



August 24, 2005

Regulatory Update Section 45 Tax Credit Energy Policy Act of 2005

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005. The 2005 Act has positive implications for the LFG industry as it makes a number of changes to the Section 45 renewable electricity production tax credit, including:

- Extending for two years (through December 31, 2007) the placed-in-service window for most facility types;
- Extending the credit period from 5 to 10 years for new facilities originally placed in service after the date of enactment, with the credit amount of 0.75 cents (0.9 cents inflation adjusted) per kWh remaining the same;
- Extending the credit period for “old” (pre-October 22, 2004) open-loop biomass facilities through December 31, 2009 (instead of October 21, 2009);
- Restricting the credit for any electricity produced using landfill gas (“LFG”) if the LFG was produced at a facility that currently or at any time in the past qualified for the section 29/45 non-conventional fuels credit and
- Adding certain hydropower facilities and certain facilities that produce coal from reserves owned by an “Indian tribe” on June 14, 2005 to the list of qualifying facilities.

The full Energy Policy Act of 2005 can be found by going to <http://thomas.loc.gov> and searching for HR 6. This information is available on the SCS Engineers website at this direct link http://www.scsengineers.com/Pubs-News/Section_45_update_2005.html.

About SCS Engineers

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