

ENERGY POLICY ACT OF 2005

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Title XIII: Energy Policy Tax Incentives

Treatment of electric cooperative income (85/15 test). The rules for tax-exempt electric cooperatives require that 85 percent of the cooperative's income consists of amounts collected from members of the cooperative to meet losses and expenses of providing service to its members (85/15 test). This test has made it difficult for cooperatives to participate in electricity market deregulation and open access transmission of electricity. In the Jobs Bill, the 85/15 test was modified to exclude certain income related to electricity restructuring from the 85/15 test. Those changes expire on 12/31/06. The provision makes the Jobs Bill changes permanent.

Renewable and Clean Energy Incentives

Extension and modification of renewable electricity production credit (Section 45). Provision extends placed-in-service date by two years (through December 31, 2007) for qualifying facilities: wind facilities; closed-loop biomass facilities; open-loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities; and trash combustion facilities. Placed-in-service dates for solar facilities and refined coal facilities are not altered. Qualifying facilities receive credits per kWh for electricity produced over a 10 year period. Hydropower and Indian coal are added as new qualifying energy resources. Provision is generally effective on date of enactment.

Pass through to cooperatives. Section 45 allows eligible cooperatives to elect to pass any portion of the renewable electricity production credit to their patrons. An eligible cooperative is defined as a cooperative organization that is owned more than 50 percent by agricultural producers or entities owned by agricultural producers. (included in Section 45 score)

Clean renewable energy bonds. Provision creates new category of tax credit Bonds Clean Renewable Energy Bonds ("CREBs"). CREBs are defined as bond issued by qualified issuer if, in addition to other requirements, 95 percent of proceeds are used to finance capital expenditures incurred for facilities qualifying for tax credit under section 45. Qualified issuers include governmental bodies (including Indian tribal governments) and mutual or cooperative electric companies. Provision is effective for bonds issued after December 31, 2005.

Energy Efficiency and Conservation Measures

Alternative technology vehicle credits.

Fuel cell vehicles: the amount of credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy.

Alternative Fuel Vehicles: The provision permits the credit to offset the excess of the regular tax over the alternative minimum tax

Hybrid vehicles and advanced lean-burn technology vehicles: The amount of credit is the sum of two components: a fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard and a conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle.

Effective date – The provision applies to vehicles placed in service after December 31, 2005, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles that are automobiles and light trucks and in the case of advanced lean-burn technology vehicles, before January 1, 2011; in the case of qualified hybrid motor vehicles that are medium and heavy trucks, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.

Termination of code section 179A: Repeals section 179A sunsets after December 31, 2005.

Small producer biodiesel and ethanol credit. Adds to the biodiesel fuels credit a small agri-biodiesel producer credit of 10-cents-per-gallon for up to 15 million gallons of agri-biodiesel produced by producers with annual capacity not exceeding 60 million gallons. Effective for taxable years after date of enactment and sunsets December 31, 2008. Limit on production capacity for small ethanol producers increased from 30 million to 60 million gallons, effective for taxable years after date of enactment.

Credit for installing of alternative fuel refueling property. The provision permits taxpayers to claim a 30% credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. Under the provision clean fuels are any fuel at least 85% of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, and hydrogen and any mixture of diesel fuel and biodiesel containing at least 20% biodiesel.

Effective date. - The provision is effective for property placed in service December 31, 2005 and before January 1, 2010.

Credit for residential energy efficient property purchases. Provides credit, equal to 30 percent of qualifying expenditures, for purchase for qualified photovoltaic property and solar water heating property used exclusively for purposes other than heating swimming pools and hot tubs. Provision also provides a 30 percent credit for the purchase of qualified fuel cell power plants and applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

Credit for business installation of qualified fuel cells, stationary microturbine power plants, and solar. Provides a 30 percent business energy credit for purchase of qualified fuel cell power plants for businesses and a 10 percent credit for purchase of qualifying stationary microturbine power plants. Additionally, a 30 percent credit for purchase of qualifying solar energy property is provided. Credits apply to periods after December 31, 2005 and before January 1, 2008.

Credit for energy efficient existing homes. Provides 10% investment tax credit for expenditures with respect to improvements to building envelope. Allows credits for purchases of advanced main air circulating fans, natural gas, propane, or oil furnaces or hot water boilers, and other qualified energy efficient property. Credit applies to property placed in service after December 31, 2005 and prior to January 1, 2008.

Title XV: Ethanol and Motor Fuels

- Requires that by 2012, at least 7.5 billion gallons per year of renewable fuel be blended into the nation's gasoline supply.
- Allows production of renewable fuel from such traditional sources as corn and other crops or from plants, grasses, agricultural residues and waste products. The bill includes incentives for the production of renewable fuel from these "non-traditional" sources, allowing greater credits for ethanol derived from cellulosic biomass or waste.
- Authorizes loan guarantees and grants for the construction of facilities to process and convert municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.