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In January 2013, the wind energy industry appeared to dodge a bullet when Congress extended the Production Tax Credit (PTC) for another year. Wind power development stagnated while the industry awaited IRS guidance regarding implementation of the PTC. By the time the IRS issued the guidance in April 2013, the industry had lost significant time and opportunities to develop new facilities. The guidance itself seemed likely to facilitate a renewed boom-and-bust development cycle. This is nothing new; Congress has consistently failed to provide renewable power with long-term or predictable support. This Essay explores how these intermittent subsidies weaken the renewable energy sector by considering how the PTC has affected the wind energy industry. The author concludes that regardless of the precise details of subsidy reform, providing predictable and long-term wind subsidies will be essential to ensuring a more sustainable transition to renewable power.

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The nation's healthcare and environmental laws share some common features. Both require individuals to participate in certain markets, are steeped in the principles of cooperative federalism, and attach federal dollars to compliance. Thus, the Supreme Court's decision in *National Federation of Independent Business v. Sebelius* has the potential to influence the nation's federal environmental laws in new ways. First, the logical, if attenuated, extension of the Court's conclusion that

the Commerce Clause does not permit Congress to compel individuals to purchase health insurance suggests some limits on the extent to which Congress may compel participation in certain pollution-control and abatement markets. Second, the Court’s decision that Congress cannot “compel” states to adopt the Medicaid extension under the threat of losing all Medicaid funding suggests further limits on the extent to which Congress may withhold funding from states that do not or cannot implement federal environmental laws. Lastly, the basis for upholding the individual mandate as a tax actually has the potential to provide additional constitutional justification for federal environmental laws should the Court ever reconsider their Commerce Clause foundations. Nonetheless, the *Sebelius* opinion is unlikely to have a significant impact on federal environmental laws because they can be effectively distinguished from the Court’s healthcare ruling.

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Both energy efficiency and renewable resources offer significant benefits to utilities, their customers, and society as a whole. Yet energy efficiency programs face formidable barriers to adoption that renewable resources do not. While both renewable and efficiency resources have received significant funding in recent years, government support for renewables continues to dwarf that for efficiency measures, and regulatory policies consistently discourage utilities from investing in efficiency measures even while they incentivize investment in renewables. This Article examines the parallel development of renewable resource and energy efficiency programs within utilities, compares the differing treatment of each, and offers concrete recommendations for enhancing energy efficiency adoption by modifying existing policies to more closely resemble those applied to renewable resources. The Article concludes that the historic disincentives to implementing efficiency policies can be remedied by: 1) updating ratemaking structures to ensure utilities can recover and earn on efficiency investments; 2) streamlining cost-effectiveness tests that presently encourage utilities to under-estimate and under-invest in efficiency programs; and 3) addressing market barriers by strengthening consumer incentives and market transformation efforts.

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State renewable portfolio standards (RPSs) and renewable energy standards (RESs) are among the most effective devices for renewable energy development, but plaintiffs have begun to challenge the constitutionality of specific provisions of these statutes by claiming they discriminate against interstate commerce in violation of the dormant Commerce Clause. Recently, a coal interest group has brought a much broader challenge, arguing that Colorado’s RES excessively burdens interstate commerce because it purportedly discriminates against out-of-state nonrenewable energy providers. Should this attack succeed, the constitutionality of state RPSs and RESs across the nation will fall into doubt. At the forefront of these concerns is the ambitious California RPS, which mandates that utilities obtain 33% of energy from renewable sources. Other dormant Commerce Clause challenges to California environmental regulations, including the *Rocky Mountain Farmers v. Goldstene* litigation concerning the California Low Carbon Fuel Standard, may also influence how courts approach challenges to RPSs. This Article explores the implications that these cases and the Colorado litigation will have for the California RPS and other state RPSs, and analyzes the weaknesses of both the Colorado and California statutes. Finally, it offers a number of defenses that states can use to overcome these attacks.

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In 2013, the European Union (E.U.) will vote on a proposed rule that seeks to classify crude oil coming into E.U. refineries based on “life-cycle greenhouse gas emissions,” including CO₂ emitted during extraction. The proposed E.U. rule would be the first to base its treatment of an imported product on greenhouse gas emissions that occur in another country. In that sense, it implicates the oft-floated idea of broader Border Tax Adjustments (BTAs) pursuant to which a carbon-conscious nation would tax all imports based on carbon consumed or greenhouse gases emitted during production. This Article concludes that both the proposed E.U. rule and a broader production-based carbon BTA are legally permissible under the General Agreement on Tariffs and Trade (GATT). Prior analyses have created obstacles to the legality of such assessments where none exist.