111TH CONGRESS
2D SESSION

S. 3576

To promote the production and use of renewable energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2010

Ms. KLOBUCHAR (for herself and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To promote the production and use of renewable energy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) IN GENERAL.—This Act may be cited as the ''Securing America's Future with Energy and Sustainable Technologies Act''.

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

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of Energy.

TITLE I—RENEWABLE FUEL PROGRAM

SEC. 101. DEFINITION OF ADVANCED BIOFUEL.

Section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B)) is amended—

(1) in clause (i), by striking ", other than ethanol derived from corn starch,"; and

(2) in clause (ii)(II), by striking "(other than corn starch)".

SEC. 102. BIOMASS-BASED DIESEL.

Section 211(o)(2)(A) of the Clean Air Act (42 U.S.C. 7545(o)(2)(A)) is amended by adding at the end the following:

"(v) GRANDFATHERING BIOMASS-BASED DIESEL.—The Administrator shall promulgate regulations that exempt from the lifecycle greenhouse gas requirements of subparagraphs (B) and (D) of paragraph (1) up to the greater of 1,000,000,000 gallons or the volume mandate adopted pursuant to subparagraph (B)(ii), of biomass-based diesel annually from facilities that commenced construction before December 19, 2007.".

SEC. 103. INTERNATIONAL INDIRECT LAND USE CHANGES.

Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended by adding at the end the following:

"(13) INTERNATIONAL INDIRECT LAND USE CHANGES.—

"(A) EXCLUSION FROM REGULATORY REQUIREMENTS REGARDING LIFECYCLE GREENHOUSE GAS EMISSIONS.—Notwithstanding the definition of 'lifecycle greenhouse gas emissions' in paragraph (1)(H), for purposes of determining whether a fuel meets a definition under paragraph (1) or complies with paragraph (2)(A)(i), the Administrator shall exclude emissions from indirect land use changes outside the country of origin of the feedstock of a renewable fuel.

"(B) NATIONAL ACADEMIES OF SCIENCE REPORT.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator and the Secretary of Agriculture shall jointly arrange for the National Academies of Science to review and report on specified issues relating to indirect greenhouse gas emissions relating to transportation fuels.

"(ii) MODELS AND METHODOLOGIES.—The report shall evaluate and report on whether there are economic and environmental models and methodologies

that individually, or as a system, can project with reliability, predictability, and confidence—

"(I) for purposes of determining whether a fuel meets a definition under paragraph (1) or complies with paragraph (2)(A)(i), indirect land use changes that are related to the production of renewable fuels and that may occur outside the country in which the feedstocks are grown, and the impacts of those changes on greenhouse gas emissions; and

"(II) indirect effects, both domestic and international, related to the production and importation of nonrenewable transportation fuels that have significant greenhouse gas emissions, and the impact of those effects on greenhouse gas emissions.

"(iii) ADMINISTRATION.—

"(I) IN GENERAL.—The report shall—

"(aa) include a review and assessment of all pertinent sci-

entific studies, methodologies, and data;

"(bb) evaluate potential methodologies for calculating emissions (including an evaluation of methods for annualizing emissions associated with forest degradation or land conversion); and

"(cc) make appropriate recommendations.

"(II) INDIRECT EFFECTS.—The recommendations shall address indirect effects, both domestic and international, relating to the production and importation of nonrenewable transportation fuels that have significant greenhouse gas emissions.

"(III) VALIDATION.—The report shall use appropriate validation procedures, including sensitivity analyses, to measure how results change as assumptions change.

"(IV) MODELS.—The evaluation shall include a model, methodology, or

system of models that assesses how reliably the models, methodologies, or systems—

"(aa) track actual outcomes over historical periods using available historical data; and

"(bb) will project future outcomes.

"(iv) AVAILABILITY.—The report shall—

"(I) be publicly available; and

"(II) include sufficient information and data so that economists and other scientists with relevant expertise that are not on the National Academies of Science panel can fully evaluate the conclusions of the report.

"(v) DEADLINE.—The report shall be completed not later than 3 years after the date of enactment of this paragraph.

"(C) DETERMINATION.—

"(i) IN GENERAL.—The Administrator and the Secretary of Agriculture shall, after notice and an opportunity for public comment, determine—

''(I) whether, for purposes of determining compliance with the percent reductions in lifecycle greenhouse gas emissions specified in paragraph (1) for various renewable fuels, scientifically valid models and methodologies exist to project indirect land use changes that are related to the production of renewable fuels and that occur outside the country in which the feedstocks are grown outside the country of origin of the feedstocks; and

''(II) the impact of those changes on greenhouse gas emissions.

''(ii) BASIS.—

''(I) REPORT.—The determination shall take into account the findings and recommendations of the report required under subparagraph (B), as well as other available scientific, economic, and other relevant information.

''(II) OTHER FEDERAL AGENCIES.—The Administrator and the

Secretary of Agriculture may also consider methods used by the Environmental Protection Agency, the Department of Agriculture, and other Federal agencies to assess or guide related policies.

''(iii) PUBLICATION OF DETERMINATIONS.—

''(I) IN GENERAL.—The Administrator and the Secretary of Agriculture shall publish—

''(aa) a proposed determination not later than 4 years after the date of enactment of this paragraph; and

''(bb) a final determination not later than 5 years after the date of enactment of this paragraph.

''(II) EXPLANATION.—An explanation and justification of the determination shall be included in the proposed and final actions, together with a response to comments received.

''(D) RESPONSE TO DETERMINATION.—

''(i) POSITIVE DETERMINATION.—

''(I) IN GENERAL.—In the case of a positive determination under subparagraph (C), the Administrator and the Secretary of Agriculture shall, after notice and an opportunity for public comment, by the same date jointly establish 1 or more methodologies to calculate greenhouse gas emissions from indirect land use changes that are attributable to the production of renewable fuels and that occur outside the country in which feedstocks are grown outside the country of origin of the feedstock for purposes of calculating the lifecycle greenhouse gas emissions of a renewable fuel to determine whether the renewable fuel meets a definition under paragraph (1) or complies with paragraph (2)(A)(i).

''(II) ADMINISTRATION.—In the calendar year following a positive determination under subparagraph (C)—

"(aa) the exclusion under subparagraph (A) shall terminate; and

"(bb) the Administrator shall promulgate a regulation by the same date that shall include emissions from indirect land use changes outside the country of origin of a feedstock of a renewable fuel for purposes of calculating the lifecycle greenhouse gas emissions of the renewable fuel to determine whether the renewable fuel meets a definition under paragraph (1) or complies with paragraph (2)(A)(i) for renewable fuels sold in the calendar year.

"(III) EFFECTIVE DATE.—The effective date of the regulation shall be 6 years after the date of enactment of this paragraph.

"(ii) NEGATIVE DETERMINATION.—A negative determination under subpara-

graph (C) shall include a statement of the basis for the determination.

''(E) ACCOUNTABILITY.—The joint duties and actions of the Administrator and the Secretary of Agriculture under this paragraph shall be subject to sections 304 and 307 as if the duties and actions were the duties and actions of the Administrator alone.''.

SEC. 104. MODIFICATION OF DEFINITION OF RENEWABLE BIOMASS.

(a) NATIONAL ACADEMY OF SCIENCES REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Federal Energy Regulatory Commission shall jointly enter into an arrangement with the National Academy of Sciences to evaluate how sources of renewable biomass contribute to the goals of increasing the energy independence of the United States, protecting the environment, and reducing global warming pollution.

(b) MODIFICATION.—

(1) EPA MODIFICATION AUTHORITY.—After reviewing the report required by subsection (a), the Administrator of the Environmental Protection Agency, with the concurrence of the Secretary of Ag-

riculture, may, by regulation and after public notice and comment, modify the non-Federal land portion of the definition of ''renewable biomass'' in section 211(o)(1)(I) of the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) and in section 610 of the Public Utility Regulatory Policies Act of 1978 in order to advance the goals of increasing the energy independence of the United States, protecting the environment, and reducing global warming pollution.

(2) FERC MODIFICATION AUTHORITY.—After reviewing the report required by subsection (a), the Federal Energy Regulatory Commission, with the concurrence of the Secretary of Agriculture, may, by regulation and after public notice and comment, modify the non-Federal lands portion of the definition of ''renewable biomass'' in section 610(a) of the Public Utility Regulatory Policies Act of 1978 in order to advance the goals of increasing the energy independence of the United States, protecting the environment, and reducing global warming pollution.

(c) FEDERAL LAND.—

(1) SCIENTIFIC REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protec-

tion Agency shall conduct a joint scientific review to evaluate how sources of biomass from Federal land could contribute to the goals of increasing the energy independence of the United States, protecting the environment, and reducing global warming pollution.

(2) MODIFICATION AUTHORITY.—Based on the scientific review, the agencies may, by rule, modify the definition of ''renewable biomass'' from Federal land in sections 211(o)(1)(I) of the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) and section 610 of the Public Utility Regulatory Policies Act of 1978, as appropriate, to advance the goals of increasing the energy independence of the United States, protecting the environment, and reducing global warming pollution.

TITLE II—PRODUCTION AND USE OF RENEWABLE FUEL

SEC. 201. FINDINGS.

Congress finds that—

(1) creating the appropriate infrastructure to move renewable fuels is a necessary energy and transportation objective for the United States;

(2) more than 70 percent of the gasoline supply of the United States is delivered to local terminals through pipelines;

(3) pipelines are the most cost-effective, efficient, and safe transportation mode in use today to deliver large volumes of liquid fuels;

(4) renewable fuels are transported by truck, barge, and rail, and the volume requirements of the Energy Independence and Security Act of 2007 (42 U.S.C. 17001 et seq.) and amendments made by that Act may overwhelm the renewable fuels infrastructure, a problem that would be alleviated by the transportation of renewable fuels through pipelines; and

(5) the production and use of renewable fuels is supported by Federal policy and a corresponding Federal policy is necessary to support the construction of an appropriate infrastructure to transport renewable fuels.

SEC. 202. LOAN GUARANTEES FOR PROJECTS TO CONSTRUCT RENEWABLE FUEL PIPELINES.

(a) DEFINITIONS.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended by adding at the end the following:

''(6) RENEWABLE FUEL.—The term 'renewable fuel' has the meaning given the term in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), except that the term shall include all ethanol and biodiesel.

''(7) RENEWABLE FUEL PIPELINE.—The term 'renewable fuel pipeline' means a pipeline for transporting renewable fuel.''.

(b) AMOUNT.—Section 1702(c) of the Energy Policy Act of 2005 (42 U.S.C. 16512(c)) is amended—

(1) by striking ''Unless otherwise'' and inserting the following:

''(1) IN GENERAL.—Unless otherwise''; and

(2) by adding at the end the following:

''(2) RENEWABLE FUEL PIPELINES.—A guarantee for a project described in section 1703(b)(11) shall be in an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.''.

(c) RENEWABLE FUEL PIPELINE ELIGIBILITY.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by adding at the end the following:

''(11) Renewable fuel pipelines.''.

(d) RAPID DEPLOYMENT OF RENEWABLE FUEL PIPELINES.—Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Installation of sufficient infrastructure to allow for the cost-effective deployment of clean energy technologies appropriate to each region of the United States, including the deployment of renewable fuel pipelines at a guarantee amount of 80 percent.''.

SEC. 203. OPEN FUEL STANDARD FOR TRANSPORTATION.

(a) IN GENERAL.—Chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''SEC. 32920. OPEN FUEL STANDARD FOR TRANSPORTATION.

''(a) DEFINITIONS.—In this section:

''(1) E85.—The term 'E85' means a fuel mixture containing 85 percent ethanol and 15 percent gasoline by volume.

''(2) FLEXIBLE FUEL AUTOMOBILE.—The term 'flexible fuel automobile' means an automobile that has been warranted by its manufacturer to operate on gasoline, E85, and M85.

''(3) FUEL CHOICE-ENABLING AUTOMOBILE.—The term 'fuel choice-enabling automobile' means—

''(A) a flexible fuel automobile;

''(B) an automobile that has been warranted by its manufacturer to operate on biodiesel;

''(C) an automobile that uses hydrogen fuel cell technology;

''(D) a hybrid automobile, or an automobile with any other technology, that uses at least—

''(i) during the 10-year period beginning on the date of enactment of this section, 50 percent less fossil fuel per mile than the average of vehicles in the class of the hybrid automobile or an automobile with any other technology (under the applicable corporate average fuel standard under section 32902 of title 49, United States Code); and

''(ii) effective beginning 10 years after the date of enactment of this section, 75 percent less fossil fuel per mile than the average of vehicles in the class of the hybrid automobile or an automobile with any

other technology (under the applicable corporate average fuel standard under section 32902 of title 49, United States Code); or

"(E) an automobile that only uses an electric motor to move the vehicle.

"(4) HYBRID AUTOMOBILE.—The term 'hybrid automobile' means a light-duty automobile that uses 2 or more distinct power sources to move the vehicle.

"(5) LIGHT-DUTY AUTOMOBILE.—The term 'light-duty automobile' means a light-duty automobile (as defined in regulations promulgated by the Secretary of Transportation to establish corporate average fuel standards under section 32902 of title 49, United States Code).

"(6) LIGHT-DUTY AUTOMOBILE MANUFACTURER'S ANNUAL COVERED INVENTORY.—The term 'light-duty automobile manufacturer's annual covered inventory' means the number of light-duty automobiles powered solely by an internal combustion engine that a manufacturer, during a given calendar year, manufactures in the United States or imports from outside of the United States for sale in the United States.

''(7) M85.—The term 'M85' means a fuel mixture containing 85 percent methanol and 15 percent gasoline by volume.

''(b) OPEN FUEL STANDARD FOR TRANSPORTATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each light-duty automobile manufacturer's annual covered inventory shall be comprised of—

''(A) not less than 30 percent fuel choice-enabling automobiles by model year 2013;

''(B) not less than 50 percent fuel choice-enabling automobiles by model year 2015;

''(C) not less than 80 percent fuel choice-enabling automobiles by model year 2017; and

''(D) not less than 100 percent of fuel choice-enabling automobiles by model year 2021 and each model year thereafter.

''(2) TEMPORARY EXEMPTION FROM REQUIREMENTS.—

''(A) APPLICATION.—A manufacturer may request an exemption from the requirement described in paragraph (1) by submitting an application to the Secretary, at such time, in such manner, and containing such information as the

Secretary may require by regulation. Each such application shall specify the models, lines, and types of automobiles affected.

''(B) EVALUATION.—After evaluating an application received from a manufacturer, the Secretary may at any time, under such terms and conditions, and to such extent as the Secretary considers appropriate, temporarily exempt, or renew the exemption of, a light-duty automobile from the requirement described in paragraph (1) if the Secretary determines that unavoidable events that are not under the control of the manufacturer prevent the manufacturer of such automobile from meeting its required production volume of fuel choice-enabling automobiles, including—

''(i) a disruption in the supply of any component required for compliance with the regulations;

''(ii) a disruption in the use and installation by the manufacturer of such component; or

''(iii) the failure for plug-in hybrid electric automobiles to meet State air qual-

ity requirements as a result of the requirement described in paragraph (1).

''(C) CONSOLIDATION.—The Secretary may consolidate applications received from multiple manufactures under subparagraph (A) if they are of a similar nature.

''(D) NOTICE.—The Secretary shall publish in the Federal Register—

''(i) notice of each application received from a manufacturer;

''(ii) notice of each decision to grant or deny a temporary exemption; and

''(iii) the reasons for granting or denying such exemptions.

''(c) LIMITED LIABILITY PROTECTION FOR RENEWABLE FUEL AND ETHANOL MANUFACTURE, USE, OR DISTRIBUTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, any fuel containing ethanol or a renewable fuel (as defined in section 211(o)(1) of the Clean Air Act) that is used or intended to be used to operate an internal combustion engine shall not be deemed to be a defective product or subject to a failure to warn due to such ethanol or renewable fuel content unless such fuel

violates a control or prohibition imposed by the Administrator under section 211 of the Clean Air Act (42 U.S.C. 7545).

''(2) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect the liability of any person other than liability based upon a claim of defective product and failure to warn described in paragraph (1).

''(d) RULEMAKING.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall promulgate regulations to carry out this section in consultation with the Administrator and taking into consideration existing regulations.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 329 of title 49, United States Code, is amended by adding at the end the following:

''Sec. 32920. Open fuel standard for transportation.''.

SEC. 204. REDUCING BARRIERS TO SUPPLY CHAIN MANUFACTURING OF RENEWABLE ENERGY EQUIPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $50,000,000 for the Hollings Manufacturing Partnership Program, established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be used to implement a strategy for reducing barriers to supply chain manufacturing of renewable energy equipment.

SEC. 205. TAX INCENTIVES FOR QUALIFIED BLENDER PUMPS.

(a) CREDIT FOR INSTALLATION OF BLENDER PUMPS.—Section 30C of the Internal Revenue Code of 1986 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) TREATMENT OF BLENDER PUMPS AS QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

''(1) IN GENERAL.—A qualified blender pump shall be treated as qualified alternative refueling property under this section.

''(2) QUALIFIED BLENDER PUMP.—For purposes of this subsection, the term 'qualified blender pump' means property (not including a building or its structural components)—

''(A) which is subject to the allowance for depreciation or which is installed on property which is used as a principal residence,

''(B) the original use of which begins with the taxpayer, and

''(C) which is for the storage or dispensing of a qualified ethanol blend into the fuel tank of a motor vehicle (as defined in section 179A(e)(2)) propelled by such blend, but only if—

''(i) the storage or dispensing is at the point where such fuel is delivered into the fuel tank of the motor vehicle, and

''(ii) such property is capable of dispensing qualified ethanol blends of not less than 3 different percentage volumes of ethanol which may be selected by the pump operator.

''(3) QUALIFIED ETHANOL BLEND.—For purposes of this subsection, the term 'qualified ethanol blend' means any fuel which is not less than 20 percent ethanol by volume and not more than 85 percent ethanol by volume.''.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

TITLE III—RENEWABLE ELECTRICITY AND ENERGY EFFICIENCY RESOURCE STANDARDS

SEC. 301. RENEWABLE ELECTRICITY AND ENERGY EFFICIENCY RESOURCE STANDARDS.

(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

"SEC. 610. RENEWABLE ELECTRICITY AND ENERGY EFFICIENCY RESOURCE STANDARDS.

''(a) DEFINITIONS.—In this section:

''(1) BASE QUANTITY OF ELECTRICITY.—

''(A) IN GENERAL.—The term 'base quantity of electricity' means the total quantity of electricity sold by an electric utility to electric consumers in a calendar year.

''(B) EXCLUSIONS.—The term 'base quantity of electricity' does not include electricity generated by a hydroelectric facility (including a pumped storage facility but excluding incremental hydropower).

''(2) DISTRIBUTED GENERATION FACILITY.—The term 'distributed generation facility' means a facility at a customer site.

''(3) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

''(4) INCREMENTAL GEOTHERMAL PRODUCTION.—

''(A) IN GENERAL.—The term 'incremental geothermal production' means, for any year, the excess of—

''(i) the total kilowatt hours of electricity produced from a facility (including a distributed generation facility) using geothermal energy; over

''(ii) the average number of kilowatt hours produced annually at the facility for 5 of the previous 7 calendar years before the date of enactment of this section after eliminating the highest and the lowest kilowatt hour production years in that 7-year period.

''(B) SPECIAL RULE.—A facility described in subparagraph (A) that was placed in service at least 7 years before the date of enactment of this section shall, commencing with the year in which that date of enactment occurs, reduce the

amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum, but not to exceed 30 percent.

''(5) INCREMENTAL HYDROPOWER.—

''(A) IN GENERAL.—The term 'incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions made on or after—

''(i) January 1, 2001; or

''(ii) the effective commencement date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date.

''(B) EXCLUSION.—The term 'incremental hydropower' does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.

''(C) MEASUREMENT AND CERTIFICATION.—Efficiency improvements and capacity

additions referred to in subparagraph (B) shall be—

"(i) measured on the basis of the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility; and

"(ii) certified by the Secretary or the Federal Energy Regulatory Commission.

"(6) OCEAN ENERGY.—The term 'ocean energy' includes current, wave, tidal, and thermal energy.

"(7) RENEWABLE BIOMASS.—Subject to section 104(b) of the Securing America's Future with Energy and Sustainable Technologies Act, the term 'renewable biomass' means—

"(A) materials, precommercial thinnings, or removed invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), including those that are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed as part of a federally recognized timber sale, or that are removed to reduce hazardous fuels, to

reduce or contain disease or insect infestation, or to restore ecosystem health, and that are—

''(i) not from components of—

''(I) a component of the National Wild and Scenic Rivers System;

''(II) a component of the National Wilderness Preservation System;

''(III) a National Monument;

''(IV) any part of the National Landscape Conservation System;

''(V) a designated wilderness study area or other areas managed for wilderness characteristics;

''(VI) an inventoried roadless area within the National Forest System;

''(VII) an old growth stand (as defined by the applicable land management plan);

''(VIII) a late-successional stand (except for dead, severely damaged, or badly infested trees) (as defined by the applicable land management plan); or

"(IX) a designated primitive area;

"(ii) harvested in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

"(iii) harvested in accordance with applicable law and land management plans;

"(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

"(i) renewable plant material, including—

"(I) feed grains;

"(II) other agricultural commodities;

"(III) other plants and trees; and

"(IV) algae; and

"(ii) waste material (other than commonly recycled paper), including—

"(I) crop residue;

''(II) other vegetative waste material (including wood waste and wood residues);

''(III) animal waste and byproducts (including fats, oils, greases, and manure);

''(IV) construction waste;

''(V) food waste and yard waste; and

''(VI) waste from single or multicellular organisms; and

''(C) residues and byproducts from wood, pulp, or paper products facilities.

''(8) RENEWABLE ENERGY.—The term 'renewable energy' means electric energy generated at a facility (including a distributed generation facility) from—

''(A) solar, wind, geothermal, or ocean energy;

''(B) renewable biomass;

''(C) landfill gas;

''(D) municipal solid waste;

''(E) incremental hydropower; or

''(F) hydropower that has been certified by the Low Impact Hydropower Institute.

''(b) RENEWABLE ELECTRICITY REQUIREMENT.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), each electric utility that sells electricity to electric consumers shall obtain a percentage of the base quantity of electricity the electric utility sells to electric consumers in any calendar year through the means of compliance identified in paragraph (2).

''(B) PERCENTAGE.—The percentage obtained in a calendar year under subparagraph (A) shall not be less than the amount specified in the following table:

"Calendar years:	**Minimum annual percentage:**
2013	10
2014	11
2015	12
2016	13
2017	14
2018	15
2019	16
2020	17
2021	18
2022	19
2023	21
2024	23
2025	25

''(2) MEANS OF COMPLIANCE.—Not later than 60 days after the end of each calendar year, an electric utility shall meet the requirements of paragraph (1) by—

"(A) submitting to the Secretary renewable energy credits issued under subsection (c);

"(B) making alternative compliance payments to the Secretary at the rate of 4 cents per kilowatt hour (as adjusted for inflation under subsection (g));

"(C) submitting to the Secretary energy efficiency credits established under section 611(k) in a quantity that shall not exceed 15 percent of the minimum percentage required in each calendar year under subparagraph (B); or

"(D) conducting a combination of activities described in subparagraphs (A), (B), and (C).

"(3) CLEAN ENERGY JOBS.—In carrying out this title, the Secretary shall, to the maximum extent practicable, encourage electric utilities, in meeting the requirements of paragraph (1), also—

"(A) to create jobs that pay a living wage that supports a family;

"(B) to provide health insurance benefits to employees; and

"(C) to comply with all Federal labor and environmental laws (including regulations).

"(c) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—

''(1) IN GENERAL.—Not later than December 31, 2011, the Secretary, in consultation with the Administrator, shall establish a renewable energy credit trading program under which electric utilities shall submit to the Secretary renewable energy credits to certify the compliance of the electric utilities with respect to obligations under subsection (b)(1).

''(2) ADMINISTRATION.—As part of the program, the Secretary shall—

''(A) issue renewable energy credits to generators of electric energy from new renewable energy;

''(B) issue renewable energy credits to electric utilities associated with State renewable portfolio standard compliance mechanisms pursuant to subsection (h);

''(C) subject to subparagraph (D), ensure that a kilowatt hour, including the associated renewable energy credit, shall be used only once for purposes of compliance with this section;

''(D) allow double credits for generation from facilities on Indian land and brownfield sites, and triple credits for generation from small renewable distributed generators (meaning those no larger than 1 megawatt);

''(E) ensure that, with respect to a purchaser that, as of the date of enactment of this section, has a purchase agreement from a renewable energy facility placed in service before that date (other than a biomass energy facility), the credit associated with the generation of renewable energy under the contract is issued to the purchaser of the electric energy; and

''(F) not allow energy efficiency credits established under section 611(k) to be traded.

''(3) DURATION.—A credit described in paragraph (2)(A) may only be used for compliance with this section during the 3-year period beginning on the date of issuance of the credit.

''(4) TRANSFERS.—An electric utility that holds credits in excess of the quantity of credits needed to comply with subsection (b) may transfer the credits to another electric utility.

''(5) DELEGATION OF MARKET FUNCTION.—The Secretary may delegate to an appropriate entity that establishes markets the administration of a national tradeable renewable energy credit market for purposes of creating a transparent national market for the sale or trade of renewable energy credits.

''(d) ENFORCEMENT.—

''(1) CIVIL PENALTIES.—Any electric utility that fails to meet the compliance requirements of subsection (b) shall be subject to a civil penalty.

''(2) AMOUNT OF PENALTY.—Subject to paragraph (3), the amount of the civil penalty shall be equal to the product obtained by multiplying—

''(A) the number of kilowatt-hours of electric energy sold to electric consumers in violation of subsection (b); by

''(B) the greater of—

''(i) 2 cents (adjusted for inflation under subsection (g)); or

''(ii) 200 percent of the average market value of renewable energy credits during the year in which the violation occurred.

''(3) MITIGATION OR WAIVER.—

''(A) IN GENERAL.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility is unable to comply with subsection (b) due to a reason outside of the reasonable control of the electric utility.

''(B) REDUCTION.—The Secretary shall reduce the amount of any penalty determined under paragraph (2) by an amount paid by the

electric utility to a State for failure to comply with the requirement of a State renewable energy program if the State requirement is greater than the applicable requirement of subsection (b).

''(4) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with the procedures prescribed by section 333(d) of the Energy Policy and Conservation Act (42 U.S.C. 6303(d)).

''(e) STATE RENEWABLE ENERGY ACCOUNT PROGRAM.—

''(1) IN GENERAL.—There is established in the Treasury a State renewable energy account program.

''(2) DEPOSITS.—All money collected by the Secretary from alternative compliance payments and the assessment of civil penalties under this section shall be deposited into the renewable energy account established pursuant to this subsection.

''(3) USE.—Proceeds deposited in the State renewable energy account shall be used by the Secretary to carry out a program to provide grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322)

for the purposes of promoting renewable energy production, including programs that promote technologies that reduce the use of electricity at customer sites, such as solar water heating.

''(4) ADMINISTRATION.—The Secretary may issue guidelines and criteria for grants awarded under this subsection.

''(5) RECORDS.—State energy offices receiving grants under this section shall maintain such records and evidence of compliance as the Secretary may require.

''(6) PREFERENCE.—In allocating funds under this subsection, the Secretary shall give preference—

''(A) to States in regions that have a disproportionately small share of economically sustainable renewable energy generation capacity; and

''(B) to State programs to stimulate or enhance innovative renewable energy technologies.

''(f) EXEMPTIONS.—During any calendar year, this section shall not apply to an electric utility that sold less than 4,000,000 megawatt-hours of electric energy to electric consumers during the preceding calendar year.

''(g) INFLATION ADJUSTMENT.—Not later than December 31 of each year beginning in 2011, the Secretary

shall adjust for United States dollar inflation from January 1, 2011 (as measured by the Consumer Price Index)—

''(1) the price of a renewable energy credit under subsection (c)(2); and

''(2) the amount of the civil penalty per kilowatt-hour under subsection (d)(2).

''(h) STATE PROGRAMS.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section diminishes any authority of a State or political subdivision of a State to adopt or enforce any law or regulation respecting renewable energy.

''(2) COMPLIANCE.—Except as provided in subsection (d)(3), no such law or regulation shall relieve any person of any requirement otherwise applicable under this section.

''(3) COORDINATION.—The Secretary, in consultation with States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal program and State programs.

''(4) REGULATIONS.—

''(A) IN GENERAL.—The Secretary, in consultation with States, shall promulgate regulations to ensure that an electric utility subject to

the requirements of this section that is also subject to a State renewable energy standard receives renewable energy credits in relation to equivalent quantities of renewable energy associated with compliance mechanisms, other than the generation or purchase of renewable energy by the electric utility, including the acquisition of certificates or credits and the payment of taxes, fees, surcharges, or other financial compliance mechanisms by the electric utility or a customer of the electric utility, directly associated with the generation or purchase of renewable energy.

''(B) PROHIBITION ON DOUBLE COUNTING.—The regulations promulgated under this paragraph shall ensure that a kilowatt hour associated with a renewable energy credit issued pursuant to this subsection shall not be used for compliance with this section more than once.

''(i) RECOVERY OF COSTS.—

''(1) IN GENERAL.—The Commission shall promulgate and enforce such regulations as are necessary to ensure that an electric utility recovers all

prudently incurred costs associated with compliance with this section.

''(2) APPLICABLE LAW.—A regulation under paragraph (1) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

''(j) REGULATIONS.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this title, the Secretary, in consultation with the leaders of relevant Federal agencies, shall promulgate regulations to carry out this title.

''(2) PRIORITIES.—The regulations promulgated under paragraph (1) shall prioritize the use of components and products produced in the United States, without placing constraints that prevent compliance under this title, for new renewable energy facilities eligible to participate in activities under this title.

''(k) TERMINATION OF AUTHORITY.—This section and the authority provided by this section terminate on December 31, 2040.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Public Utility Regulatory Policies Act

of 1978 (16 U.S.C. prec. 2601) is amended by adding at the end of the items relating to title VI the following:

''Sec. 609. Rural and remote communities electrification grants.
''Sec. 610. Renewable electricity and energy efficiency resource standards.''.

SEC. 302. ENERGY EFFICIENCY RESOURCE STANDARD FOR RETAIL ELECTRICITY AND NATURAL GAS DISTRIBUTORS.

(a) IN GENERAL.—Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) (as amended by section 301(a)) is amended by adding at the end the following:

''SEC. 611. ENERGY EFFICIENCY RESOURCE STANDARD FOR RETAIL ELECTRICITY AND NATURAL GAS DISTRIBUTORS.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) AFFILIATE.—The term 'affiliate', when used with respect to a person, means another person that owns or controls, is owned or controlled by, or is under common ownership control with, the person, as determined under regulations promulgated by the Secretary.

''(3) ANSI.—The term 'ANSI' means the American National Standards Institute.

''(4) ASHRAE.—The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

''(5) BASE QUANTITY.—

''(A) IN GENERAL.—The term 'base quantity', when used with respect to a retail electricity distributor or retail natural gas distributor, means the average annual quantity of electricity or natural gas delivered by the retail electricity distributor or retail natural gas distributor to retail customers during the 5 calendar years immediately preceding the date of enactment of this section.

''(B) EXCLUSION.—The term 'base quantity', when used to determine the base quantity of a retail natural gas distributor, does not include natural gas delivered for purposes of electricity generation.

''(6) CODES AND STANDARDS SAVINGS.—

''(A) IN GENERAL.—The term 'codes and standards savings' means a reduction in end-use electricity or natural gas consumption in the service territory of a retail electricity distributor or a retail natural gas distributor as a result of the adoption and implementation, after

the date of enactment of this section, of new or revised appliance and equipment efficiency standards or building energy codes.

''(B) BASELINES.—In calculating codes and standards savings—

''(i) the baseline for calculating savings from building codes shall be the more stringent of—

''(I) the 2006 International Energy Conservation Code for residential buildings and the ASHRAE/ANSI/IESNA Standard 90.1 (2004) for commercial buildings;

''(II) the applicable State building code in effect on the date of enactment of this section; or

''(III) a baseline determined by the Secretary; and

''(ii) the baseline for calculating savings from appliance standards shall be the average efficiency of new appliances in the applicable 1 or more categories prior to adoption and implementation of the new standard.

''(7) COST-EFFECTIVE.—The term 'cost-effective', when used with respect to an energy efficiency measure, means that the measure achieves a net present value of economic benefits over the life of the measure, both directly to the energy consumer and to the economy, that is greater than the net present value of the cost of the measure over the life of the measure, both directly to the energy consumer and to the economy.

''(8) CUSTOMER FACILITY SAVINGS.—The term 'customer facility savings' means a reduction in end-use electricity or natural gas consumption (including recycled energy savings) at a facility of an end-use consumer of electricity or natural gas served by a retail electricity distributor or natural gas distributor, as compared to—

''(A) in the case of new equipment that replaces existing equipment at the end of the useful life of the existing equipment, consumption by new equipment of average efficiency;

''(B) in the case of new equipment that replaces existing equipment with remaining useful life—

''(i) consumption of the existing equipment for the remaining useful life of the equipment; and

''(ii) after that useful life, consumption of new equipment of average efficiency;

''(C) in the case of a new facility, consumption at a reference facility of average efficiency; or

''(D) in the case of energy savings measures at a facility not covered by subparagraphs (A) through (C), consumption at the facility during a base year.

''(9) ELECTRICITY SAVINGS.—The term 'electricity savings' means reductions in electricity consumption achieved through measures implemented after the date of enactment of this section, as determined in accordance with regulations promulgated by the Secretary, through—

''(A) customer facility savings of electricity, adjusted to reflect any associated increase in fuel consumption at the facility;

''(B) reductions in distribution system losses of electricity achieved by a retail electricity distributor, as compared to losses attrib-

utable to new or replacement distribution system equipment of average efficiency (as defined in regulations promulgated by the Secretary); and

''(C) codes and standards savings of electricity.

''(10) IESNA.—The term 'IESNA' mean the Illuminating Engineering Society of North America.

''(11) NATURAL GAS SAVINGS.—The term 'natural gas savings' means reductions in natural gas consumption from measures implemented after the date of enactment of this section, as determined in accordance with regulations promulgated by the Secretary, through—

''(A) customer facility savings of natural gas, adjusted to reflect any associated increase in electricity consumption or consumption of other fuels at the facility;

''(B) reductions in leakage, operational losses, and consumption of natural gas fuel to operate a gas distribution system, achieved by a retail natural gas distributor, as compared to similar leakage, losses, and consumption during a base period (which shall not be less than 1 year); and

''(C) codes and standards savings of natural gas.

''(12) POWER POOL.—The term 'power pool' means an association of 2 or more interconnected electric systems that is recognized by the Commission as having an agreement to coordinate operations and planning for improved reliability and efficiencies, including a Regional Transmission Organization or an Independent System Operator.

''(13) RECYCLED ENERGY SAVINGS.—The term 'recycled energy savings' means a reduction in electricity or natural gas consumption that results from a modification of an industrial or commercial system that commenced operation before the date of enactment of this section, in order to recapture electrical, mechanical, or thermal energy that would otherwise be wasted, as determined in accordance with regulations promulgated by the Secretary.

''(14) REPORTING PERIOD.—The term 'reporting period' means—

''(A) calendar year 2013; and

''(B) each successive calendar year thereafter.

''(15) RETAIL ELECTRICITY DISTRIBUTOR.—

''(A) IN GENERAL.—The term 'retail electricity distributor' means, for any calendar year, an electric utility that owns or operates an electric distribution facility and, using the facility, delivered not less than 4,000,000 megawatt-hours of electric energy to electric consumers for purposes other than resale during the most recent 2-calendar-year period for which data are available.

''(B) ADMINISTRATION.—For purposes of determining whether an electric utility qualifies as a retail electricity distributor under subparagraph (A)—

''(i) deliveries by any affiliate of an electric utility to electric consumers for purposes other than resale shall be considered to be deliveries by the electric utility; and

''(ii) deliveries by any electric utility to a lessee, tenant, or affiliate of the electric utility shall not be treated as deliveries to electric consumers.

''(16) RETAIL NATURAL GAS DISTRIBUTOR.—

''(A) IN GENERAL.—The term 'retail natural gas distributor' means, for any given cal-

endar year, a local distribution company (as defined in section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301)), that delivered to natural gas consumers more than 5,000,000,000 cubic feet of natural gas during the most recent 2-calendar-year period for which data are available.

''(B) ADMINISTRATION.—For purposes of determining whether a person qualifies as a retail natural gas distributor under subparagraph (A)—

''(i) deliveries of natural gas by any affiliate of a local distribution company to consumers for purposes other than resale shall be considered to be deliveries by the local distribution company; and

''(ii) deliveries of natural gas to a lessee, tenant, or affiliate of a local distribution company shall not be treated as deliveries to natural gas consumers.

''(17) THIRD-PARTY EFFICIENCY PROVIDER.—The term 'third-party efficiency provider' means any retailer, building owner, energy service company, financial institution or other commercial, industrial or nonprofit entity that is capable of providing elec-

tricity savings or natural gas savings in accordance with subsections (e) and (f).

''(b) ESTABLISHMENT OF PROGRAM.—Not later than 18 months after the date of enactment of this section, the Secretary shall, by regulation, establish a program to implement and enforce this section, including—

''(1) measurement and verification procedures and standards under subsection (f);

''(2) requirements under which retail electricity distributors and retail natural gas distributors shall—

''(A) demonstrate, document, and report compliance with the performance standards established under subsection (d); and

''(B) estimate the impact of the standards on current and future electricity and natural gas use in the service territories of the retail electricity distributors and retail natural gas distributors, respectively; and

''(3) requirements governing applications for, and implementation of, delegated State administration under subsection (h).

''(c) COORDINATION WITH STATE PROGRAMS.—In establishing and implementing the program established under this section, the Secretary, in coordination with the

Administrator, shall, to the maximum extent practicable, preserve the integrity, and incorporate the best practices, of existing State energy efficiency programs.

''(d) PERFORMANCE STANDARDS.—

''(1) COMPLIANCE OBLIGATION.—Not later than April 1 of the calendar year immediately following each reporting period—

''(A) each retail electricity distributor shall submit to the Secretary a report, in accordance with regulations promulgated by the Secretary, demonstrating that the retail electricity distributor has achieved cumulative electricity savings (adjusted to account for any attrition of savings measures implemented in prior years) in each calendar year that are least equal to the applicable percentage, established under paragraph (2), (3), or (4), of the base quantity of the retail electricity distributor; and

''(B) each retail natural gas distributor shall submit to the Secretary a report, in accordance with regulations promulgated by the Secretary, demonstrating that the retail natural gas distributor has achieved cumulative natural gas savings (adjusted to account for any attrition of savings measures implemented in prior

years) in each calendar year compared to the base quantity of the retail natural gas distributor.

''(2) STANDARDS FOR 2012 THROUGH 2020.—For purposes of paragraph (1), for each of calendar years 2012 through 2020, the applicable percentages shall be as follows:

"Calendar years:	Cumulative Electricity Savings Percentage:
2012	1.5
2013	2.5
2014	3.5
2015	4.5
2016	5.5
2017	6.5
2018	7.5
2019	8.5
2020	9.5

''(3) SUBSEQUENT YEARS.—

''(A) CALENDAR YEARS 2021 THROUGH 2030.—Not later than December 31, 2015, the Secretary shall promulgate regulations establishing performance standards (expressed as applicable percentages of base quantity for both cumulative electricity savings and cumulative natural gas savings) for each of calendar years 2021 through 2030.

''(B) SUBSEQUENT EXTENSIONS.—Except as provided in subparagraph (A), not later than December 31 of the penultimate reporting period for which performance standards have been

established under this paragraph, the Secretary shall promulgate regulations establishing performance standards (expressed as applicable percentages of base quantity for both cumulative electricity savings and cumulative natural gas savings) for the 10-calendar-year period following the last calendar year for which performance standards previously were established.

''(C) REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall establish standards under this paragraph at levels that reflect the maximum achievable level of cost-effective energy efficiency potential, taking into account—

''(I) cost-effective energy savings achieved by leading retail electricity distributors and retail natural gas distributors;

''(II) opportunities for new codes and standard savings;

''(III) technology improvements; and

''(IV) other indicators of cost-effective energy efficiency potential.

''(ii) MINIMUM PERCENTAGE.—In no case shall the applicable percentages for any calendar year be lower than the applicable percentage for calendar year 2020 (including any increase in the standard for calendar year 2020 pursuant to paragraph (4)).

''(4) MIDCOURSE REVIEW AND ADJUSTMENT OF STANDARDS.—

''(A) IN GENERAL.—Not later than December 31, 2014, and at 10-year intervals thereafter, the Secretary shall—

''(i) review the most recent standards established under paragraph (2) or (3); and

''(ii) by regulation, increase the standards if the Secretary determines that additional cost-effective energy efficiency potential is achievable, taking into account the factors described in paragraph (3)(C).

''(B) LEAD TIME.—If the Secretary revises standards under this paragraph, the regulations shall provide adequate lead time to ensure that compliance with the increased standards is feasible.

''(5) DELAY OF SUBMISSION FOR FIRST REPORTING PERIOD.—

''(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for the 2013 reporting period, the Secretary may accept a request from a retail electricity distributor or a retail natural gas distributor to delay the required submission of documentation of part or all of the required savings for up to 2 years.

''(B) PLAN.—The request for delay shall include a plan for coming into full compliance by the end of the 2013 through 2014 reporting period.

''(e) TRANSFERS OF ELECTRICITY OR NATURAL GAS SAVINGS.—

''(1) BILATERAL CONTRACTS FOR SAVINGS TRANSFERS.—Subject to the other provisions of this section, a retail electricity distributor or retail natural gas distributor may use electricity savings or natural gas savings purchased, pursuant to a bilateral contract, from another retail electricity distributor or retail natural gas distributor, a State, or a third-party efficiency provider to meet the applicable performance standard under subsection (d).

''(2) REQUIREMENTS.—Electricity or natural gas savings purchased and used for compliance pursuant to this subsection shall be—

''(A) measured and verified in accordance with subsection (f);

''(B) reported in accordance with subsection (d); and

''(C) achieved within the same State as is served by the retail electricity distributor or retail natural gas distributor.

''(3) EXCEPTION.—Notwithstanding paragraph (2)(C), a State regulatory authority may authorize a retail electricity distributor or a retail natural gas distributor regulated by the State regulatory authority to purchase savings achieved in a different State, if—

''(A) the savings are achieved within the same power pool; and

''(B) the State regulatory authority that regulates the purchaser oversees the measurement and verification of the savings pursuant to the procedures and standards applicable in the State of the purchaser.

''(4) REGULATORY APPROVAL.—Nothing in this subsection limits or affects the authority of a State

regulatory authority to require a retail electricity distributor or retail natural gas distributor that is regulated by the State regulatory authority to obtain the authorization or approval of the State regulatory authority for a contract for transfer of savings under this subsection.

''(5) LIMITATIONS.—In the interest of optimizing achievement of cost-effective efficiency potential, the Secretary may prescribe such limitations as the Secretary determines to be appropriate with respect to the proportion of the compliance obligation of a retail electricity or natural gas distributor, under the applicable performance standards under subsection (d), that may be met using electricity or natural gas savings that are purchased under this subsection.

''(f) MEASUREMENT AND VERIFICATION OF SAVINGS.—The regulations promulgated under subsection (b) shall include—

''(1) procedures and standards for defining and measuring electricity savings and natural gas savings that can be counted towards the performance standards established under subsection (d), which shall—

"(A) specify the types of energy efficiency and energy conservation measures that can be counted;

"(B) require that energy consumption estimates for customer facilities or parts of facilities in the applicable base and current years be adjusted, as appropriate, to account for changes in weather, level of production, and building area;

"(C) account for the useful life of measures;

"(D) include considered savings values for specific, commonly used measures;

"(E) allow for savings from a program to be estimated based on extrapolation from a representative sample of participating customers;

"(F) include procedures for counting combined heat and power savings and recycled energy savings;

"(G) establish methods for calculating codes and standards savings, including the use of verified compliance rates;

"(H) count only measures and savings that are additional to business-as-usual practices;

''(I) except in the case of codes and standards savings, ensure that the retail electricity distributor or retail natural gas distributor claiming the savings played a significant role in achieving the savings (including through the activities of a designated agent of the distributor or through the purchase of transferred savings);

''(J) avoid double-counting of savings used for compliance with this section and section 610, including transferred savings; and

''(K) include savings from programs administered by the retail electric or natural gas distributor that are funded by Federal, State, or other sources; and

''(2) procedures and standards for third-party verification of reported electricity savings or natural gas savings.

''(g) ENFORCEMENT AND JUDICIAL REVIEW.—

''(1) REVIEW OF RETAIL DISTRIBUTOR REPORTS.—

''(A) IN GENERAL.—The Secretary shall review each report submitted to the Secretary by a retail electricity distributor or retail natural gas distributor under subsection (d) to

verify that the applicable performance standards under that subsection have been met.

"(B) EXCLUSIONS.—In determining compliance with the applicable performance standards, the Secretary shall exclude reported electricity savings or natural gas savings that are not adequately demonstrated and documented, in accordance with the regulations promulgated under subsections (d), (e), and (f).

"(2) PENALTY FOR FAILURE TO DOCUMENT ADEQUATE SAVINGS.—If a retail electricity distributor or a retail natural gas distributor fails to demonstrate compliance with an applicable performance standard under subsection (d) or to pay to the State an applicable alternative compliance payment under subsection (h)(4), the Secretary shall assess against the retail electricity distributor or retail natural gas distributor a civil penalty for each such failure in an amount equal to, as adjusted for inflation in accordance with such regulations as the Secretary may promulgate—

"(A) $100 per megawatt-hour of electricity savings or alternative compliance payment that the retail electricity distributor failed to achieve or make, respectively; or

"(B) $10 per million Btu of natural gas savings or alternative compliance payment that the retail natural gas distributor failed to achieve or make, respectively.

"(3) OFFSETTING STATE PENALTIES.—The Secretary shall reduce the amount of any penalty under paragraph (2) by the amount paid by the applicable retail electricity distributor or retail natural gas distributor to a State for failure to comply with the requirements of a State energy efficiency resource standard during the same compliance period, if the State standard is—

"(A) comparable in type to the Federal standard established under this section; and

"(B) more stringent than the applicable performance standards under subsection (d).

"(4) ENFORCEMENT PROCEDURES.—The Secretary shall assess a civil penalty, as provided under paragraph (2), in accordance with the procedures described in section 333(d) of the Energy Policy and Conservation Act (42 U.S.C. 6303(d)).

"(5) JUDICIAL REVIEW.—

"(A) IN GENERAL.—Any person that will be adversely affected by a final action taken by the Secretary under this section, other than the

assessment of a civil penalty, may use the procedures for review described in section 336(b) of the Energy Policy and Conservation Act (42 U.S.C. 6306(b)).

''(B) ADMINISTRATION.—For purposes of this paragraph, references to a rule in section 336(b) of the Energy Policy and Conservation Act (42 U.S.C. 6306(b)) shall be considered to refer also to all other final actions of the Secretary under this section other than the assessment of a civil penalty.

''(h) STATE ADMINISTRATION.—

''(1) IN GENERAL.—On receipt of an application from the Governor of a State (including, for purposes of this subsection, the Mayor of the District of Columbia), the Secretary may delegate to the State the administration of this section within the territory of the State if the Secretary determines that the State will implement an energy efficiency program that meets or exceeds the requirements of this section, including—

''(A) achieving electricity savings and natural gas savings at least as great as the savings required under the applicable performance standards established under subsection (d);

''(B) reviewing reports and verifying electricity savings and natural gas savings achieved in the State (including savings transferred from outside the State); and

''(C) collecting any alternative compliance payments under paragraph (4) and using the payments to implement cost-effective efficiency programs.

''(2) SECRETARIAL DETERMINATION.—The Secretary shall make a substantive determination approving or disapproving a State application, after public notice and comment, not later than 180 days after the date of receipt of a complete application.

''(3) ALTERNATIVE MEASUREMENT AND VERIFICATION PROCEDURES AND STANDARDS.—As part of an application submitted under paragraph (1), a State may request to use alternative measurement and verification procedures and standards to the procedures and standards established under subsection (f), if the State demonstrates that the alternative procedures and standards provide a level of accuracy of measurement and verification that is at least equivalent to the Federal procedures and standards promulgated under subsection (f).

''(4) ALTERNATIVE COMPLIANCE PAYMENTS.—

''(A) IN GENERAL.—As part of an application submitted under paragraph (1), a State may permit retail electricity distributors or retail natural gas distributors to pay to the State, by not later than April 1 of the calendar year immediately following the applicable reporting period, an alternative compliance payment in an amount equal to, as adjusted for inflation in accordance with such regulations as the Secretary may promulgate, not less than—

''(i) $50 per megawatt-hour of electricity savings needed to make up any deficit with regard to a compliance obligation under the applicable performance standard; or

''(ii) $5 per million Btu of natural gas savings needed to make up any deficit with regard to a compliance obligation under the applicable performance standard.

''(B) USE OF PAYMENTS.—

''(i) IN GENERAL.—Alternative compliance payments collected by a State pursuant to subparagraph (A) shall be used by the State to administer the delegated authority of the State under this section

and to implement cost-effective energy efficiency programs.

''(ii) PROGRAMS.—The programs shall—

''(I) to the maximum extent practicable, achieve electricity savings and natural gas savings in the State sufficient to make up the deficit associated with the alternative compliance payments; and

''(II) be measured and verified in accordance with the applicable procedures and standards under subsection (f) or paragraph (3), as the case may be.

''(5) REVIEW OF STATE IMPLEMENTATION.—

''(A) PERIODIC REVIEW.—Every 2 years, the Secretary shall review State implementation of this section for conformance with the requirements of this section in approximately ½ of the States that have received approval under this subsection to administer the program, so that each State shall be reviewed at least once every 4 years.

''(B) REPORT.—To facilitate the review, the Secretary may require the State to submit a report demonstrating the compliance of the State with the requirements of this section, including—

''(i) reports submitted by retail electricity distributors and retail natural gas distributors to the State demonstrating compliance with applicable performance standards;

''(ii) the impact of the standards on projected electricity and natural gas demand within the State;

''(iii) an accounting of the use of alternative compliance payments by the State and the resulting electricity savings and natural gas savings achieved; and

''(iv) such other information as the Secretary determines appropriate.

''(C) REVIEW ON PETITION.—Notwithstanding subparagraph (A), on the receipt of a public petition containing a credible allegation of substantial deficiencies, the Secretary shall promptly review the implementation by the State of delegated authority under this section.

''(D) DEFICIENCIES.—

''(i) IN GENERAL.—If deficiencies are found in a review under this paragraph, the Secretary shall—

''(I) notify the State; and

''(II) direct the State to correct the deficiencies and to report to the Secretary on progress not later than 180 days after the date of the receipt of review results.

''(ii) SUBSTANTIAL DEFICIENCIES.—If the deficiencies are substantial, the Secretary shall—

''(I) disallow such reported savings as the Secretary determines are not credible due to deficiencies;

''(II) re-review the State not later than 2 years after the date of the original review; and

''(III) if substantial deficiencies remain uncorrected after the review provided for under subclause (II), revoke the authority of the State to administer the program established under this section.

''(6) CALLS FOR REVISION OF STATE APPLICATIONS.—As a condition of maintaining the delegated authority of a State to administer this section, the Secretary may require the State to submit a revised application under paragraph (1) if the Secretary has—

''(A) promulgated new or revised performance standards under subsection (d);

''(B) promulgated new or substantially revised measurement and verification procedures and standards under subsection (f); or

''(C) otherwise substantially revised the program established under this section.

''(i) INFORMATION AND REPORTS.—In accordance with section 13 of the Federal Energy Administration Act of 1974 (15 U.S.C. 772), the Secretary may require any retail electricity distributor, any retail natural gas distributor, any third-party efficiency provider, or such other entities as the Secretary considers appropriate, to provide any information the Secretary determines appropriate to carry out this section.

''(j) STATE LAW.—Nothing in this section diminishes or qualifies any authority of a State or political subdivision of a State to adopt or enforce any law (including a regulation) respecting electricity savings or natural gas savings,

including any law (including a regulation) establishing energy efficiency requirements that are more stringent than the requirements established under this section, except that no such law or regulation may relieve any person of any requirement otherwise applicable under this section.

''(k) ENERGY EFFICIENCY CREDITS.—The Secretary shall issue energy efficiency credits at the end of each calendar year to eligible retail electricity distributor for each kilowatt hour of electricity savings above the applicable percentage, established under paragraph (2), (3), or (4) of subsection (d), of the base quantity of the retail electricity distributor in a quantity that shall not exceed 15 percent of the minimum percentage required in each calendar year under section 610(b)(1)(B).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. prec. 2601) (as amended by section 301(b)) is amended by adding at the end of the items relating to title VI the following:

''Sec. 611. Energy efficiency resource standard for retail electricity and natural gas distributors.''.

SEC. 303. VOLUNTARY RENEWABLE ENERGY MARKETS.

(a) IN GENERAL.—It is the policy of the United States to support the continued growth of voluntary renewable energy markets.

(b) ADMINISTRATION.—Nothing in this Act or the amendments made by this Act is intended to interfere with or prevent the continued operation and growth of the voluntary renewable energy market.

(c) REPORT ON EFFICACY OF VOLUNTARY RENEWABLE ENERGY MARKET.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the efficacy of the voluntary renewable energy market in the context of the pollution reduction and investment programs under this Act and the amendments made by this Act, including—

(1) whether meaningful reductions in carbon dioxide emissions have occurred in response to investments in the voluntary renewable energy market;

(2) whether the voluntary market continues to grow; and

(3) a list of recommended strategies for ensuring that—

(A) meaningful emissions reductions may occur; and

(B) the voluntary renewable energy market may continue to grow.

TITLE IV—WIND ENERGY

SEC. 401. WIND ENERGY SYSTEMS.

Section 14 of the Wind Energy Systems Act of 1980 (42 U.S.C. 9213) is amended to read as follows:

"SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out wind energy research, development, and deployment through the Energy Efficiency and Renewable Energy Office of the Department of Energy in accordance with this section—

"(1) $275,000,000 for fiscal year 2011;

"(2) $446,000,000 for fiscal year 2012;

"(3) $602,000,000 for fiscal year 2013;

"(4) $698,000,000 for fiscal year 2014; and

"(5) $794,500,000 for fiscal year 2015.

"(b) WIND TURBINE TECHNOLOGY AND RELIABILITY.—Of amounts made available under subsection (a), the Secretary shall use for land-based wind turbine technology and reliability—

"(1) $30,000,000 for fiscal year 2011;

"(2) $50,000,000 for fiscal year 2012;

"(3) $70,000,000 for fiscal year 2013;

"(4) $80,000,000 for fiscal year 2014; and

"(5) $100,000,000 for fiscal year 2015.

''(c) WIND ENERGY SYSTEM INTEGRATION AND TRANSMISSION DEVELOPMENT.—Of amounts made available under subsection (a), the Secretary shall use for wind energy system integration and transmission development—

''(1) $20,000,000 for fiscal year 2011;

''(2) $25,000,000 for fiscal year 2012;

''(3) $30,000,000 for fiscal year 2013;

''(4) $35,000,000 for fiscal year 2014; and

''(5) $40,000,000 for fiscal year 2015.

''(d) ADVANCED WIND ENERGY BLADES.—Of amounts made available under subsection (a), the Secretary shall use for advanced wind blade design, materials, and manufacturing processes—

''(1) $50,000,000 for fiscal year 2011;

''(2) $65,000,000 for fiscal year 2012;

''(3) $75,000,000 for fiscal year 2013;

''(4) $80,000,000 for fiscal year 2014; and

''(5) $85,000,000 for fiscal year 2015.

''(e) OFFSHORE WIND.—Of amounts made available under subsection (a), the Secretary shall use for accelerating the design, development, testing, and deployment of advanced offshore wind technology and supporting construction, operations, and maintenance infrastructure—

''(1) $100,000,000 for fiscal year 2011;

''(2) $200,000,000 for fiscal year 2012;

''(3) $300,000,000 for fiscal year 2013;

''(4) $350,000,000 for fiscal year 2014; and

''(5) $400,000,000 for fiscal year 2015.

''(f) WIND POWERING AMERICA PROGRAM.—Of the amounts made available under subsection (a), the Secretary shall use for and support the Wind Powering America program outreach and technical assistance activities—

''(1) $15,000,000 for fiscal year 2011;

''(2) $25,000,000 for fiscal year 2012;

''(3) $35,000,000 for fiscal year 2013;

''(4) $40,000,000 for fiscal year 2014; and

''(5) $45,000,000 for fiscal year 2015.

''(g) WIND ENERGY TECHNICAL TRAINING AND WORKFORCE DEVELOPMENT.—Of the amounts made available under subsection (a), the Secretary shall use for and support the establishment of technical training programs with community colleges and technical schools—

''(1) $40,000,000 for fiscal year 2011;

''(2) $55,000,000 for fiscal year 2012;

''(3) $60,000,000 for fiscal year 2013;

''(4) $75,000,000 for fiscal year 2014; and

''(5) $80,000,000 for fiscal year 2015.

''(h) WIND RESOURCE MODELING AND WIND FARM EFFICIENCY ASSESSMENT.—Of amounts made available

under subsection (a), the Secretary shall use for wind resource modeling and wind farm efficiency assessment—

''(1) $5,000,000 for fiscal year 2011;

''(2) $6,000,000 for fiscal year 2012;

''(3) $7,000,000 for fiscal year 2013;

''(4) $8,000,000 for fiscal year 2014; and

''(5) $10,000,000 for fiscal year 2015.

''(i) WIND ENERGY SITING.—Of amounts made available under subsection (a), the Secretary shall use for wind energy siting, including funding for public education on siting issues, studies on sound emissions and health effects, enhanced ground data modeling verification, and the creation of a national wind siting database—

''(1) $6,000,000 for fiscal year 2011;

''(2) $8,000,000 for fiscal year 2012;

''(3) $10,000,000 for fiscal year 2013;

''(4) $13,000,000 for fiscal year 2014; and

''(5) $16,000,000 for fiscal year 2015.

''(j) SMALL WIND ENERGY SYSTEMS.—Of amounts made available under subsection (a), the Secretary shall use for testing, demonstrating, and deploying small wind energy systems in rural school applications—

''(1) $5,000,000 for fiscal year 2011;

''(2) $7,000,000 for fiscal year 2012;

''(3) $9,000,000 for fiscal year 2013;

''(4) $10,000,000 for fiscal year 2014; and

''(5) $10,500,000 for fiscal year 2015.''.

SEC. 402. WIND ENERGY DEVELOPMENT STUDY.

The Secretary, in consultation with appropriate Federal and State agencies, shall conduct, and submit to Congress a report describing the results of, a study on methods to increase transmission line capacity for wind energy development.

SEC. 403. REMOVAL OF CERTAIN TAX RESTRICTIONS TO PROMOTE EXPANSION OF CAPITAL FOR WIND FARM INVESTMENT.

(a) EXEMPTION FROM PASSIVE LOSS RULES.—

(1) IN GENERAL.—Section 469(c) of the Internal Revenue Code of 1986 (defining passive activity) is amended by adding at the end the following new paragraph:

''(8) CERTAIN RENEWABLE ENERGY FACILITIES.—The term 'passive activity' shall not include any trade or business involving ownership of 1 or more facilities described in section 45(d)(1).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2010.

(b) APPLICATION OF AT-RISK RULES.—

(1) IN GENERAL.—Section 465(b)(6) of the Internal Revenue Code of 1986 (relating to qualified nonrecourse financing treated as amount at risk) is amended—

(A) by inserting ''or renewable energy property'' after ''real property'' each place it appears in subparagraphs (A) and (B)(i), and

(B) by adding at the end the following new subparagraph:

''(F) RENEWABLE ENERGY PROPERTY.—The term 'renewable energy property' means property described in section 45(d)(1).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to losses incurred after December 31, 2010, with respect to property placed in service by the taxpayer after such date.

(c) TREATMENT OF INCOME AND GAINS FROM WIND ENERGY AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.—

(1) IN GENERAL.—Section 7704(d) of the Internal Revenue Code of 1986 (defining qualifying income) is amended—

(A) by inserting ''wind energy,'' after ''fertilizer,'' in paragraph (1)(E), and

(B) by adding at the end the following new paragraph:

''(6) WIND ENERGY.—For purposes of paragraph (1)(E), income and gains from wind energy include amounts realized from the sale of renewable energy credits, pollution allowances, and other environmental attributes.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply on the date of enactment of this Act.

(d) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section.

TITLE V—RENEWABLE ENERGY TAX EXTENSIONS

SEC. 501. EXTENSION OF PROVISIONS RELATED TO ALCOHOL USED AS FUEL.

(a) EXTENSION OF INCOME TAX CREDIT FOR ALCOHOL USED AS FUEL.—

(1) IN GENERAL.—Paragraph (1) of section 40(e) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''December 31, 2010'' in subparagraph (A) and inserting ''December 31, 2015'', and

(B) by striking ''January 1, 2011'' in subparagraph (B) and inserting ''January 1, 2016''.

(2) CELLULOSIC BIOFUEL.—Subparagraph (H) of section 40(b)(6) of such Code is amended by striking ''January 1, 2013'' and inserting ''January 1, 2016''.

(3) REDUCED AMOUNT FOR ETHANOL BLENDERS.—Paragraph (2) of section 40(h) of such Code is amended by striking ''2010'' and inserting ''2015''.

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

(b) EXTENSION OF EXCISE TAX CREDIT FOR ALCOHOL USED AS FUEL.—

(1) IN GENERAL.—Paragraph (6) of section 6426(b) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2010'' and inserting ''December 31, 2015''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(c) EXTENSION OF ADDITIONAL DUTIES ON ETHANOL.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking ''1/1/2011'' and inserting ''1/1/2016''.

SEC. 502. EXTENSION OF TIME FOR GRANTS FOR SPECIFIED ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1603(a) of division B of the American Recovery and Reinvestment Act of 2009 is amended by striking ''began during 2009 or 2010'' and inserting ''begins before 2013''.

(b) APPLICATION DEADLINE.—Subsection (j) of section 1603(a) of division B of such Act is amended by striking ''October 1, 2011'' and inserting ''December 31, 2012''.

SEC. 503. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2012''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2012''.

(2) Subparagraph (B) of section 6427(e)(6) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2012''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

TITLE VI—RENEWABLE ELECTRICITY INTEGRATION CREDIT

SEC. 601. RENEWABLE ELECTRICITY INTEGRATION CREDIT.

(a) BUSINESS CREDIT.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45S. RENEWABLE ELECTRICITY INTEGRATION CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible taxpayer, the renewable electricity integration credit for any taxable year is an amount equal to the product of—

"(1) the intermittent renewable portfolio factor of such eligible taxpayer, and

"(2) the number of kilowatt hours of renewable electricity—

"(A) purchased or produced by such taxpayer, and

"(B) sold by such taxpayer to a retail customer during the taxable year.

"(b) INTERMITTENT RENEWABLE PORTFOLIO FACTOR.—

"(1) YEARS BEFORE 2017.—In the case of taxable years beginning before January 1, 2017, the intermittent renewable portfolio factor for an eligible taxpayer shall be determined as follows:

"In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:	**For taxable years beginning before 2012, the intermittent renewable portfolio factor is:**	**For taxable years beginning in or after 2012, the intermittent renewable portfolio factor is:**
Less than 4 percent	zero cents	zero cents
At least 4 percent but less than 8 percent	0.1 cents	zero cents
At least 8 percent but less than 12 percent ...	0.2 cents	0.2 cents

"In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:	For taxable years beginning before 2012, the intermittent renewable portfolio factor is:	For taxable years beginning in or after 2012, the intermittent renewable portfolio factor is:
At least 12 percent but less than 16 percent ...	0.3 cents	0.3 cents
At least 16 percent but less than 20 percent ...	0.4 cents	0.4 cents
At least 20 percent but less than 24 percent ...	0.5 cents	0.5 cents
Equal to or greater than 24 percent	0.6 cents	0.6 cents

"(2) YEARS AFTER 2016.—In the case of taxable years beginning after December 31, 2016, the intermittent renewable portfolio factor for an eligible taxpayer shall be determined as follows:

"In the case of an eligible taxpayer whose intermittent renewable electricity percentage is:	For taxable years beginning before 2019, the intermittent renewable portfolio factor is:	For taxable years beginning in or after 2019, the intermittent renewable portfolio factor is:
Less than 10 percent	zero cents	zero cents
At least 10 percent but less than 12 percent ...	0.2 cents	zero cents
At least 12 percent but less than 16 percent ...	0.3 cents	0.15 cents
At least 16 percent but less than 20 percent ...	0.4 cents	0.4 cents
At least 20 percent but less than 24 percent ...	0.5 cents	0.5 cents
Equal to or greater than 24 percent	0.6 cents	0.6 cents

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means an electric utility (as defined in section 3(22) of the Federal Power Act, (16 U.S.C. 796(22)).

''(2) RENEWABLE ELECTRICITY.—The term 'renewable electricity' means electricity generated by—

''(A) any facility using wind to generate such electricity;

''(B) any facility using solar energy to generate such electricity; or

''(C) any facility using any other intermittent renewable energy source which the Secretary of Energy determines has a capacity factor of less than 50 percent on an annual basis.

''(3) INTERMITTENT RENEWABLE ELECTRICITY PERCENTAGE.—The term 'intermittent renewable electricity percentage' means the percentage of an eligible taxpayer's total sales of electricity to retail customers that is derived from renewable electricity (determine without regard to whether such electricity was produced by the taxpayer).

''(4) APPLICATION OF OTHER RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (3), and (5) of section 45(e) shall apply.

''(5) CREDIT ALLOWED ONLY WITH RESPECT TO 1 ELIGIBLE ENTITY.—No credit shall be allowed under subsection (a) with respect to renewable electricity purchased from another eligible entity if a

credit has been allowed under this section or a payment has been made under section 6433 to such other eligible entity.

''(d) CREDIT DISALLOWED UNLESS CREDIT PASSED TO THIRD PARTY GENERATORS CHARGED FOR INTEGRATION COSTS.—

''(1) IN GENERAL.—In the case of renewable electricity eligible for the credit under subsection (a) that is purchased and not produced by an eligible taxpayer, no credit shall be allowed unless any charge the taxpayer has assessed the seller to recover the integration costs associated with such electricity has been reduced (but not below zero) to the extent of the credit received under subsection (a) associated with such electricity.

''(2) DEFINITIONS.—For purposes of paragraph (1), charges intended to recover integration costs do not include amounts paid by the producer of the electricity for interconnection facilities, distribution upgrades, network upgrades, or stand alone network upgrades as those terms have been defined by the Federal Energy Regulatory Commission in its Standard Interconnection Procedures.

''(e) COORDINATION WITH PAYMENTS.—The amount of the credit determined under this section with respect

to any electricity shall be reduced to take into account any payment provided with respect to such electricity solely by reason of the application of section 6433.''.

(2) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'', and by adding at the end the following new paragraph:

''(37) the renewable electricity integration credit determined under section 45S(a).''.

(3) SPECIFIED CREDIT.—Subparagraph (B) of section 38(c)(4) of the Internal Revenue Code of 1986 is amended by redesignating clauses (vii) through (ix) as clauses (viii) through (x), respectively, and by inserting after clause (v) the following new clause:

''(vi) the credit determined under section 45S.''.

(4) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45S. Renewable electricity integration credit.''.

(b) PAYMENTS IN LIEU OF CREDIT.—

(1) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 6433. RENEWABLE ELECTRICITY INTEGRATION PAYMENTS.

''(a) IN GENERAL.—If any eligible person sells renewable electricity to a retail customer, the Secretary shall pay (without interest) to any such person who elects to receive a payment an amount equal to the product of—

''(1) the intermittent renewable portfolio factor of such eligible person; and

''(2) the number of kilowatt hours of renewable electricity—

''(A) purchased or produced by such person; and

''(B) sold by such person in the trade or business of such person to a retail customer.

''(b) TIMING OF PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), rules similar to the rules of section 6427(i)(1) shall apply for purposes of this section.

''(2) QUARTERLY PAYMENTS.—

''(A) IN GENERAL.—If, at the close of any quarter of the taxable year of any person, at

least $750 is payable in the aggregate under subsection (a), to such person with respect to electricity purchased or produced during—

"(i) such quarter; or

"(ii) any prior quarter (for which no other claim has been filed) during such taxable year, a claim may be filed under this section with respect to such electricity.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) ELIGIBLE PERSON.—The term 'eligible person' means an electric utility (as defined in section 3(22) of the Federal Power Act, (16 U.S.C. 796(22)).

"(2) OTHER DEFINITIONS.—Any term used in this section which is also used in section 45S shall have the meaning given such term under section 45S.

''(3) APPLICATION OF OTHER RULES.—For purposes of this section, rules similar to the rules of paragraphs (1) and (3) of section 45(e) shall apply.

''(d) PAYMENT DISALLOWED UNLESS AMOUNT PASSED TO THIRD PARTY GENERATORS CHARGED FOR INTEGRATION COSTS.—

''(1) IN GENERAL.—In the case of renewable electricity eligible for the payment under subsection (a) that is purchased and not produced by an eligible person, no payment shall be made under this section unless any charge the eligible person has assessed the seller to recover the integration costs associated with such electricity has been reduced (but not below zero) to the extent of the payment received under subsection (a) associated with such electricity.

''(2) DEFINITIONS.—For purposes of paragraph (1), charges intended to recover integration costs do not include amounts paid by the producer of the electricity for interconnection facilities, distribution upgrades, network upgrades, or stand alone network upgrades as those terms have been defined by the Federal Energy Regulatory Commission in its Standard Interconnection Procedures.''.

(2) CLERICAL AMENDMENT.—The table of sections for subpart B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 6433. Renewable electricity integration payments.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced or purchased after December 31, 2009.

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