

108TH CONGRESS
1ST SESSION

H. R. 804

To amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. HERGER (for himself, Mr. MATSUI, Mr. MCCRERY, Mr. OSE, Mr. KENNEDY of Minnesota, and 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 extend and modify the credit for electricity produced from biomass, and for other purposes.

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 “Biomass Energy Eq-
5 uity Act of 2003”.

1 **SEC. 2. CREDIT FOR ELECTRICITY PRODUCED FROM BIO-**
2 **MASS.**

3 (a) EXTENSION AND MODIFICATION OF PLACED-IN-
4 SERVICE RULES.—Paragraph (3) of section 45(c) of the
5 Internal Revenue Code of 1986 is amended—

6 (1) by striking subparagraph (B) and inserting
7 the following new subparagraph:

8 “(B) CLOSED-LOOP BIOMASS FACILITY.—
9 In the case of a facility using closed-loop bio-
10 mass to produce electricity, the term ‘qualified
11 facility’ means any facility—

12 “(i) owned by the taxpayer which is
13 originally placed in service after December
14 31, 1992, and before January 1, 2008, or

15 “(ii) owned by the taxpayer which is
16 originally placed in service on or before
17 December 31, 1992, and modified to use
18 closed-loop biomass to co-fire with coal be-
19 fore January 1, 2008.”,

20 (2) by striking “2004” in subparagraph (C)
21 and inserting “2008”, and

22 (3) by adding at the end the following new sub-
23 paragraphs:

24 “(D) BIOMASS FACILITIES.—In the case of
25 a facility using biomass (other than closed-loop
26 biomass) to produce electricity, the term ‘quali-

1 fied facility’ means any facility owned by the
2 taxpayer which is originally placed in service be-
3 fore January 1, 2008.

4 “(E) SPECIAL RULES.—In the case of a
5 qualified facility described in subparagraph
6 (B)(ii) or (D)—

7 “(i) the 10-year period referred to in
8 subsection (a) shall be treated as beginning
9 no earlier than the date of the enactment
10 of this paragraph,

11 “(ii) subsection (b)(3) shall not apply
12 to any such facility originally placed in
13 service before January 1, 1997, and

14 “(iii) if such a facility is leased and
15 the operator thereof is the lessee, such les-
16 see (and not the owner) shall be treated
17 for purposes of this section as owning such
18 facility.”

19 (b) BIOMASS FACILITIES.—

20 (1) IN GENERAL.—Section 45(c)(1) of the In-
21 ternal Revenue Code of 1986 (defining qualified en-
22 ergy resources) is amended—

23 (A) by striking “and” at the end of sub-
24 paragraph (B),

1 (B) by striking the period at the end of
2 subparagraph (C) and inserting “, and”, and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(D) biomass (other than closed-loop bio-
6 mass).”.

7 (2) BIOMASS DEFINED.—Section 45(c) of such
8 Code (relating to definitions) is amended by adding
9 at the end the following new paragraph:

10 “(5) BIOMASS.—The term ‘biomass’ means any
11 solid, nonhazardous, cellulosic waste material which
12 is segregated from other waste materials and which
13 is derived from—

14 “(A) any of the following forest-related re-
15 sources: mill residues, precommercial thinnings,
16 slash, and brush, but not including old-growth
17 timber (other than old-growth timber which has
18 been permitted or contracted for removal by
19 any appropriate Federal authority through the
20 National Environmental Policy Act or by any
21 appropriate State authority),

22 “(B) solid wood waste materials, including
23 waste pallets, crates, dunnage, manufacturing
24 and construction wood wastes (other than pres-
25 sure-treated, chemically-treated, or painted

1 wood wastes), and landscape or right-of-way
2 tree trimmings, but not including municipal
3 solid waste (garbage), gas derived from the bio-
4 degradation of solid waste, or paper that is
5 commonly recycled, or

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

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to electricity sold after the date
11 of the enactment of this Act.

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