

AMENDMENT TO H.R. 2454 *ALCEE L. HASTINGS*
OFFERED BY ~~MR. BILBRAY OF CALIFORNIA~~ *OF FLORIDA*

Page 120, after line 16, insert:

1 (c) ALGAE-BASED BIOFUEL.—(1) Section 211(o) of
2 the Clean Air Act is amended in paragraphs (2) through
3 (7) by striking “cellulosic biofuel” and inserting “cellulosic
4 biofuel or algae-based biofuel” in each place that it ap-
5 pears.

6 (2) Section 211(o)(1) of the Clean Air Act is amend-
7 ed by adding the following new subparagraph at the end
8 thereof:

9 “(M) ALGAE-BASED BIOFUEL.—The term
10 ‘algae-based biofuel’ means liquid fuel—

11 “(i) derived from the biomass of
12 single- or multi-cellular organisms which
13 are inherently aquatic and classified as
14 non-vascular plants (including microalgae,
15 blue-green algae (cyanobacteria), and
16 macroalgae (seaweeds)); and

17 “(ii) that has lifecycle greenhouse gas
18 emissions, as determined by the Adminis-
19 trator, that are at least 60 percent less

1 than the baseline lifecycle greenhouse gas
2 emissions.”.”.

Page 1201, after line 6, add the following new title:

3 **TITLE V—ALGAE-BASED FUELS**

4 **SEC. 501. INCLUSION OF ALGAE-BASED BIOFUEL IN DEFINI-**
5 **TION OF CELLULOSIC BIOFUEL.**

6 (a) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

7 (1) GENERAL RULE.—Paragraph (4) of section
8 40(a) of the Internal Revenue Code of 1986 is
9 amended by inserting “and algae-based” after “cel-
10 lulosic”.

11 (2) DEFINITIONS.—Paragraph (6) of section
12 40(b) of such Code is amended—

13 (A) by inserting “AND ALGAE-BASED”
14 after “CELLULOSIC” in the heading,

15 (B) by striking subparagraph (A) and in-
16 serting the following:

17 “(A) IN GENERAL.—The cellulose and
18 algae-based biofuel producer credit of any tax-
19 payer is an amount equal to the applicable
20 amount for each gallon of—

21 “(i) qualified cellulose biofuel produc-
22 tion, and

23 “(ii) qualified algae-based biofuel pro-
24 duction.”,

1 (C) by redesignating subparagraphs (F),
2 (G), and (H) as subparagraphs (I), (J), and
3 (K), respectively,

4 (D) by inserting “AND ALGAE-BASED”
5 after “CELLULOSIC” in the heading of subpara-
6 graph (I), as so redesignated,

7 (E) by inserting “or algae-based biofuel,
8 whichever is appropriate,” after “cellulosic
9 biofuel” in subparagraph (J), as so redesign-
10 ated,

11 (F) by inserting “and qualified algae-based
12 biofuel production” after “qualified cellulosic
13 biofuel production” in subparagraph (K), as so
14 redesignated, and

15 (G) by inserting after subparagraph (E)
16 the following new subparagraphs:

17 “(F) QUALIFIED ALGAE-BASED BIOFUEL
18 PRODUCTION.—For purposes of this section,
19 the term ‘qualified algae-based biofuel produc-
20 tion’ means any algae-based biofuel which is
21 produced by the taxpayer, and which during the
22 taxable year—

23 “(i) is sold by the taxpayer to another
24 person—

‡

1 “(I) for use by such other person
2 in the production of a qualified algae-
3 based biofuel mixture in such other
4 person’s trade or business (other than
5 casual off-farm production),

6 “(II) for use by such other per-
7 son as a fuel in a trade or business,
8 or

9 “(III) who sells such algae-based
10 biofuel at retail to another person and
11 places such algae-based biofuel in the
12 fuel tank of such other person, or

13 “(ii) is used or sold by the taxpayer
14 for any purpose described in clause (i).

15 The qualified algae-based biofuel production of
16 any taxpayer for any taxable year shall not in-
17 clude any alcohol which is purchased by the
18 taxpayer and with respect to which such pro-
19 ducer increases the proof of the alcohol by addi-
20 tional distillation.

21 “(G) QUALIFIED ALGAE-BASED BIOFUEL
22 MIXTURE.—For purposes of this paragraph, the
23 term ‘qualified algae-based biofuel mixture’
24 means a mixture of algae-based biofuel and gas-

1 oline or of algae-based biofuel and a special fuel
2 which—

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

6 “(ii) is used as a fuel by the person
7 producing such mixture.

8 “(H) ALGAE-BASED BIOFUEL.—For pur-
9 poses of this paragraph—

10 “(i) IN GENERAL.—The term ‘algae-
11 based biofuel’ means any liquid fuel, in-
12 cluding gasoline, diesel, aviation fuel, and
13 ethanol, which—

14 “(I) is produced from the bio-
15 mass of algal organisms, and

16 “(II) meets the registration re-
17 quirements for fuels and fuel additives
18 established by the Environmental Pro-
19 tection Agency under section 211 of
20 the Clean Air Act (42 U.S.C. 7545).

21 “(ii) ALGAL ORGANISM.—The term
22 ‘algal organism’ means a single- or multi-
23 cellular organism which is primarily aquat-
24 ic and classified as a non-vascular plant,
25 including microalgae, blue-green algae

1 (cyanobacteria), and macroalgae (sea-
2 weeds).

3 “(iii) EXCLUSION OF LOW-PROOF AL-
4 COHOL.—Such term shall not include any
5 alcohol with a proof of less than 150. The
6 determination of the proof of any alcohol
7 shall be made without regard to any added
8 denaturants.”.

9 (3) CONFORMING AMENDMENTS.—

10 (A) Subparagraph (D) of section 40(d)(3)
11 of such Code is amended—

12 (i) by inserting “AND ALGAE-BASED”
13 after “CELLULOSIC” in the heading,

14 (ii) by inserting “or (b)(6)(F)” after
15 “(b)(6)(C)” in clause (ii), and

16 (iii) by inserting “or algae-based”
17 after “such cellulose”.

18 (B) Paragraph (6) of section 40(d) of such
19 Code is amended—

20 (i) by inserting “AND ALGAE-BASED”
21 after “CELLULOSIC” in the heading, and

22 (ii) by striking the first sentence and
23 inserting “No cellulose and algae-based
24 biofuel producer credit shall be determined
25 under subsection (a) with respect to any

1 cellulose or algae-based biofuel unless such
2 cellulose or algae-based biofuel is produced
3 in the United States and used as a fuel in
4 the United States.”

5 (C) Paragraph (3) of section 40(c) of such
6 Code is amended by inserting “AND ALGAE-
7 BASED” after “CELLULOSIC” in the heading.

8 (D) Paragraph (1) of section 4101(a) of
9 such Code is amended—

10 (i) by inserting “or algae-based” after
11 “cellulosic”, and

12 (ii) by inserting “and 40(b)(6)(H), re-
13 spectively” after “section 40(b)(6)(E)”.

14 (b) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL
15 PLANT PROPERTY.—Subsection (l) of section 168 of the
16 Internal Revenue Code of 1986 is amended—

17 (1) by inserting “AND ALGAE-BASED” after
18 “CELLULOSIC” in the heading,

19 (2) by inserting “and any qualified algae-based
20 biofuel plant property” after “qualified cellulosic
21 biofuel plant property” in paragraph (1),

22 (3) by redesignating paragraphs (4) through
23 (8) as paragraphs (6) through (10), respectively,

1 (4) by inserting “or qualified algae-based
2 biofuel plant property” after “cellulosic biofuel plant
3 property” in paragraph (7)(C), as so redesignated,

4 (5) by striking “with respect to” and all that
5 follows in paragraph (9), as so redesignated, and in-
6 serting “with respect to any qualified cellulosic
7 biofuel plant property and any qualified algae-based
8 biofuel plant property which ceases to be such quali-
9 fied property.”,

10 (6) by inserting “or qualified algae-based
11 biofuel plant property” after “cellulosic biofuel plant
12 property” in paragraph (10), as so redesignated, and

13 (7) by inserting after paragraph (3) the fol-
14 lowing new paragraphs:

15 “(4) QUALIFIED ALGAE-BASED BIOFUEL PLANT
16 PROPERTY.—The term ‘qualified algae-based biofuel
17 plant property’ means property of a character sub-
18 ject to the allowance for depreciation—

19 “(A) which is used in the United States
20 solely to produce algae-based biofuel,

21 “(B) the original use of which commences
22 with the taxpayer after December 31, 2008,

23 “(C) which is acquired by the taxpayer by
24 purchase (as defined in section 179(d)) after
25 December 31, 2008, but only if no written bind-

1 ing contract for the acquisition was in effect on
2 or before such date, and

3 “(D) which is placed in service by the tax-
4 payer before January 1, 2013.

5 “(5) ALGAE-BASED BIOFUEL.—

6 “(A) IN GENERAL.—The term ‘algae-based
7 biofuel’ means any liquid fuel which is produced
8 from the biomass of algal organisms.

9 “(B) ALGAL ORGANISM.—The term ‘algal
10 organism’ means a single- or multi-cellular or-
11 ganism which is primarily aquatic and classified
12 as a non-vascular plant, including microalgae,
13 blue-green algae (cyanobacteria), and
14 macroalgae (seaweeds).”.

15 (c) EFFECTIVE DATES.—

16 (1) CELLULOSIC BIOFUEL PRODUCER CRED-
17 IT.—The amendments made by subsection (a) shall
18 apply to fuel produced after December 31, 2008.

19 (2) SPECIAL ALLOWANCE FOR CELLULOSIC
20 BIOFUEL PLANT PROPERTY.—The amendments
21 made by subsection (b) shall apply to property pur-
22 chased and placed in service after December 31,
23 2008.

