

110TH CONGRESS
2D SESSION

S. 3208

To amend the Internal Revenue Code of 1986 to provide tax incentives for clean coal technology, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2008

Mr. CONRAD (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide tax incentives for clean coal technology, 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; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Carbon Reduction Technology Bridge Act of 2008”.

6 (b) FINDINGS.—The Congress finds the following:

7 (1) Significantly reducing greenhouse gas emis-
8 sions from U.S. coal plants must be part of a strat-
9 egy to address climate change.

1 (2) Carbon capture and sequestration is the key
2 to continued enjoyment of the energy security and
3 economic benefits associated with the use of the Na-
4 tion’s abundant domestic coal resources for power
5 generation.

6 (3) Multiple technology demonstrations that in-
7 crease the efficiency of power plants and thereby re-
8 duce carbon dioxide emissions and that demonstrate
9 carbon dioxide capture and sequestration are needed
10 in the near-term as a bridge to a reliable and afford-
11 able power system that can achieve future green-
12 house gas reduction goals.

13 **SEC. 2. SEVEN-YEAR AMORTIZATION FOR CERTAIN SYS-**
14 **TEMS INSTALLED ON COAL-FIRED ELECTRIC**
15 **GENERATION UNITS AFTER 2007.**

16 (a) IN GENERAL.—Subsection (d) of section 169 of
17 the Internal Revenue Code of 1986 (relating to amortiza-
18 tion of pollution control facilities) is amended by adding
19 at the end the following new paragraph:

20 “(6) SPECIAL RULE FOR SYSTEMS INSTALLED
21 ON COAL-FIRED ELECTRIC GENERATION UNITS
22 AFTER 2007.—

23 “(A) IN GENERAL.—Any mechanical or
24 electronic system—

1 “(i) which is installed on a coal-fired
2 electric generation unit after December 31,
3 2007, and

4 “(ii) which reduces carbon dioxide
5 emissions per net megawatt hour of elec-
6 tricity generation by 1 or more of the
7 means described in subparagraph (B) or
8 any other means,

9 shall be treated for purposes of this section as
10 an identifiable treatment facility which abates
11 or controls atmospheric pollution or contamina-
12 tion by removing, altering, disposing, storing, or
13 preventing the creation or emission of pollut-
14 ants, contaminants, wastes, or heat. Paragraph
15 (1)(C) of this subsection, and subsection (e),
16 shall not apply to any system which is so treat-
17 ed.

18 “(B) MEANS FOR REDUCING EMISSIONS.—
19 The means described in this subparagraph
20 are—

21 “(i) optimizing combustion,

22 “(ii) optimizing sootblowing and heat
23 transfer,

24 “(iii) upgrading steam temperature
25 control capabilities,

1 “(iv) reducing exit gas temperatures
2 (air heater modifications),

3 “(v) predrying low rank coals using
4 power plant waste heat,

5 “(vi) modifying steam turbines or
6 change the steam path/blading,

7 “(vii) replacing single speed motors
8 with variable speed drives for fans and
9 pumps, and

10 “(viii) improving operational controls,
11 including neural networks.

12 “(C) SPECIAL RULE FOR MINIMUM TAX.—
13 Section 56(a)(5) shall not apply to property to
14 which this paragraph applies.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to property placed in service after
17 December 31, 2007.

18 **SEC. 3. CREDIT FOR CLOSED-LOOP BIOMASS CO-FIRED**
19 **WITH COAL.**

20 (a) IN GENERAL.—Subparagraph (A) of section
21 45(d)(2) of the Internal Revenue Code of 1986 (relating
22 to closed-loop biomass facility) is amended by striking the
23 period at the end of clause (ii) and inserting “, or” and
24 by adding after clause (ii) the following new clause:

1 “(iii) owned by the taxpayer which be-
2 fore January 1, 2014, is originally placed
3 in service as—

4 “(I) a facility to use closed-loop
5 biomass to co-fire (or, in the case of
6 an integrated gasification combined
7 cycle facility, co-process) with coal, or

8 “(II) a coal-fired facility which is
9 modified to use closed-loop biomass to
10 co-fire (or, in the case of an inte-
11 grated gasification combined cycle fa-
12 cility, co-process) with coal.”.

13 (b) CONFORMING AMENDMENT.—Subparagraph (B)
14 of section 45(d)(2) of such Code is amended by striking
15 “subparagraph (A)(ii)” and inserting “clause (ii) or (iii)
16 of subparagraph (A)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 **SEC. 4. CREDIT FOR INVESTMENT IN QUALIFIED NEW**
21 **CLEAN COAL ELECTRIC GENERATION UNITS.**

22 (a) IN GENERAL.—Subpart E of part IV of sub-
23 chapter A of chapter 1 of the Internal Revenue Code of
24 1986 (relating to rules for computing investment credit)

1 is amended by inserting after section 48B the following
2 new section:

3 **“SEC. 48C. QUALIFYING NEW CLEAN COAL ELECTRIC GEN-**
4 **ERATION UNIT CREDIT.**

5 “(a) GENERAL RULE.—For purposes of section 46,
6 the qualifying new clean coal electric generation credit for
7 any taxable year is an amount equal to the applicable per-
8 centage of the qualified investment for such taxable year.

9 “(b) APPLICABLE PERCENTAGE.—For purposes of
10 subsection (a)—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), the applicable percentage is the percent-
13 age determined under the following table using the
14 design net heat rate of the qualified clean coal elec-
15 tric generation unit.

“Design Net Heat Rate in Btus/kilowatt hour	Percentage
More than 8,322 but not more than 8,530 (40%) ...	10
More than 8,120 but not more than 8,322 (41%) ...	10
More than 7,940 but not more than 8,120 (42%) ...	20
More than 7,760 but not more than 7,940 (43%) ...	26
More than 7,580 but not more than 7,760 (44%) ...	28
Not more than 7,580 (45%)	30

16 “(2) ELECTION TO USE ALTERNATIVE METHOD
17 FOR DETERMINING PERCENTAGE.—In the case of a
18 qualified clean coal electric generation unit which is
19 designed to emit carbon dioxide at an average an-
20 nual rate of not more than 800 pounds per net
21 megawatt hour of electricity generation, in lieu of

1 applying paragraph (1), the taxpayer may elect an
2 applicable percentage of 30 percent.

3 “(c) QUALIFIED INVESTMENT.—

4 “(1) IN GENERAL.—For purposes of subsection
5 (a), the qualified investment for any taxable year is
6 the basis of property placed in service by the tax-
7 payer during such taxable year as part of, or in con-
8 nection with, a qualified clean coal electric genera-
9 tion unit—

10 “(A)(i) the construction, reconstruction, or
11 erection of which is completed by the taxpayer,
12 or

13 “(ii) which is acquired by the taxpayer if
14 the original use of such property commences
15 with the taxpayer, and

16 “(B) with respect to which depreciation (or
17 amortization in lieu of depreciation) is allow-
18 able.

19 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
20 PROPERTY.—Rules similar to section 48(a)(4) shall
21 apply for purposes of this section.

22 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
23 TURES RULES MADE APPLICABLE.—Rules similar to
24 the rules of subsections (c)(4) and (d) of section 46
25 (as in effect on the day before the enactment of the

1 Revenue Reconciliation Act of 1990) shall apply for
2 purposes of this section.

3 “(d) AGGREGATE CREDITS.—

4 “(1) IN GENERAL.—No credit shall be allowed
5 under this section with respect to any qualified clean
6 coal electric generation unit unless such unit is cer-
7 tified by the Secretary under subsection (f).

8 “(2) LIMITATION ON UNITS CERTIFIED.—The
9 Secretary may certify under subsection (f) in the ag-
10 gregate no more than 6,000 megawatts of electric
11 generation units.

12 “(e) DEFINITIONS.—For purposes of this section—

13 “(1) QUALIFIED CLEAN COAL ELECTRIC GEN-
14 ERATION UNIT.—The term ‘qualified clean coal elec-
15 tric generation unit’ means a coal-based electric gen-
16 eration unit if—

17 “(A) the unit achieves a design net heat
18 rate of not more than 8,530 Btu/Kw-hr,

19 “(B) the unit is designed to meet the per-
20 formance requirements specified in the table
21 contained in section 48A(f)(1)(B),

22 “(C) the unit includes—

23 “(i) carbon dioxide capture, transport,
24 and storage property (as defined in section

1 48D(c)) for carbon dioxide produced by
2 such unit, and

3 “(ii) 1 or more sites for the storage of
4 such carbon dioxide,

5 “(D) the unit is designed to capture, and
6 store, at least—

7 “(i) 500,000 metric tons per year of
8 carbon dioxide if such unit is among the
9 first 1,000 megawatts of electric genera-
10 tion units certified by the Secretary under
11 subsection (f), and

12 “(ii) 1,000,000 metric tons per year
13 of carbon dioxide if such unit is among the
14 next 3,000 megawatts of electric genera-
15 tion units certified by the Secretary under
16 subsection (f), and

17 “(iii) 2,000,000 metric tons per year
18 of carbon dioxide for any other unit,

19 “(E) the fuel input for the unit, when com-
20 pleted, is at least 75 percent coal, and

21 “(F) the unit is located in the United
22 States.

23 “(2) DESIGN NET HEAT RATE.—Design net
24 heat rate shall be determined as provided in section

1 48A(f)(2) and before any energy loss resulting from
2 the operation of the carbon dioxide capture process.

3 “(3) COAL.—The term ‘coal’ means bituminous
4 coal, subbituminous coal, and lignite.

5 “(4) ELECTRIC GENERATION UNIT.—The term
6 ‘electric generation unit’ means any unit at least 50
7 percent of the total annual net output of which is
8 electrical power, including an otherwise eligible unit
9 which is used in an industrial application.

10 “(f) CERTIFICATION.—

11 “(1) CERTIFICATION PROCESS.—The Secretary,
12 in consultation with the Secretary of Energy and the
13 Administrator of the Environmental Protection
14 Agency, shall establish a certification process to de-
15 termine if a coal-based electric generation unit meets
16 all criteria and other requirements to be recognized
17 as a qualified clean coal electric generation unit. The
18 certification process shall also be designed to deter-
19 mine the efficiency (and, in the case of an election
20 under subsection (b)(2), the carbon dioxide emission
21 rate) of such unit to establish the amount of the
22 credit under subsection (a).

23 “(2) PRIORITY FOR UNITS EXCEEDING CAP-
24 TURE AND STORAGE REQUIREMENTS.—In deter-
25 mining which qualified clean coal generation units to

1 certify under subsection (f), the Secretary shall give
2 high priority to those units which exceed the carbon
3 dioxide and storage requirements provided in sub-
4 section (e)(1)(D).

5 “(3) FEEDSTOCK REQUIREMENTS.—After the
6 date of publication by the Secretary of the final cer-
7 tification process referred to in subsection (d), the
8 Secretary shall allocate the limitation in subsection
9 (d)(2) in equal amounts among—

10 “(A) units using bituminous coal as a pri-
11 mary feedstock,

12 “(B) units using subbituminous coal as a
13 primary feedstock, and

14 “(C) units using lignite as a primary feed-
15 stock.

16 “(4) REDISTRIBUTION.—The Secretary may re-
17 allocate credits if the Secretary determines that
18 there is an insufficient quantity of qualifying appli-
19 cations for certification, pending at the time of re-
20 view, to comply with the feedstock requirements of
21 paragraph (3). The Secretary may conduct an addi-
22 tional program for applications for certification and
23 reallocate available credits without regard to the
24 feedstock requirement which was not satisfied as a
25 result of insufficient applications for certification.

1 “(5) REQUIREMENTS FOR APPLICATIONS FOR
2 CERTIFICATION.—An application for certification
3 shall contain such information as the Secretary may
4 require in order to make a determination to accept
5 or reject the application and establish applicable
6 credit entitlement. Any information contained in the
7 application shall be protected as provided in section
8 552(b)(4) of title 5, United States Code.

9 “(g) DENIAL OF DOUBLE BENEFIT.—No credit shall
10 be allowed under this section for any property for which
11 credit is allowed under sections 48A, 48B, or 48D.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 46 of such Code (relating to amount
14 of credit) is amended by striking “and” at the end
15 of paragraph (3), by striking the period at the end
16 of paragraph (4) and inserting “, and”, and by add-
17 ing at the end the following new paragraph:

18 “(5) the qualifying new clean coal electric gen-
19 eration credit.”.

20 (2) Subparagraph (C) of section 49(a)(1) of
21 such Code is amended by striking “and” at the end
22 of clause (iii), by striking the period at the end of
23 clause (iv) and inserting “, and”, and by adding
24 after clause (iv) the following new clause:

1 “(v) the basis of any property which
2 is part of a qualifying clean coal electric
3 generation unit under section 48C.”.

4 (3) The table of sections for subpart E of part
5 IV of subchapter A of chapter 1 of such Code is
6 amended by inserting after the item relating to sec-
7 tion 48B the following new item:

“Sec. 48C. Qualifying new clean coal electric generation unit credit.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to periods after the date of the
10 enactment of this Act under rules similar to the rules of
11 section 48(m) of the Internal Revenue Code of 1986 (as
12 in effect on the day before the date of the enactment of
13 the Revenue Reconciliation Act of 1990).

14 **SEC. 5. TAX CREDIT FOR INSTALLATION OF CARBON DIOX-**
15 **IDE CAPTURE, TRANSPORT, AND STORAGE**
16 **EQUIPMENT.**

17 (a) IN GENERAL.—Subpart E of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 (relating to rules for computing investment credit)
20 is amended by inserting after section 48C the following
21 new section:

1 **“SEC. 48D. QUALIFYING CARBON DIOXIDE CAPTURE,**
2 **TRANSPORT, AND STORAGE EQUIPMENT**
3 **CREDIT.**

4 “(a) GENERAL RULE.—For purposes of section 46,
5 the qualifying carbon dioxide equipment credit for any tax-
6 able year is an amount equal to 30 percent of the qualified
7 investment for such taxable year.

8 “(b) QUALIFIED INVESTMENT.—

9 “(1) IN GENERAL.—For purposes of subsection
10 (a), the qualified investment for any taxable year is
11 the basis eligible property which is placed in service
12 by the taxpayer during such taxable year.

13 “(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED
14 PROPERTY.—Rules similar to section 48(a)(4) shall
15 apply for purposes of this section.

16 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
17 TURES RULES MADE APPLICABLE.—Rules similar to
18 the rules of subsections (c)(4) and (d) of section 46
19 (as in effect on the day before the enactment of the
20 Revenue Reconciliation Act of 1990) shall apply for
21 purposes of this section.

22 “(c) DEFINITIONS.—For purposes of this section—

23 “(1) ELIGIBLE PROPERTY.—The term ‘eligible
24 property’ means carbon dioxide capture, transport,
25 and storage property—

1 “(A) which is part of (or used in connec-
2 tion with) a qualified coal-fired electric genera-
3 tion unit of the taxpayer,

4 “(B)(i) the construction, reconstruction, or
5 erection of which is completed by the taxpayer,
6 or

7 “(ii) which is acquired by the taxpayer if
8 the original use of such property commences
9 with the taxpayer, and

10 “(C) with respect to which depreciation (or
11 amortization in lieu of depreciation) is allow-
12 able.

13 “(2) CARBON DIOXIDE CAPTURE, TRANSPORT,
14 AND STORAGE PROPERTY.—The term ‘carbon diox-
15 ide capture, transport, and storage property’ means
16 equipment to capture, transport, or store carbon di-
17 oxide produced at such unit, including—

18 “(A) equipment to separate and pressurize
19 carbon dioxide for transport (including equip-
20 ment to operate such equipment), and

21 “(B) equipment to transport, inject, and
22 monitor such carbon dioxide.

23 “(3) QUALIFIED COAL-FIRED ELECTRIC GEN-
24 ERATION UNIT.—The term ‘qualified coal-fired elec-

1 tric generation unit’ means any coal-fired electric
2 generation unit—

3 “(A) which, after installation of eligible
4 property, is designed—

5 “(i) to emit carbon dioxide at an aver-
6 age annual rate of less than 1,100 pounds
7 of carbon dioxide per net megawatt hour of
8 electricity generation, or

9 “(ii) to capture and store in a secure
10 geologic formation at least 500,000 metric
11 tons of carbon dioxide per year,

12 “(B) the fuel input for which is at least 75
13 percent coal, and

14 “(C) which is located in the United States.

15 “(4) COAL.—The term ‘coal’ means bituminous
16 coal, subbituminous coal, and lignite.

17 “(d) AGGREGATE CREDITS.—

18 “(1) IN GENERAL.—No credit shall be allowed
19 under this section for property which is part of (or
20 used in connection with) a qualified coal-fired elec-
21 tric generation unit unless such unit is certified by
22 the Secretary under subsection (e).

23 “(2) LIMITATION ON UNITS CERTIFIED.—The
24 Secretary may certify under subsection (e) in the ag-

1 gregate no more than 9,000 megawatts of electric
2 generation units.

3 “(e) CERTIFICATION.—

4 “(1) CERTIFICATION PROCESS.—The Secretary
5 shall establish a certification process for purposes of
6 this section.

7 “(2) FEEDSTOCK REQUIREMENTS.—During the
8 first 24 months after the date of publication by the
9 Secretary of the final certification process referred
10 to in paragraph (1), the Secretary shall allocate the
11 limitation in subsection (d)(2) in equal amounts
12 among—

13 “(A) units using bituminous coal as a pri-
14 mary feedstock,

15 “(B) units using subbituminous coal as a
16 primary feedstock, and

17 “(C) units using lignite as a primary feed-
18 stock.

19 “(3) REDISTRIBUTION.—The Secretary may re-
20 allocate credits if the Secretary determines that
21 there is an insufficient quantity of qualifying appli-
22 cations for certification, pending at the time of re-
23 view, to comply with the feedstock requirements of
24 paragraph (2). The Secretary may conduct an addi-
25 tional program for applications for certification and

1 reallocate available credits without regard to the
2 feedstock requirement which was not satisfied as a
3 result of insufficient applications for certification.

4 “(4) REQUIREMENTS FOR APPLICATIONS FOR
5 CERTIFICATION.—An application for certification
6 shall contain such information as the Secretary may
7 require in order to establish credit entitlement. Any
8 information contained in an application shall be pro-
9 tected as provided in section 552(b)(4) of title 5,
10 United States Code.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 46 of such Code (relating to amount
13 of credit), as amended by this Act, is amended by
14 striking “and” at the end of paragraph (4), by strik-
15 ing the period at the end of paragraph (5) and in-
16 sserting “, and”, and by adding at the end the fol-
17 lowing new paragraph:

18 “(6) the qualifying carbon dioxide equipment
19 credit.”.

20 (2) Subparagraph (C) of section 49(a)(1) of
21 such Code, as amended by this Act, is amended by
22 striking “and” at the end of clause (iv), by striking
23 the period at the end of clause (v) and inserting “,
24 and”, and by adding after clause (v) the following
25 new clause:

1 “(vi) the basis of any eligible property
2 (as defined in section 48D(c)(1)).”.

3 (3) The table of sections for such subpart E is
4 amended by inserting after the item relating to sec-
5 tion 48C the following new item:

“Sec. 48D. Qualifying carbon dioxide capture, transport, and storage equip-
ment credit.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to periods after the date of the
8 enactment of this Act under rules similar to the rules of
9 section 48(m) of the Internal Revenue Code of 1986 (as
10 in effect on the day before the date of the enactment of
11 the Revenue Reconciliation Act of 1990).

12 **SEC. 6. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRA-**
13 **TION.**

14 (a) IN GENERAL.—Subpart D of part IV of sub-
15 chapter A of chapter 1 of the Internal Revenue Code of
16 1986 (relating to business related credits) is amended by
17 adding at the end the following new section:

18 **“SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.**

19 “(a) GENERAL RULE.—For purposes of section 38,
20 the carbon dioxide sequestration credit for any taxable
21 year is an amount equal to the sum of—

22 “(1) \$30 per metric ton of qualified carbon di-
23 oxide which is stored by the taxpayer in secure geo-
24 logical storage,

1 “(2) \$20 per metric ton of qualified carbon di-
2 oxide which is compressed, and transferred, by the
3 taxpayer to the United States at a facility under
4 such rules and conditions as the Federal Govern-
5 ment shall prescribe not later than 18 months prior
6 to any transfer, and

7 “(3) \$15 per metric ton of qualified carbon di-
8 oxide which is used by the taxpayer as a tertiary
9 injectant in a qualified enhanced oil or natural gas
10 recovery project.

11 “(b) QUALIFIED CARBON DIOXIDE.—For purposes of
12 this section, the term ‘qualified carbon dioxide’ means car-
13 bon dioxide—

14 “(1) which is captured from a qualified electric
15 generation unit during the 10-year period beginning
16 on the date that carbon dioxide capture equipment
17 was originally placed in service at such unit,

18 “(2) which would otherwise be released into the
19 atmosphere, and

20 “(3) which is measured at the source of capture
21 and verified at the point of disposal or injection.

22 “(c) QUALIFIED ELECTRIC GENERATION UNIT.—
23 For purposes of this section, the term ‘qualified electric
24 generation unit’ means any electric generation unit (as de-
25 fined in section 48A(c)(6))—

1 “(1) which is owned by the taxpayer,

2 “(2) at which the fuel input is at least 75 per-
3 cent coal,

4 “(3) at which carbon dioxide capture equipment
5 is placed in service,

6 “(4) which—

7 “(A) captures not less than 500,000 metric
8 tons of carbon dioxide during the taxable year,
9 or

10 “(B) is designed to emit carbon dioxide at
11 an average annual rate of less than 1,100
12 pounds of carbon dioxide per net megawatt
13 hour of electricity generated during the taxable
14 year, and

15 “(5) which is located in—

16 “(A) the United States (within the mean-
17 ing of section 638(1)), or

18 “(B) a possession of the United States
19 (within the meaning of section 638(2)).

20 “(d) AGGREGATE CREDITS.—

21 “(1) IN GENERAL.—No credit shall be allowed
22 under this section for carbon dioxide captured from
23 a qualified facility unless such facility is certified by
24 the Secretary for purposes of this section. The owner
25 of a qualified facility may request to be certified for

1 purposes of this section by submitted a request to
2 the Secretary containing such information as the
3 Secretary may require.

4 “(2) LIMITATION ON UNITS CERTIFIED.—The
5 Secretary may certify in the aggregate no more than
6 9,000 megawatts of electric generation units.

7 “(e) CERTIFICATION.—

8 “(1) CERTIFICATION PROCESS.—The Secretary
9 shall establish a certification process for purposes of
10 this section.

11 “(2) FEEDSTOCK REQUIREMENTS.—During the
12 first 24 months after the date of publication by the
13 Secretary of the final certification process referred
14 to in paragraph (1), the Secretary shall allocate the
15 limitation in subsection (d)(2) in equal amounts
16 among—

17 “(A) units using bituminous coal as a pri-
18 mary feedstock,

19 “(B) units using subbituminous coal as a
20 primary feedstock, and

21 “(C) units using lignite as a primary feed-
22 stock.

23 “(3) REDISTRIBUTION.—The Secretary may re-
24 allocate credits if the Secretary determines that
25 there is an insufficient quantity of qualifying appli-

1 cations for certification, pending at the time of re-
2 view, to comply with the feedstock requirements of
3 paragraph (2). The Secretary may conduct an addi-
4 tional program for applications for certification and
5 reallocate available credits without regard to the
6 feedstock requirement which was not satisfied as a
7 result of insufficient applications for certification.

8 “(4) REQUIREMENTS FOR APPLICATIONS FOR
9 CERTIFICATION.—An application for certification
10 shall contain such information as the Secretary may
11 require in order to make a determination to accept
12 or reject the application and establish applicable
13 credit entitlement. Any information contained in the
14 application shall be protected as provided in section
15 552(b)(4) of title 5, United States Code.

16 “(f) SPECIAL RULES AND OTHER DEFINITIONS.—
17 For purposes of this section—

18 “(1) SECURE GEOLOGICAL STORAGE.—The Sec-
19 retary, in consultation with the Administrator of the
20 Environmental Protection Agency, shall establish
21 regulations for determining adequate security meas-
22 ures for the geological storage of carbon dioxide
23 under subsection (a)(1)(B). Such regulation shall in-
24 clude storage within deep saline formations and

1 unminable coal seams under such conditions as the
2 Secretary may determine under such regulations.

3 “(2) RULES RELATING TO USE AS TERTIARY
4 INJECTANT.—

5 “(A) TERTIARY INJECTANT.—The term
6 ‘tertiary injectant’ has the same meaning as
7 when used within section 193(b)(1).

8 “(B) QUALIFIED ENHANCED OIL OR NAT-
9 URAL GAS RECOVERY PROJECT.—The term
10 ‘qualified enhanced oil or natural gas recovery
11 project’ has the meaning given the term ‘quali-
12 fied enhanced oil recovery project’ by section
13 43(c)(2), determined by substituting ‘crude oil
14 or natural gas’ for ‘crude oil’ in subparagraph
15 (A)(i) thereof.

16 “(C) RECYCLED CARBON DIOXIDE.—No
17 credit shall be allowed under this section for
18 carbon dioxide that is recaptured, recycled, and
19 reinjected as part of the enhanced oil and nat-
20 ural gas recovery process.

21 “(3) CREDIT ATTRIBUTABLE TO TAXPAYER.—
22 Any credit under this section shall be attributable to
23 the person that captures and physically or contrac-
24 tually ensures the disposal of or the use as a tertiary
25 injectant of the qualified carbon dioxide, except to

1 the extent provided in regulations prescribed by the
2 Secretary.

3 “(4) RECAPTURE.—The Secretary shall, by reg-
4 ulations, provide for recapturing the benefit of any
5 credit allowable under subsection (a) with respect to
6 any qualified carbon dioxide which ceases to be cap-
7 tured, disposed of, or used as a tertiary injectant in
8 a manner consistent with the requirements of this
9 section.

10 “(5) INFLATION ADJUSTMENT.—In the case of
11 any taxable year beginning in a calendar year after
12 2008, there shall be substituted for each dollar
13 amount contained in subsection (a) an amount equal
14 to the product of—

15 “(A) such dollar amount, multiplied by
16 “(B) the inflation adjustment factor for
17 such calendar year determined under section
18 43(b)(3)(B) for such calendar year, determined
19 by substituting ‘2008’ for ‘1990’.

20 “(6) COAL.—The term ‘coal’ means bituminous
21 coal, subbituminous coal, and lignite.”.

22 (b) CONFORMING AMENDMENT.—Section 38(b) of
23 such Code is amended by striking “plus” at the end of
24 paragraph (32), by striking the period at the end of para-

1 graph (33) and inserting “, plus”, and by adding at the
2 end of following new paragraph:

3 “(34) the carbon dioxide sequestration credit
4 determined under section 45Q(a).”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for subpart D of part IV of subchapter A of chapter 1
7 of such Code is amended by adding at the end the fol-
8 lowing new item:

“Sec. 45Q. Credit for carbon dioxide sequestration.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply carbon dioxide captured after the
11 date of the enactment of this Act.

12 **SEC. 7. CLEAN ENERGY COAL BONDS.**

13 (a) IN GENERAL.—Subpart I of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 (relating to qualified tax credit bonds) is amended
16 by adding at the end the following new section:

17 **“SEC. 54C. CLEAN ENERGY COAL BONDS.**

18 “(a) CLEAN ENERGY COAL BOND.—For purposes of
19 this subchapter—

20 “(1) IN GENERAL.—The term ‘clean energy
21 coal bond’ means any bond issued as part of an
22 issue if—

23 “(A) the bond is issued by a qualified
24 issuer pursuant to an allocation by the Sec-
25 retary to such issuer of a portion of the na-

1 tional clean energy coal bond limitation under
2 subsection (b)(2);

3 “(B) 100 percent of the available project
4 proceeds from the sale of such issue are to be
5 used for capital expenditures incurred by quali-
6 fied borrowers for 1 or more qualified projects;

7 “(C) the qualified issuer designates such
8 bond for purposes of this section and the bond
9 is in registered form; and

10 “(D) in lieu of the requirements of section
11 54A(d)(2), the issue meets the requirements of
12 subsection (c).

13 “(2) QUALIFIED PROJECT; SPECIAL USE
14 RULES.—

15 “(A) IN GENERAL.—The term ‘qualified
16 project’ means a qualified clean coal project (as
17 defined in subsection (f)(1)) placed in service by
18 a qualified borrower.

19 “(B) REFINANCING RULES.—For purposes
20 of paragraph (1)(B), a qualified project may be
21 refinanced with proceeds of a clean energy coal
22 bond only if the indebtedness being refinanced
23 (including any obligation directly or indirectly
24 refinanced by such indebtedness) was originally

1 incurred by a qualified borrower after the date
2 of the enactment of this section.

3 “(C) REIMBURSEMENT.—For purposes of
4 paragraph (1)(B), a clean energy coal bond
5 may be issued to reimburse a qualified borrower
6 for amounts paid after the date of the enact-
7 ment of this section with respect to a qualified
8 project, but only if—

9 “(i) prior to the payment of the origi-
10 nal expenditure, the qualified borrower de-
11 clared its intent to reimburse such expendi-
12 ture with the proceeds of a clean energy
13 coal bond;

14 “(ii) not later than 60 days after pay-
15 ment of the original expenditure, the quali-
16 fied issuer adopts an official intent to re-
17 imburse the original expenditure with such
18 proceeds; and

19 “(iii) reimbursement is not made later
20 than 18 months after the date the original
21 expenditure is paid or the date the project
22 is placed in service or abandoned, but in
23 no event more than 3 years after the origi-
24 nal expenditure is paid.

1 “(D) TREATMENT OF CHANGES IN USE.—
2 For purposes of paragraph (1)(B), the proceeds
3 of an issue shall not be treated as used for a
4 qualified project to the extent that a qualified
5 borrower takes any action within its control
6 which causes such proceeds not to be used for
7 a qualified project. The Secretary shall pre-
8 scribe regulations specifying remedial actions
9 that may be taken (including conditions to tak-
10 ing such remedial actions) to prevent an action
11 described in the preceding sentence from caus-
12 ing a bond to fail to be a clean energy coal
13 bond.

14 “(b) LIMITATION ON AMOUNT OF BONDS DES-
15 IGNATED.—

16 “(1) NATIONAL LIMITATION.—There is a na-
17 tional clean energy coal bond limitation of
18 \$5,000,000,000.

19 “(2) ALLOCATION BY SECRETARY.—The Sec-
20 retary shall allocate the amount described in para-
21 graph (1) among qualified projects in such manner
22 as the Secretary determines appropriate.

23 “(c) SPECIAL RULES RELATING TO EXPENDI-
24 TURES.—

1 “(1) IN GENERAL.—An issue shall be treated as
2 meeting the requirements of this subsection if, as of
3 the date of issuance, the qualified issuer reasonably
4 expects—

5 “(A) 100 percent or more of the available
6 project proceeds from the sale of the issue are
7 to be spent for 1 or more qualified projects
8 within the 5-year period beginning on the date
9 of issuance of the clean energy bond;

10 “(B) a binding commitment with a third
11 party to spend at least 10 percent of such avail-
12 able project proceeds from the sale of the issue
13 will be incurred within the 6-month period be-
14 ginning on the date of issuance of the clean en-
15 ergy bond or, in the case of a clean energy bond
16 the available project proceeds of which are to be
17 loaned to 2 or more qualified borrowers, such
18 binding commitment will be incurred within the
19 6-month period beginning on the date of the
20 loan of such proceeds to a qualified borrower;
21 and

22 “(C) such projects will be completed with
23 due diligence and the available project proceeds
24 from the sale of the issue will be spent with due
25 diligence.

1 “(2) EXTENSION OF PERIOD.—Upon submis-
2 sion of a request prior to the expiration of the period
3 described in paragraph (1)(A), the Secretary may
4 extend such period if the qualified issuer establishes
5 that the failure to satisfy the 5-year requirement is
6 due to reasonable cause and the related projects will
7 continue to proceed with due diligence.

8 “(3) FAILURE TO SPEND REQUIRED AMOUNT
9 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
10 tent that less than 100 percent of the available
11 project proceeds of such issue are expended by the
12 close of the 5-year period beginning on the date of
13 issuance (or if an extension has been obtained under
14 paragraph (2), by the close of the extended period),
15 the qualified issuer shall redeem all of the non-
16 qualified bonds within 90 days after the end of such
17 period. For purposes of this paragraph, the amount
18 of the nonqualified bonds required to be redeemed
19 shall be determined in the same manner as under
20 section 142.

21 “(d) COOPERATIVE ELECTRIC COMPANY; QUALIFIED
22 ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL
23 BODY; QUALIFIED BORROWER.—For purposes of this sec-
24 tion—

1 “(1) COOPERATIVE ELECTRIC COMPANY.—The
2 term ‘cooperative electric company’ means a mutual
3 or cooperative electric company described in section
4 501(c)(12) or section 1381(a)(2)(C), or a not-for-
5 profit electric utility which has received a loan or
6 loan guarantee under the Rural Electrification Act.

7 “(2) CLEAN ENERGY BOND LENDER.—The
8 term ‘clean energy bond lender’ means a lender
9 which is a cooperative which is owned by, or has out-
10 standing loans to, 100 or more cooperative electric
11 companies and is in existence on February 1, 2002,
12 and shall include any affiliated entity which is con-
13 trolled by such lender.

14 “(3) PUBLIC POWER ENTITY.—The term ‘public
15 power entity’ means a State utility with a service ob-
16 ligation, as such terms are defined in section 217 of
17 the Federal Power Act (as in effect on the date of
18 enactment of this paragraph).

19 “(4) QUALIFIED ISSUER.—The term ‘qualified
20 issuer’ means—

21 “(A) a clean energy bond lender;

22 “(B) a cooperative electric company; or

23 “(C) a public power entity.

24 “(5) QUALIFIED BORROWER.—The term ‘quali-
25 fied borrower’ means—

1 “(A) a mutual or cooperative electric com-
2 pany described in section 501(c)(12) or
3 1381(a)(2)(C); or

4 “(B) a public power entity.

5 “(e) SPECIAL RULES RELATING TO POOL BONDS.—

6 No portion of a pooled financing bond may be allocable
7 to any loan unless the borrower has entered into a written
8 loan commitment for such portion prior to the issue date
9 of such issue.

10 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—

11 For purposes of this section—

12 “(1) QUALIFIED CLEAN COAL PROJECT.—For
13 purposes of this section, the term ‘qualified clean
14 coal project’ means—

15 “(A) an atmospheric pollution control facil-
16 ity (within the meaning of section 169(d)(6));

17 “(B) a closed-loop biomass facility (within
18 the meaning of section 45(d)(2));

19 “(C) a qualified new clean coal electric
20 generation unit (within the meaning of section
21 48C(d)(1));

22 “(D) qualifying carbon dioxide equipment
23 described in section 48D(c)(1); or

24 “(E) a qualified facility (within the mean-
25 ing of section 45Q(c)).

1 “(2) POOLED FINANCING BOND.—The term
2 ‘pooled financing bond’ shall have the meaning given
3 such term by section 149(f)(4)(A).

4 “(g) TERMINATION.—This section shall not apply
5 with respect to any bond issued after December 31,
6 2018.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Paragraph (1) of section 54A(d) of the In-
9 ternal Revenue Code of 1986 is amended to read as
10 follows:

11 “(1) QUALIFIED TAX CREDIT BOND.—The term
12 ‘qualified tax credit bond’ means—

13 “(A) a qualified forestry conservation
14 bond, or

15 “(B) a clean energy coal bond,
16 which is part of an issue that meets requirements of
17 paragraphs (2), (3), (4), (5), and (6).”.

18 (2) Subparagraph (C) of section 54A(d)(2) of
19 such Code is amended to read as follows:

20 “(C) QUALIFIED PURPOSE.—For purposes
21 of this paragraph, the term ‘qualified purpose’
22 means—

23 “(i) in the case of a qualified forestry
24 conservation bond, a purpose specified in
25 section 54B(e), and

1 “(ii) in the case of a clean energy coal
2 bond, a purpose specified in section
3 54C(f)(1).”.

4 (c) CLERICAL AMENDMENT.—The table of sections
5 for subpart I of part IV of subchapter A of chapter 1 of
6 the Internal Revenue Code of 1986 is amended by adding
7 at the end the following new item:

“Sec. 54C. Clean energy coal bonds.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to bonds issued after December
10 31, 2008.

11 **SEC. 8. CERTAIN INCOME AND GAINS RELATING TO INDUS-**
12 **TRIAL SOURCE CARBON DIOXIDE TREATED**
13 **AS QUALIFYING INCOME FOR PUBLICLY**
14 **TRADED PARTNERSHIPS.**

15 (a) IN GENERAL.—Subparagraph (E) of section
16 7704(d)(1) of the Internal Revenue Code of 1986 (defin-
17 ing qualifying income) is amended—

18 (1) by striking “or the marketing” and insert-
19 ing “the marketing”, and

20 (2) by inserting “or industrial source carbon di-
21 oxide” after “timber”).

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act, in taxable years ending after such date.

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