

107TH CONGRESS
1ST SESSION

H. R. 3493

To amend the Internal Revenue Code of 1986 to expand the renewable resources production tax credit to include additional forms of renewable energy, and to expand the investment tax credit to include equipment used to produce electricity from renewable resources.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2001

Mr. HUNTER introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to expand the renewable resources production tax credit to include additional forms of renewable energy, and to expand the investment tax credit to include equipment used to produce electricity from renewable resources.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Renewable Fuel Equity
5 Act”.

1 **SEC. 2. EXPANSION OF RENEWABLE RESOURCES CREDIT.**

2 (a) IN GENERAL.—Section 45(c)(1) of the Internal
3 Revenue Code of 1986 (relating to qualified energy re-
4 sources) is amended by striking “and” at the end of sub-
5 paragraph (B), by striking the period at the end of the
6 subparagraph (C) and inserting a comma, and by adding
7 at the end the following new subparagraphs:

8 “(D) geothermal energy,

9 “(E) solar energy,

10 “(F) incremental hydropower, and

11 “(G) biomass (other than closed-loop bio-
12 mass).”

13 (b) EXTENSION AND MODIFICATION OF PLACED-IN-
14 SERVICE RULES WITH RESPECT TO BIOMASS FACILI-
15 TIES.—

16 (1) IN GENERAL.—Paragraph (3) of section
17 45(c) of the Internal Revenue Code of 1986 (defin-
18 ing qualified facility) is amended—

19 (A) by striking subparagraph (B) and in-
20 serting the following new subparagraph:

21 “(B) CLOSED-LOOP BIOMASS FACILITY.—

22 In the case of a facility using closed-loop bio-
23 mass to produce electricity, the term ‘qualified
24 facility’ means any facility—

1 “(i) owned by the taxpayer which is
2 originally placed in service after December
3 31, 1992, and before January 1, 2007, or

4 “(ii) owned by the taxpayer which is
5 originally placed in service on or before
6 December 31, 1992, and modified to use
7 closed-loop biomass to co-fire with coal be-
8 fore January 1, 2007.”,

9 (B) by striking “2002” in subparagraph
10 (C) and inserting “2007”, and

11 (C) by adding at the end the following new
12 subparagraph:

13 “(D) BIOMASS FACILITY.—In the case of a
14 facility using biomass (other than closed-loop
15 biomass) to produce electricity, the term ‘quali-
16 fied facility’ means any facility owned by the
17 taxpayer which is originally placed in service be-
18 fore January 1, 2007.”.

19 (2) DEFINITION.—Subsection (c) of section 45
20 of such Code (relating to definitions) is amended by
21 adding at the end the following new paragraph:

22 “(5) BIOMASS.—The term ‘biomass’ means any
23 solid, nonhazardous, cellulosic waste material which
24 is segregated from other waste materials and which
25 is derived from—

1 “(A) any of the following forest-related re-
2 sources: mill residues, precommercial thinnings,
3 slash, and brush, but not including old-growth
4 timber,

5 “(B) solid wood waste materials, including
6 waste pallets, crates, dunnage, manufacturing
7 and construction wood wastes (other than pres-
8 sure-treated, chemically-treated, or painted
9 wood wastes), and landscape or right-of-way
10 tree trimmings, but not including municipal
11 solid waste (garbage), gas derived from the bio-
12 degradation of solid waste, or paper that is
13 commonly recycled, or

14 “(C) agriculture sources, including orchard
15 tree crops, vineyard, grain, legumes, sugar, and
16 other crop by-products or residues.”.

17 (3) SPECIAL RULES.—Subsection (d) of section
18 45 of such Code (relating to definitions and special
19 rules) is amended by adding at the end the following
20 new paragraph:

21 “(8) SPECIAL RULES WITH RESPECT TO BIO-
22 MASS.—In the case of a qualified facility described
23 in subparagraph (B)(ii) or (D) of subsection
24 (c)(3)—

1 “(A) the 10-year period referred to in sub-
2 section (a) shall be treated as beginning no ear-
3 lier than the date of the enactment of this para-
4 graph,

5 “(B) subsection (b)(3) shall not apply to
6 any such facility originally placed in service be-
7 fore January 1, 1997, and

8 “(C) if such a facility is leased and the op-
9 erator thereof is the lessee, such lessee (and not
10 the owner) shall be treated for purposes of this
11 section as owning such facility.”

12 (c) QUALIFIED FACILITY TO INCLUDE GEO-
13 THERMAL, SOLAR ENERGY, AND INCREMENTAL HYDRO-
14 POWER FACILITY.—

15 (1) IN GENERAL.—Paragraph (3) of section
16 45(c) of such Code, as amended by subsection (b),
17 is amended by inserting after subparagraph (D) the
18 following new subparagraphs:

19 “(E) GEOTHERMAL FACILITY.—In the case
20 of a facility using geothermal energy to produce
21 electricity, the term ‘qualified facility’ means—

22 “(i) any facility owned by the tax-
23 payer which is originally placed in service
24 after December 31, 2001, or

1 “(ii) any facility owned by the tax-
2 payer which is originally placed in service
3 before January 1, 2002, but only to the ex-
4 tent of its incremental geothermal produc-
5 tion.

6 “(F) SOLAR ENERGY FACILITY.—In the
7 case of a facility using solar energy to produce
8 electricity, the term ‘qualified facility’ means—

9 “(i) any facility owned by the tax-
10 payer which is originally placed in service
11 after December 31, 2001, or

12 “(ii) any facility owned by the tax-
13 payer which is originally placed in service
14 before January 1, 2002, and modified on
15 or after such date with additional gener-
16 ating capacity.

17 In the case of a facility referred to in clause
18 (ii), the credit under subsection (a) applies only
19 to the production from the additional gener-
20 ating capacity.

21 “(G) INCREMENTAL HYDROPOWER FACIL-
22 ITY.—In the case of a facility using incremental
23 hydropower to produce electricity, the term
24 ‘qualified facility’ means any facility owned by

1 the taxpayer that achieves additional generation
2 from—

3 “(i) increased efficiency, or

4 “(ii) additions of new capacity,

5 at a non-Federal hydroelectric project originally
6 placed in service before the date of enactment
7 of this subparagraph.”.

8 (2) SPECIAL RULE.—Subsection (d) of section
9 45 of such Code (relating to definitions and special
10 rules), as amended by subsection (b)(3), is amended
11 by adding at the end the following new paragraph:

12 “(9) DEFINITION AND SPECIAL RULE WITH RE-
13 SPECT TO INCREMENTAL GEOTHERMAL PRODUC-
14 TION.—

15 “(A) IN GENERAL.—The term ‘incremental
16 geothermal production’ means for any taxable
17 year the excess of—

18 “(i) the total kilowatt hours of elec-
19 tricity produced from a geothermal facility
20 described in subsection (c)(3)(E)(ii), over

21 “(ii) the average annual kilowatt
22 hours produced at such facility for five of
23 the previous seven calendar years prior to
24 the date of the enactment of this para-
25 graph after eliminating the highest and

1 lowest kilowatt hour production years in
2 such seven-year period.

3 “(B) SPECIAL RULE.—A facility described
4 in subsection (c)(3)(E)(ii) which was placed in
5 service seven years or longer prior to the date
6 of the enactment of this paragraph shall, com-
7 mencing with the year of such enactment, re-
8 duce the amount calculated under subparagraph
9 (A)(ii) each year, on a cumulative basis, by the
10 average decrease in annual kilowatt hour pro-
11 duction for the seven-year period described in
12 subparagraph (A)(ii) with such cumulative sum
13 not to exceed 30 percent.”.

14 (d) COORDINATION WITH OTHER CREDITS.—Sub-
15 section (d) of section 45 of such Code (relating to defini-
16 tions and special rules), as amended by subsection (c)(2),
17 is amended by adding at the end the following:

18 “(10) COORDINATION WITH OTHER CREDITS.—
19 This section shall not apply to any qualified facility
20 with respect to which a credit under any other sec-
21 tion is allowed for the taxable year unless the tax-
22 payer elects to waive application of such credit to
23 such facility.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to electricity sold after December
3 31, 2001.

4 **SEC. 3. EXPANSION OF INVESTMENT TAX CREDIT TO IN-**
5 **CLUDE EQUIPMENT USED TO PRODUCE**
6 **ELECTRICITY FROM CERTAIN RENEWABLE**
7 **RESOURCES.**

8 (a) IN GENERAL.—Subparagraph (A) of section
9 48(a)(3) of the Internal Revenue Code of 1986 (relating
10 to energy credit reforestation credit) is amended by strik-
11 ing “or” at the end of clause (i), inserting “or” at the
12 end of clause (ii), and adding at the end the following new
13 clause:

14 “(iii) equipment used to produce elec-
15 tricity from a qualified facility (as defined
16 in section 45).”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to equipment placed in service
19 after December 31, 2001.

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