

111TH CONGRESS  
1ST SESSION

# H. R. 3462

To amend the Internal Revenue Code of 1986 to encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business energy-related property.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. BRADY of Texas (for himself, Mr. CONAWAY, Ms. SUTTON, and Mr. CULBERSON) 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 encourage the use of corrosion prevention and mitigation measures in the construction and maintenance of business energy-related property.

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 “Corrosion Prevention  
5 Act of 2009”.

1 **SEC. 2. CREDIT FOR CORROSION PREVENTION AND MITI-**  
2 **GATION MEASURES FOR ENERGY-RELATED**  
3 **PROPERTY.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-  
5 chapter A of chapter 1 of the Internal Revenue Code of  
6 1986 (relating to business-related credits) is amended by  
7 adding at the end the following new section:

8 **“SEC. 45R. CORROSION PREVENTION AND MITIGATION**  
9 **MEASURES FOR ENERGY-RELATED PROP-**  
10 **ERTY.**

11 “(a) IN GENERAL.—For purposes of section 38, the  
12 corrosion prevention and mitigation credit determined  
13 under this section for the taxable year is an amount equal  
14 to 50 percent of the excess of—

15 “(1) qualified corrosion prevention and mitiga-  
16 tion expenditures with respect to qualified energy-re-  
17 lated property, over

18 “(2) the amount such expenditures would have  
19 been, taking into account—

20 “(A) amounts paid or incurred to satisfy  
21 Federal, State, or local requirements, and

22 “(B) amounts paid for corrosion preven-  
23 tion practices, as certified by a person certified  
24 pursuant to subsection (b)(2).

25 “(b) QUALIFIED CORROSION PREVENTION AND MITI-  
26 GATION EXPENDITURES.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘qualified corro-  
2           sion prevention and mitigation expenditures’ means  
3           amounts paid or incurred by the taxpayer during the  
4           taxable year for engineering design, materials, and  
5           application and installation of corrosion prevention  
6           and mitigation technology.

7           “(2) CERTIFICATION MAY BE REQUIRED.—The  
8           Secretary shall require by regulation that no amount  
9           be taken into account under paragraph (1) for any  
10          design, material, application, or installation unless  
11          such design, material, application, or installation  
12          meets such certification requirements. Such require-  
13          ments shall provide for accreditation of certifying  
14          persons by an independent entity with expertise in  
15          corrosion prevention and mitigation technology.

16          “(3) CORROSION PREVENTION AND MITIGATION  
17          TECHNOLOGY.—Corrosion prevention and mitigation  
18          technology includes a system comprised of at least  
19          one of the following: a corrosion-protective coating  
20          or paint; chemical treatment; corrosion-resistant  
21          metals; and cathodic protection. The Secretary from  
22          time to time by regulations or other guidance may  
23          modify the list contained in the preceding sentence  
24          to reflect changes in corrosion prevention and miti-  
25          gation technology.

1           “(4) QUALIFIED ENERGY-RELATED PROP-  
2           ERTY.—The term ‘qualified energy-related property’  
3           means property which is—

4                   “(A) comprised primarily of a metal sus-  
5                   ceptible to corrosion,

6                   “(B) used in—

7                           “(i) the exploration, production, refin-  
8                           ing, or transportation of oil, natural gas,  
9                           coal, or any product thereof, or

10                           “(ii) the generation, transmission, or  
11                           distribution of electricity or any other form  
12                           of energy,

13                   “(C) of a character subject to the allow-  
14                   ance for depreciation,

15                   “(D) originally placed in service or owned  
16                   by the taxpayer, and

17                   “(E) located in the United States.

18           “(c) RECAPTURE OF CREDIT.—

19                   “(1) IN GENERAL.—If, as of the close of any  
20                   taxable year, there is a recapture event with respect  
21                   to any qualified energy-related property for which a  
22                   credit was allowed under subsection (a), the tax of  
23                   the taxpayer under this chapter for such taxable  
24                   year shall be increased by an amount equal to the  
25                   product of—

1           “(A) the applicable recapture percentage,  
2           and

3           “(B) the aggregate decrease in the credits  
4           allowed under section 38 for all prior taxable  
5           years which would have resulted if the qualified  
6           corrosion prevention and mitigation expendi-  
7           tures of the taxpayer with respect to such prop-  
8           erty had been zero.

9           “(2) APPLICABLE RECAPTURE PERCENTAGE.—

10           “(A) IN GENERAL.—For purposes of this  
11           subsection, the applicable recapture percentage  
12           shall be determined from the following table:

<b>“If the property ceases to be qualified energy-related prop- erty within:</b>	<b>The recapture percentage is:</b>
(i) One full year after placed in service .....	100
(ii) One full year after the close of the period described in clause (i) .....	80
(iii) One full year after the close of the period described in clause (ii) .....	60
(iv) One full year after the close of the period described in clause (iii) .....	40
(v) One full year after the close of the period described in clause (iv) .....	20.

13           “(B) RECAPTURE EVENT DEFINED.—For  
14           purposes of this subsection, the term ‘recapture  
15           event’ means—

16           “(i) CESSATION OF USE.—The ces-  
17           sation of use of the qualified energy-related  
18           property.

19           “(ii) CHANGE IN OWNERSHIP.—

1           “(I) IN GENERAL.—Except as  
2 provided in subclause (II), the disposi-  
3 tion of a taxpayer’s interest in the  
4 qualified energy-related property with  
5 respect to which the credit described  
6 in subsection (a) was allowable.

7           “(II) AGREEMENT TO ASSUME  
8 RECAPTURE LIABILITY.—Subclause  
9 (I) shall not apply if the person ac-  
10 quiring the qualified energy-related  
11 property agrees in writing to assume  
12 the recapture liability of the person  
13 disposing of the qualified energy-re-  
14 lated property. In the event of such  
15 an assumption, the person acquiring  
16 the qualified energy-related property  
17 shall be treated as the taxpayer for  
18 purposes of assessing any recapture li-  
19 ability (computed as if there had been  
20 no change in ownership).

21           “(III) SPECIAL RULE FOR TAX  
22 EXEMPT ENTITIES.—Subclause (II)  
23 shall not apply to any tax exempt en-  
24 tity (as defined in section 168(h)(2)).

25           “(iii) SPECIAL RULES.—

1           “(I) TAX BENEFIT RULE.—The  
2 tax for the taxable year shall be in-  
3 creased under paragraph (1) only with  
4 respect to credits allowed by reason of  
5 this section which were used to reduce  
6 tax liability. In the case of credits not  
7 so used to reduce tax liability, the  
8 carryforwards and carrybacks under  
9 section 39 shall be appropriately ad-  
10 justed.

11           “(II) NO CREDITS AGAINST  
12 TAX.—Any increase in tax under this  
13 subsection shall not be treated as a  
14 tax imposed by this chapter for pur-  
15 poses of determining the amount of  
16 any credit under this chapter or for  
17 purposes of section 55.

18           “(III) NO RECAPTURE BY REA-  
19 SON OF CASUALTY LOSS.—The in-  
20 crease in tax under this subsection  
21 shall not apply to a cessation of oper-  
22 ation of the property as qualified en-  
23 ergy-related property by reason of a  
24 casualty loss to the extent such loss is  
25 restored by reconstruction or replace-

1                   ment within a reasonable period es-  
2                   tablished by the Secretary.

3           “(d) DENIAL OF DOUBLE BENEFIT.—For purposes  
4 of this subtitle—

5                   “(1) BASIS ADJUSTMENTS.—

6                           “(A) IN GENERAL.—If a credit is deter-  
7                           mined under this section for any expenditure  
8                           with respect to any property, the increase in the  
9                           basis of such property which would (but for this  
10                           subsection) result from such expenditure shall  
11                           be reduced by the amount of the credit so al-  
12                           lowed.

13                           “(B) CERTAIN DISPOSITIONS.—If, during  
14                           any taxable year, there is a recapture amount  
15                           determined with respect to any property the  
16                           basis of which was reduced under subparagraph  
17                           (A), the basis of such property (immediately be-  
18                           fore the event resulting in such recapture) shall  
19                           be increased by an amount equal to such recap-  
20                           ture amount. For purposes of the preceding  
21                           sentence, the term ‘recapture amount’ means  
22                           any increase in tax (or adjustment in  
23                           carrybacks or carryovers) determined under  
24                           subsection (c).



1           “(2) OTHER DEDUCTIONS AND CREDITS.—No  
2           deduction or credit shall be allowed under this chap-  
3           ter for any expense taken into account under this  
4           section.

5           “(e) REGULATIONS.—The Secretary shall prescribe  
6           such regulations as may be appropriate to carry out this  
7           section.

8           “(f) APPLICATION OF SECTION.—This section shall  
9           apply to taxable years beginning during the 2-year period  
10          beginning on the date of the enactment of this section.”.

11          (b) CREDIT MADE PART OF GENERAL BUSINESS  
12          CREDIT.—Subsection (b) of section 38 of such Code (re-  
13          lating to current year business credit) is amended by strik-  
14          ing “plus” at the end of paragraph (34), by striking the  
15          period at the end of paragraph (35) and inserting “, plus”,  
16          and by adding at the end thereof the following new para-  
17          graph:

18                   “(36) the corrosion prevention and mitigation  
19                   credit determined under section 45R(a).”.

20          (c) CLERICAL AMENDMENT.—The table of sections  
21          for subpart D of part IV of subchapter A of chapter 1  
22          of such Code is amended by inserting after the item relat-  
23          ing to section 45Q the following new item:

                  “Sec. 45R. Corrosion prevention and mitigation measures for energy-related  
                  property.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

○