

Building Energy Tax
Deductions and Credits
in the
Energy Policy Act of 2005

Edward Pollock
Office of Building Technologies
U S Department of Energy

Energy Policy Act of 2005

Public Law 109–58
109th Congress

An Act

Aug. 8, 2005

[H.R. 6]

Energy Policy Act
of 2005.
42 USC 15801
note.

To ensure jobs for our future with secure, affordable, and reliable energy.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Energy Policy
Act of 2005”.

- 550 pages
- Touches virtually every aspect of energy use and production in the US
- An *authorization* not an *appropriation*

The 'Titles'

- TITLE I—ENERGY EFFICIENCY
- TITLE II—RENEWABLE ENERGY
- TITLE III—OIL AND GAS
- TITLE IV—COAL
- TITLE V—INDIAN ENERGY
- TITLE VI—NUCLEAR MATTERS
- TITLE VII—VEHICLES AND FUELS
- TITLE VIII—HYDROGEN
- TITLE IX—RESEARCH AND DEVELOPMENT
- TITLE X—DEPARTMENT OF ENERGY MANAGEMENT
- TITLE XI—PERSONNEL AND TRAINING
- TITLE XII—ELECTRICITY
- TITLE XIII—ENERGY POLICY TAX INCENTIVES
- TITLE XIV—MISCELLANEOUS
- TITLE XV—ETHANOL AND MOTOR FUELS
- TITLE XVI—CLIMATE CHANGE
- TITLE XVII—INCENTIVES FOR INNOVATIVE TECHNOLOGIES
- TITLE XVIII—STUDIES

Title XIII

ENERGY POLICY TAX INCENTIVES

- Beginning on page 428, tax incentives for commercial and residential buildings
- Subtitle C Conservation and Energy Efficiency Provisions
 - Section 1331 Energy efficient *commercial buildings* deduction
 - Section 1332 Credit for construction of *new energy efficient homes*
 - Section 1333 Credit for certain *nonbusiness energy property*
 - Section 1334 Credit for *energy efficient appliances*
 - Section 1335 Credit for *residential energy efficient property*

TITLE XIII—ENERGY POLICY TAX INCENTIVES

Sec. 1300. Short title; amendment to 1986 Code.

Subtitle A—Electricity Infrastructure

- Sec. 1301. Extension and modification of renewable electricity production credit.
Sec. 1302. Application of section 45 credit to agricultural cooperatives.
Sec. 1303. Clean renewable energy bonds.
Sec. 1304. Treatment of income of certain electric cooperatives.
Sec. 1305. Dispositions of transmission property to implement FERC restructuring policy.
Sec. 1306. Credit for production from advanced nuclear power facilities.
Sec. 1307. Credit for investment in clean coal facilities.
Sec. 1308. Electric transmission property treated as 15-year property.
Sec. 1309. Expansion of amortization for certain atmospheric pollution control facilities in connection with plants first placed in service after 1975.
Sec. 1310. Modifications to special rules for nuclear decommissioning costs.
Sec. 1311. Five-year net operating loss carryover for certain losses.

Subtitle B—Domestic Fossil Fuel Security

- Sec. 1321. Extension of credit for producing fuel from a nonconventional source for facilities producing coke or coke gas.
Sec. 1322. Modification of credit for producing fuel from a nonconventional source.
Sec. 1323. Temporary expensing for equipment used in refining of liquid fuels.
Sec. 1324. Pass through to owners of deduction for capital costs incurred by small refiner cooperatives in complying with Environmental Protection Agency sulfur regulations.
Sec. 1325. Natural gas distribution lines treated as 15-year property.
Sec. 1326. Natural gas gathering lines treated as 7-year property.
Sec. 1327. Arbitrage rules not to apply to prepayments for natural gas.
Sec. 1328. Determination of small refiner exception to oil depletion deduction.
Sec. 1329. Amortization of geological and geophysical expenditures.

Subtitle C—Conservation and Energy Efficiency Provisions

- Sec. 1331. Energy efficient commercial buildings deduction.
Sec. 1332. Credit for construction of new energy efficient homes.
Sec. 1333. Credit for certain nonbusiness energy property.
Sec. 1334. Credit for energy efficient appliances.
Sec. 1335. Credit for residential energy efficient property.
Sec. 1336. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 1337. Business solar investment tax credit.

'Secretary (Department of Energy) to recommend to Secretary of Treasury

- For Energy Efficiency Commercial Building Deduction:
 - Methods for qualifying software for calculating credit
 - % targets for partial credit allowance
 - Definition of qualified individuals and certification procedure
- For Credit for Construction of New Energy Efficiency Homes
 - Methods for calculating and certifying energy savings and equipment installation
 - Definition of qualified individuals for certification

So Where are the Regulations?

- Working with Treasury, Energy has been consulting with many groups including the Tax Incentives Analysis Program (TIAP)
- Treasury's goals: simple, equitable, easy to implement and maintain regulations
- Energy staff and counsel have been working directly with Treasury to draft regulations
- The IRS issued guidance for new and existing homes 02/21/06
- Guidance for commercial buildings is in the final review stage at IRS

Section 1331 Energy Efficient Commercial Buildings Deduction

- Equal to the cost of *energy efficient commercial building property* placed in service not to exceed *\$1.80/square foot*
- Property placed in service after December 31, 2005 and before December 31, 2007
- Property includes *interior lighting* systems, *heating, cooling, ventilation, and hot water* systems, or *building envelope*
- Must reduce total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems by *50 percent or more* in comparison to a reference building which meets the *minimum requirements of Standard 90.1–2001*
- Standard 90.1–2001 as in effect on April 2, 2003 (includes addenda adopted through that date—specifically excludes the lighting power changes)
- Essentially *requires energy simulation* to justify the deduction.

Section 1331 Energy Efficient Commercial Buildings Deduction

- *Partial Allowance*
 - Department of Energy (Energy) to recommend % targets to the Department of Treasury (Treasury) for subsystem credits for **interior lighting, HVAC & SWH, and envelope.**
 - Up to **\$.60/square foot per subsystem.**
- Calculating and Verifying the Deduction
 - Energy to recommend methods to Treasury for qualifying computer software which provides
 - Data required by Treasury for tax filing purposes and
 - Documentation of the energy efficiency features of the building and its projected annual energy costs.
 - Inspection and testing by qualified individuals shall be performed. Qualified individuals shall be recognized by an organizations certified by Treasury.

BEST RESOURCE FOR DESIGN
PRACTICES TO ACHIEVE
50% ENERGY SAVINGS

ASHARE "Advance Energy Design Guide for
Small Office Buildings"

Section 1332 Credit for Construction of New Energy Efficient Homes

- Substantially completed after 8/08/05
- Acquired from contractor 12/31/05 to 1/01/08
- \$2000 business credit for homes with certified heating and cooling energy 50% < IECC 2004
- \$1000 for Energy Star HUD Code homes or with certified heating & cooling energy 30% < IECC 2004 (installed inspection required)
- At least 10% reduction in heating and cooling load from envelope improvements

Section 1332 Credit for Construction of New Energy Efficient Homes

- Third party certification required
 - Energy savings calculated using software certified using RESNET certification process
 - RESNET procedures used to certify home built to design/modeled specifications
- For production builders (> 85/yr) Energy Star sampling protocol can be used
- Certification report must include:
 - Description of envelope per IECC 401.3
 - Description of HVAC equipment
 - Identification of software program used

Section 1333 Credit for Certain Nonbusiness Energy Property

Allows individuals to take various amounts of tax credits for energy efficient improvements to their homes including:

- Energy efficient building envelope components which exceeds requirements of 2000 IECC
- Boilers, furnaces, air-conditioners, heat pumps, or water heaters

Section 1334 Credit to Manufacturers of Energy Efficient Appliances

- Dishwasher
- Clothes washer
- Refrigerator

- Exceeding Energy Star requirements

Section 1335 Credit for Residential Energy Efficient Property

- Better described as renewables for individuals
- Up to 30% of the cost of installation for:
 - photovoltaic system
 - solar water heating system (not for pools!)
 - fuel cell
- Up to a maximum of \$2000 for either photovoltaic or solar water heating systems or \$500 per 0.5 kW capacity for fuel cells.

Web Resources

- Energy Policy Act of 2005:
Go to thomas.loc.gov and search for H. R. 6
- Regulations will be posted on Department of Treasury/Internal Revenue Service web sites:
www.treasury.gov, www.irs.gov
- Department of Energy, Building Technologies web site:
www.eere.energy.gov/buildings
- Tax Incentives Assistance Project
<http://www.energytaxincentives.org/>