

## Subtitle J—Economic Dispatch

### SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

16 USC 824w.  
Establishment.

#### “SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

“(a) **IN GENERAL.**—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

“(b) **MEMBERSHIP.**—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

“(c) **POWERS.**—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes ‘security constrained economic dispatch’ and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

“(d) **REPORT TO THE CONGRESS.**—Within 1 year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.”.

Energy Tax  
Incentives Act of  
2005.

## TITLE XIII—ENERGY POLICY TAX INCENTIVES

### SEC. 1300. SHORT TITLE; AMENDMENT OF 1986 CODE.

26 USC 1 note.

(a) **SHORT TITLE.**—This title may be cited as the “Energy Tax Incentives Act of 2005”.

26 USC 1 *et seq.*

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Electricity Infrastructure

### SEC. 1301. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT.

26 USC 45.

(a) **2-YEAR EXTENSION FOR CERTAIN FACILITIES.**—Section 45(d) (relating to qualified facilities) is amended—

(1) by striking “January 1, 2006” each place it appears in paragraphs (1), (2), (3), (5), (6), and (7) and inserting “January 1, 2008”, and

(2) by striking “January 1, 2006” in paragraph (4) and inserting “January 1, 2008 (January 1, 2006, in the case of a facility using solar energy)”.

(b) INCREASE IN CREDIT PERIOD.—Section 45(b)(4)(B) (relating to credit period) is amended—

(1) by inserting “or clause (iii)” after “clause (ii)” in clause (i), and

(2) by adding at the end the following:

“(iii) TERMINATION.—Clause (i) shall not apply to any facility placed in service after the date of the enactment of this clause.”.

(c) EXPANSION OF QUALIFIED RESOURCES TO CERTAIN HYDROPOWER.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) qualified hydropower production.”.

(2) CREDIT RATE.—Section 45(b)(4)(A) (relating to credit rate) is amended by striking “or (7)” and inserting “(7), or (9)”.

(3) DEFINITION OF RESOURCES.—Section 45(c) (relating to qualified energy resources and refined coal) is amended by adding at the end the following new paragraph:

“(8) QUALIFIED HYDROPOWER PRODUCTION.—

“(A) IN GENERAL.—The term ‘qualified hydropower production’ means—

“(i) in the case of any hydroelectric dam which was placed in service on or before the date of the enactment of this paragraph, the incremental hydropower production for the taxable year, and

“(ii) in the case of any nonhydroelectric dam described in subparagraph (C), the hydropower production from the facility for the taxable year.

“(B) DETERMINATION OF INCREMENTAL HYDROPOWER PRODUCTION.—

“(i) IN GENERAL.—For purposes of subparagraph (A), incremental hydropower production for any taxable year shall be equal to the percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity placed in service after the date of the enactment of this paragraph, determined by using the same water flow information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission.

“(ii) OPERATIONAL CHANGES DISREGARDED.—For purposes of clause (i), the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

“(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

“(i) the facility is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

“(ii) the facility was placed in service before the date of the enactment of this paragraph and did not produce hydroelectric power on the date of the enactment of this paragraph, and

“(iii) turbines or other generating devices are to be added to the facility after such date to produce hydroelectric power, but only if there is not any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of any additional water from the natural stream channel.”

26 USC 45.

(4) FACILITIES.—Section 45(d) (relating to qualified facilities) is amended by adding at the end the following new paragraph:

“(9) QUALIFIED HYDROPOWER FACILITY.—In the case of a facility producing qualified hydroelectric production described in subsection (c)(8), the term ‘qualified facility’ means—

“(A) in the case of any facility producing incremental hydropower production, such facility but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after the date of the enactment of this paragraph and before January 1, 2008, and

“(B) any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2008.

“(C) CREDIT PERIOD.—In the case of a qualified facility described in subparagraph (A), the 10-year period referred to in subsection (a) shall be treated as beginning on the date the efficiency improvements or additions to capacity are placed in service.”

(d) INDIAN COAL.—

(1) PRODUCTION FACILITIES.—Subsection (e) of section 45 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(10) INDIAN COAL PRODUCTION FACILITIES.—

“(A) DETERMINATION OF CREDIT AMOUNT.—In the case of a producer of Indian coal, the credit determined under this section (without regard to this paragraph) for any taxable year shall be increased by an amount equal to the applicable dollar amount per ton of Indian coal—

“(i) produced by the taxpayer at an Indian coal production facility during the 7-year period beginning on January 1, 2006, and

“(ii) sold by the taxpayer—

“(I) to an unrelated person, and

“(II) during such 7-year period and such taxable year.

“(B) APPLICABLE DOLLAR AMOUNT.—

“(i) IN GENERAL.—The term ‘applicable dollar amount’ for any taxable year beginning in a calendar year means—

“(I) \$1.50 in the case of calendar years 2006 through 2009, and

“(II) \$2.00 in the case of calendar years beginning after 2009.

“(ii) INFLATION ADJUSTMENT.—In the case of any calendar year after 2006, each of the dollar amounts under clause (i) shall be equal to the product of such dollar amount and the inflation adjustment factor determined under paragraph (2)(B) for the calendar year, except that such paragraph shall be applied by substituting ‘2005’ for ‘1992’.

“(C) APPLICATION OF RULES.—Rules similar to the rules of the subsection (b)(3) and paragraphs (1), (3), (4), and (5) of this subsection shall apply for purposes of determining the amount of any increase under this paragraph.

“(D) TREATMENT AS SPECIFIED CREDIT.—The increase in the credit determined under subsection (a) by reason of this paragraph with respect to any facility shall be treated as a specified credit for purposes of section 38(c)(4)(A) during the 4-year period beginning on the later of January 1, 2006, or the date on which such facility is placed in service by the taxpayer.”.

Effective date.

(2) RESOURCE.—Subsection (c) of section 45 (relating to qualified energy resources and refined coal), as amended by this Act, is amended by adding at the end the following new paragraph:

26 USC 45.

“(9) INDIAN COAL.—

“(A) IN GENERAL.—The term ‘Indian coal’ means coal which is produced from coal reserves which, on June 14, 2005—

“(i) were owned by an Indian tribe, or

“(ii) were held in trust by the United States for the benefit of an Indian tribe or its members.

“(B) INDIAN TRIBE.—For purposes of this paragraph, the term ‘Indian tribe’ has the meaning given such term by section 7871(c)(3)(E)(ii).”.

(3) INDIAN COAL PRODUCTION FACILITY.—Subsection (d) of section 45, as amended by this Act, is amended by adding at the end the following new paragraph:

“(10) INDIAN COAL PRODUCTION FACILITY.—The term ‘Indian coal production facility’ means a facility which is placed in service before January 1, 2009.”.

(4) CONFORMING AMENDMENT.—The heading for section 45(c) is amended by striking “QUALIFIED ENERGY RESOURCES AND REFINED COAL” and inserting “RESOURCES”.

(e) TECHNICAL AMENDMENT RELATED TO TRASH COMBUSTION FACILITIES.—Section 45(d)(7) (relating to trash combustion facilities) is amended by adding at the end the following: “Such term shall include a new unit placed in service in connection with a facility placed in service on or before the date of the enactment of this paragraph, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.”.

(f) ADDITIONAL TECHNICAL AMENDMENTS RELATED TO SECTION 710 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Clause (ii) of section 45(b)(4)(B) is amended by striking “the date of the enactment of this Act” and inserting “January 1, 2005.”.

26 USC 45.

(2) Clause (ii) of section 45(c)(3)(A) is amended by inserting “or any nonhazardous lignin waste material” after “cellulosic waste material”.

(3) Subsection (e) of section 45 is amended by striking paragraph (6).

(4)(A) Paragraph (9) of section 45(e) is amended to read as follows:

“(9) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

“(A) IN GENERAL.—The term ‘qualified facility’ shall not include any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such biodegradation occurred in a facility (within the meaning of section 29) the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.

“(B) REFINED COAL FACILITIES.—The term ‘refined coal production facility’ shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.”.

(B) Subparagraph (C) of section 45(e)(8) is amended by striking “and (9)”.

26 USC 168.

(5) Subclause (I) of section 168(e)(3)(B)(vi) is amended to read as follows:

“(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if ‘solar and wind’ were substituted for ‘solar’ in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),”.

26 USC 45 note.

(6) Paragraph (4) of section 710(g) of the American Jobs Creation Act of 2004 is amended by striking “January 1, 2004” and inserting “January 1, 2005”.

26 USC 45 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect of the date of the enactment of this Act.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (e) and (f) shall take effect as if included in the amendments made by section 710 of the American Jobs Creation Act of 2004.

#### SEC. 1302. APPLICATION OF SECTION 45 CREDIT TO AGRICULTURAL COOPERATIVES.

(a) IN GENERAL.—Section 45(e) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following:

“(11) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

“(A) ELECTION TO ALLOCATE.—

“(i) IN GENERAL.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.