taxable year in which the expense  
2 is incurred.

3 “(b) ELECTION.—

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

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

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

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

23 “(2) the original use of which commences with  
24 the taxpayer,

25 “(3) the construction of which—



1           “(A) except as provided in subparagraph  
2           (B), is subject to a binding construction con-  
3           tract entered into after the date of the enact-  
4           ment of this section and before January 1,  
5           2011, but only if there was no written binding  
6           construction contract entered into on or before  
7           such date of enactment, or

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

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

14          “(d) ELECTION TO ALLOCATE DEDUCTION TO COOP-  
15          ERATIVE OWNER.—If—

16               “(1) a taxpayer to which subsection (a) applies  
17               is an organization to which part I of subchapter T  
18               applies, and

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

22          the taxpayer may elect to allocate all or a portion of the  
23          deduction allowable under subsection (a) to such persons.  
24          Such allocation shall be equal to the person’s ratable share  
25          of the total amount allocated, determined on the basis of

1 the person's ownership interest in the taxpayer. The tax-  
2 able income of the taxpayer shall not be reduced under  
3 section 1382 by reason of any amount to which the pre-  
4 ceding sentence applies.

5 “(e) BASIS REDUCTION.—

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

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

17 “(f) APPLICATION WITH OTHER DEDUCTIONS AND  
18 CREDITS.—

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

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

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

10          (b) CONFORMING AMENDMENTS.—

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

16               “(38) to the extent provided in section  
17               179E(e)(1).”.

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

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

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

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

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

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

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

14       **SEC. 4. EXPANSION AND EXTENSION OF ALTERNATIVE**  
15                       **FUEL CREDIT.**

16                  (a) EXPANSION.—

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

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

1           (2) Subparagraph (E) of section 6426(d)(2)(d)  
2       of such Code is amended by inserting “and biomass  
3       (as defined in section 45K(c)(3) without regard to  
4       subparagraph (B) thereof)” after “peat”.

5       (b) EXTENSION.—

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

9           “(4) TERMINATION.—This subsection shall not  
10      apply to—

11           “(A) any sale or use involving liquified hy-  
12      drogen for any period after September 30,  
13      2020,

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

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

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

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

3           (2) PAYMENTS.—

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

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

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

19          (B) CONFORMING AMENDMENT.—Section  
20          6427(e)(5)(C) of such Code is amended by  
21          striking “subparagraph (D)” and inserting  
22          “subparagraphs (D), (E), and (F)”.

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

3 (a) ENHANCED CREDIT FOR CARBON DIOXIDE IN-  
4 JECTIONS.—Section 43 of the Internal Revenue Code of  
5 1986 is amended by adding at the end the following new  
6 subsection:

7 “(f) ENHANCED CREDIT FOR PROJECTS USING  
8 QUALIFIED CARBON DIOXIDE.—

9 “(1) IN GENERAL.—For purposes of this sec-  
10 tion—

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

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

16 “(2) PROJECTS DESCRIBED.—

17 “(A) IN GENERAL.—A project is described  
18 in this paragraph if—

19 “(i) the project begins or is substan-  
20 tially expanded after December 31, 2006,  
21 and

22 “(ii) the project uses qualified carbon  
23 dioxide in an enhanced oil, natural gas, or  
24 coalbed methane recovery method which in-  
25 volves flooding or injection.

1           “(B) ENHANCED OIL RECOVERY.—For  
 2           purposes of this subsection, the term ‘enhanced  
 3           oil recovery’ means recovery of oil by injecting  
 4           or flooding with qualified carbon dioxide.

5           “(C) ENHANCED NATURAL GAS RECOV-  
 6           ERY.—The term ‘enhanced natural gas recov-  
 7           ery’ means recovery of natural gas by injecting  
 8           or flooding with qualified carbon dioxide.

9           “(D) ENHANCED COALBED METHANE RE-  
 10          COVERY.—The term ‘enhanced coalbed methane  
 11          recovery’ means recovery of coalbed methane by  
 12          injecting or flooding with qualified carbon diox-  
 13          ide.

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

17                 “(i) separated from natural gas and  
 18                 natural gas liquids at a natural gas proc-  
 19                 essing plant, or

20                 “(ii) from any other industrial source.

21          “(3) TERMINATION.—This subsection shall not  
 22          apply to costs paid or incurred for any qualified en-  
 23          hanced oil recovery project after December 31,  
 24          2020.”.

25          (b) CONFORMING AMENDMENTS.—



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

2 (A) in subsection (a) by striking “en-  
3 hanced oil recovery credit” and inserting “en-  
4 hanced oil, natural gas, and coalbed methane  
5 recovery credit”, and

6 (B) by striking “qualified enhanced oil re-  
7 covery costs” each place it appears and insert-  
8 ing “qualified costs”,

9 (C) by striking “qualified enhanced oil re-  
10 covery project” each place it appears and in-  
11 serting “qualified project”, and

12 (D) in the section heading by inserting “,  
13 **NATURAL GAS, AND COALBED METHANE**”  
14 after “**OIL**”.

15 (2) The item in the table of sections for subpart  
16 D of part IV of subchapter A of chapter 1 of such  
17 Code relating to section 43 is amended to read as  
18 follows:

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

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

1 **SEC. 6. ALLOWANCE OF ENHANCED OIL, NATURAL GAS,**  
 2 **AND COALBED METHANE RECOVERY CREDIT**  
 3 **AGAINST THE ALTERNATIVE MINIMUM TAX.**

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

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

14 “(A) this section and section 39 shall be  
 15 applied separately with respect to such credit,  
 16 and

17 “(B) in applying paragraph (1) to such  
 18 credit—

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

21 “(ii) the limitation under paragraph  
 22 (1) (as modified by clause (i)) shall be re-  
 23 duced by the credit allowed under sub-  
 24 section (a) for the taxable year (other than  
 25 the enhanced oil recovery credit).”.

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

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

9 **SEC. 7. EXPANSION OF EXPENSING OF OIL AND ALTER-**  
 10 **NATIVE FUEL REFINERIES.**

11 (a) EXTENSION OF PLACED IN SERVICE REQUIRE-  
 12 MENT.—Subparagraph (B) of section 179C(c)(1) of the  
 13 Internal Revenue Code of 1986 (defining qualified refinery  
 14 property) is amended by striking “January 1, 2012” and  
 15 inserting “January 1, 2016”.

16 (b) PRODUCTION CAPACITY.—Subsection (e) of sec-  
 17 tion 179C of such Code (relating to production capacity)  
 18 is amended by striking “or” at the end of paragraph (1),  
 19 by striking the period at the end of paragraph (2) and  
 20 inserting “, or”, and by inserting after paragraph (2) the  
 21 following new paragraph:

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

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.

4 **SEC. 8. EXPENSING FOR CONVERSION OF NATURAL GAS-**  
 5 **FIRED FACILITIES FOR THE PRODUCTION**  
 6 **ETHANOL TO COAL-FIRED FACILITIES.**

7 (a) IN GENERAL.—Part VI of subchapter B of chap-  
 8 ter 1 of the Internal Revenue Code of 1986 is amended  
 9 by inserting after section 179E the following new section:  
 10 **“SEC. 179F. ELECTION TO EXPENSE COAL-FIRED FACILI-**  
 11 **TIES FOR PRODUCTION OF ETHANOL.**

12 “(a) TREATMENT AS EXPENSES.—A taxpayer may  
 13 elect to treat 50 percent of the cost of any qualified eth-  
 14 anol plant fueling property as an expense which is not  
 15 chargeable to capital account. Any cost so treated shall  
 16 be allowed as a deduction for the taxable year in which  
 17 the qualified ethanol plant fueling property is placed in  
 18 service.

19 “(b) ELECTION.—

20 “(1) IN GENERAL.—An election under this sec-  
 21 tion for any taxable year shall be made on the tax-  
 22 payer’s return of the tax imposed by this chapter for  
 23 the taxable year. Such election shall be made in such  
 24 manner as the Secretary may by regulations pre-  
 25 scribe.

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

4           “(c) QUALIFIED ETHANOL PLANT FUELING PROP-  
5           PERTY.—

6           “(1) IN GENERAL.—The term ‘qualified ethanol  
7           plant fueling property’ means, with respect to a  
8           qualified ethanol refinery, property using coal to  
9           produce energy used to produce ethanol—

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

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

15                   “(C) which meets all applicable environ-  
16                   mental laws in effect on the date such portion  
17                   was placed in service.

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

20                   “(A) originally placed in service after the  
21                   date of the enactment of this section by a per-  
22                   son, and

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

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

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

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

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

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

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

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

1       “(f) ELECTION TO ALLOCATE DEDUCTION TO COOP-  
2       ERATIVE OWNER.—

3               “(1) IN GENERAL.—If—

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

7                       “(B) one or more persons directly holding  
8                       an ownership interest in the taxpayer are orga-  
9                       nizations to which part I of subchapter T apply,  
10                      the taxpayer may elect to allocate all or a portion of  
11                      the deduction allowable under subsection (a) to such  
12                      persons. Such allocation shall be equal to the per-  
13                      son’s ratable share of the total amount allocated, de-  
14                      termined on the basis of the person’s ownership in-  
15                      terest in the taxpayer. The taxable income of the  
16                      taxpayer shall not be reduced under section 1382 by  
17                      reason of any amount to which the preceding sen-  
18                      tence applies.

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

24               “(3) WRITTEN NOTICE TO OWNERS.—If any  
25                      portion of the deduction available under subsection

1 (a) is allocated to owners under paragraph (1), the  
 2 cooperative shall provide any owner receiving an al-  
 3 location written notice of the amount of the alloca-  
 4 tion. Such notice shall be provided before the date  
 5 on which the return described in paragraph (2) is  
 6 due.

7 “(g) REPORTING.—No deduction shall be allowed  
 8 under subsection (a) to any taxpayer for any taxable year  
 9 unless such taxpayer files with the Secretary a report con-  
 10 taining such information with respect to the operation of  
 11 the refineries of the taxpayer as the Secretary shall re-  
 12 quire.”.

13 (b) CONFORMING AMENDMENTS.—

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

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

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

24 (3) Section 312(k)(3)(B) of such Code is  
 25 amended by striking “or 179E” each place it ap-



1       pears in the heading and text and inserting “179E,  
2       or 179F”.

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

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

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

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