

115TH CONGRESS
1ST SESSION

H. R. 3761

To amend the Internal Revenue Code of 1986 to improve and extend the credit for carbon dioxide sequestration.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2017

Mr. CONAWAY (for himself, Mr. BRADY of Pennsylvania, Mr. COSTELLO of Pennsylvania, Mr. MCKINLEY, Mr. CRAMER, Mr. MURPHY of Pennsylvania, Mr. JENKINS of West Virginia, Mr. PETERSON, Mr. TIPTON, Mr. COSTA, Mr. RODNEY DAVIS of Illinois, Mr. GENE GREEN of Texas, Mr. COLE, Ms. SINEMA, Mr. HURD, Mr. BARR, Mr. BISHOP of Georgia, Mr. MOOLENAAR, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. STEFANIK, Mr. HUIZENGA, Mr. BARTON, Mr. PEARCE, Mr. BOST, Mr. JOHNSON of Ohio, Mr. VEASEY, Mr. ADERHOLT, Ms. KAPTUR, Mr. CURBELO of Florida, and Mr. HUDSON) 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 improve and extend the credit for carbon dioxide sequestration.

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 “Carbon Capture Act”.

1 **SEC. 2. EXTENSION OF ENHANCED CARBON DIOXIDE SE-**
2 **QUESTRATION CREDIT.**

3 (a) IN GENERAL.—Section 45Q of the Internal Rev-
4 enue Code of 1986 is amended to read as follows:

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

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

9 “(1) \$20 per metric ton of qualified carbon di-
10 oxide which is—

11 “(A) captured by the taxpayer using car-
12 bon capture equipment which is originally
13 placed in service at a qualified facility before
14 the date of the enactment of the Carbon Cap-
15 ture Act, and

16 “(B) disposed of by the taxpayer in secure
17 geological storage and not used by the taxpayer
18 as described in paragraph (2)(B),

19 “(2) \$10 per metric ton of qualified carbon di-
20 oxide which is—

21 “(A) captured by the taxpayer using car-
22 bon capture equipment which is originally
23 placed in service at a qualified facility before
24 the date of the enactment of the Carbon Cap-
25 ture Act, and

1 “(B)(i) used by the taxpayer as a tertiary
2 injectant in a qualified enhanced oil or natural
3 gas recovery project and disposed of by the tax-
4 payer in secure geological storage, or

5 “(ii) utilized by the taxpayer in a manner
6 described in subsection (e)(7),

7 “(3) the applicable dollar amount per metric
8 ton of qualified carbon dioxide which is—

9 “(A) captured by the taxpayer using car-
10 bon capture equipment which is originally
11 placed in service at a qualified facility on or
12 after the date of the enactment of the Carbon
13 Capture Act, during the 15-year period begin-
14 ning on the date the equipment was originally
15 placed in service, and

16 “(B) disposed of by the taxpayer in secure
17 geological storage and not used by the taxpayer
18 as described in paragraph (4)(B), and

19 “(4) the applicable dollar amount per metric
20 ton of qualified carbon dioxide which is—

21 “(A) captured by the taxpayer using car-
22 bon capture equipment which is originally
23 placed in service at a qualified facility on or
24 after the date of the enactment of the Carbon
25 Capture Act, during the 15-year period begin-

1 ning on the date the equipment was originally
2 placed in service, and

3 “(B)(i) used by the taxpayer as a tertiary
4 injectant in a qualified enhanced oil or natural
5 gas recovery project and disposed of by the tax-
6 payer in secure geological storage, or

7 “(ii) utilized by the taxpayer in a manner
8 described in subsection (e)(7).

9 A taxpayer that captures qualified carbon dioxide as pro-
10 vided under paragraph (1), (2), (3) or (4) and that enters
11 into contractual arrangements with another person to en-
12 sure the disposal, use, or utilization required under para-
13 graph (1), (2), (3) or (4), as the case may be, shall be
14 treated as having disposed, captured, or used such quali-
15 fied carbon dioxide to the extent disposed, captured, or
16 used by such other persons pursuant to such contractual
17 arrangements.

18 “(b) APPLICABLE DOLLAR AMOUNT; ADDITIONAL
19 EQUIPMENT; ELECTION.—

20 “(1) APPLICABLE DOLLAR AMOUNT.—For pur-
21 poses of subsection (a)—

22 “(A) IN GENERAL.—The applicable dollar
23 amount shall be an amount equal to—

24 “(i) for taxable years beginning after
25 2016 and before 2026, the dollar amount

1 established by linear interpolation between
2 \$12.83 and \$35 for each calendar year
3 during such period, and

4 “(ii) for taxable years beginning after
5 2025, an amount equal to the product of
6 \$35 and the inflation adjustment factor for
7 such calendar year determined under sec-
8 tion 43(b)(3)(B) for such calendar year,
9 determined by substituting ‘2024’ for
10 ‘1990’.

11 “(B) ROUNDING.—The applicable dollar
12 amount determined under subparagraph (A)
13 shall be rounded to the nearest cent.

14 “(2) INSTALLATION OF ADDITIONAL CARBON
15 CAPTURE EQUIPMENT ON EXISTING QUALIFIED FA-
16 CILITY.—In the case of a qualified facility placed in
17 service before the date of the enactment of the Car-
18 bon Capture Storage Act, for which additional car-
19 bon capture equipment is placed in service on or
20 after the date of the enactment of such Act, the
21 amount of qualified carbon dioxide which is captured
22 by the taxpayer shall be equal to—

23 “(A) for purposes of paragraphs (1)(A)
24 and (2)(A) of subsection (a), the lesser of—

1 “(i) the total amount of qualified car-
2 bon dioxide captured at such facility for
3 the taxable year, or

4 “(ii) the total amount of the carbon
5 dioxide capture capacity of the carbon cap-
6 ture equipment in service at such facility
7 on the day before the date of the enact-
8 ment of the Carbon Capture Act, and

9 “(B) for purposes of paragraphs (3)(A)
10 and (4)(A) of such subsection, an amount equal
11 to the excess (if any) of—

12 “(i) the amount described in subpara-
13 graph (A)(i), over

14 “(ii) the amount described in subpara-
15 graph (A)(ii).

16 “(3) ELECTION.—For purposes of determining
17 the carbon dioxide sequestration credit under this
18 section, a taxpayer may elect to have the dollar
19 amount applicable under paragraph (1) or (2) of
20 subsection (a) apply in lieu of the dollar amounts
21 applicable under paragraph (3) or (4) of such sub-
22 section for each metric ton of qualified carbon diox-
23 ide which is captured by the taxpayer using carbon
24 capture equipment which is originally placed in serv-

1 ice at a qualified facility on or after the date of the
2 enactment of the Carbon Capture Act.

3 “(c) QUALIFIED CARBON DIOXIDE.—For purposes of
4 this section:

5 “(1) IN GENERAL.—The term ‘qualified carbon
6 dioxide’ means carbon dioxide or other carbon oxides
7 captured—

8 “(A)(i) from an industrial source which
9 would otherwise be released into the atmosphere
10 as industrial emission of greenhouse gas, or
11 would otherwise lead to such release, or

12 “(ii) directly from the ambient air, and

13 “(B) is measured at the source of capture
14 and verified at the point of disposal, injection,
15 or utilization.

16 “(2) RECYCLED CARBON DIOXIDE.—The term
17 ‘qualified carbon dioxide’ includes the initial deposit
18 of captured carbon dioxide used as a tertiary
19 injectant. Such term does not include carbon dioxide
20 that is recaptured, recycled, and re-injected as part
21 of the enhanced oil and natural gas recovery process.

22 “(d) QUALIFIED FACILITY.—For purposes of this
23 section, the term ‘qualified facility’ means any industrial
24 facility or direct air capture facility—

1 “(1) the construction of which begins before
2 January 1, 2024, and—

3 “(A) the original planning and design for
4 such facility includes installation of carbon cap-
5 ture equipment, or

6 “(B) the construction of carbon capture
7 equipment with respect to such facility begins
8 before such date, and

9 “(2) which captures—

10 “(A) in the case of a facility which emits
11 not more than 500,000 metric tons of carbon
12 dioxide into the atmosphere during the taxable
13 year, not less than 25,000 metric tons of quali-
14 fied carbon dioxide during the taxable year
15 which is utilized in a manner described in sub-
16 section (e)(7), or

17 “(B) in the case of a facility not described
18 in subparagraph (A), not less than 100,000
19 metric tons of qualified carbon dioxide during
20 the taxable year.

21 “(e) SPECIAL RULES AND OTHER DEFINITIONS.—

22 For purposes of this section—

23 “(1) ONLY CARBON DIOXIDE CAPTURED AND
24 SECURED OR USED WITHIN THE UNITED STATES
25 TAKEN INTO ACCOUNT.—The credit under this sec-

1 tion shall apply only with respect to qualified carbon
2 dioxide the capture and disposal, use, or utilization
3 of which is within—

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

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

8 “(2) SECURE GEOLOGICAL STORAGE.—The Sec-
9 retary, in consultation with the Administrator of the
10 Environmental Protection Agency, the Secretary of
11 Energy, and the Secretary of the Interior, shall es-
12 tablish regulations for determining adequate security
13 measures for the geological storage of qualified car-
14 bon dioxide under subsection (a) such that the quali-
15 fied carbon dioxide does not escape into the atmos-
16 phere. Such term shall include storage at deep saline
17 formations, oil and gas reservoirs, and unminable
18 coal seams under such conditions as the Secretary
19 may determine under such regulations.

20 “(3) TERTIARY INJECTANT.—The term ‘ter-
21 tiary injectant’ has the same meaning as when used
22 within section 193(b)(1).

23 “(4) QUALIFIED ENHANCED OIL OR NATURAL
24 GAS RECOVERY PROJECT.—The term ‘qualified en-
25 hanced oil or natural gas recovery project’ has the

1 meaning given the term ‘qualified enhanced oil re-
2 covery project’ by section 43(c)(2), by substituting
3 ‘crude oil or natural gas’ for ‘crude oil’ in subpara-
4 graph (A)(i) thereof.

5 “(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—

6 “(A) IN GENERAL.—Except as provided
7 subparagraph (B) or in any regulations pre-
8 scribed by the Secretary, any credit under this
9 section shall be attributable to—

10 “(i) in the case of qualified carbon di-
11 oxide captured using carbon capture equip-
12 ment which is originally placed in service
13 at a qualified facility before the date of the
14 enactment of the Carbon Capture Act, the
15 person that captures and physically or con-
16 tractively ensures the disposal, utilization,
17 or use as a tertiary injectant of such quali-
18 fied carbon dioxide, and

19 “(ii) in the case of qualified carbon di-
20 oxide captured using carbon capture equip-
21 ment which is originally placed in service
22 at a qualified facility on or after the date
23 of the enactment of the Carbon Capture
24 Act, or with regard to which an election
25 has been made under subsection (f)(2), the

1 person that owns the carbon capture equip-
2 ment and physically or contractually en-
3 sures the capture and disposal, utilization,
4 or use as a tertiary injectant of such quali-
5 fied carbon dioxide.

6 “(B) ELECTION.—If the person described
7 in subparagraph (A) makes an election under
8 this subparagraph at such time and in such
9 manner as the Secretary may prescribe by regu-
10 lations, the credit under this section—

11 “(i) shall be allowable to the person
12 that disposes of the qualified carbon diox-
13 ide, utilizes the qualified carbon dioxide, or
14 uses the qualified carbon dioxide as a ter-
15 tiary injectant, and

16 “(ii) shall not be allowable to the per-
17 son described in subparagraph (A).

18 “(6) RECAPTURE.—The Secretary shall, by reg-
19 ulations, provide for recapturing the benefit of any
20 credit allowable under subsection (a) with respect to
21 any qualified carbon dioxide which ceases to be cap-
22 tured, disposed of, or used as a tertiary injectant in
23 a manner consistent with the requirements of this
24 section.

1 “(7) UTILIZATION OF QUALIFIED CARBON DI-
2 OXIDE.—

3 “(A) IN GENERAL.—For purposes of this
4 section, utilization of qualified carbon dioxide
5 means—

6 “(i) the chemical conversion of such
7 qualified carbon dioxide to a material or
8 chemical compound in which such qualified
9 carbon dioxide is securely stored, or

10 “(ii) the use of such qualified carbon
11 dioxide for any other purpose for which a
12 commercial market exists (other than use
13 as a tertiary injectant in a qualified en-
14 hanced oil or natural gas recovery project),
15 as determined by the Secretary.

16 “(B) MEASUREMENT.—For purposes of
17 determining the amount of qualified carbon di-
18 oxide utilized by the taxpayer under paragraph
19 (2)(B)(ii) or (4)(B)(ii) of subsection (a), such
20 amount shall be equal to the metric tons of car-
21 bon dioxide which the taxpayer demonstrates,
22 based upon an analysis of lifecycle greenhouse
23 gas emissions and subject to such requirements
24 as the Secretary, in consultation with the Sec-
25 retary of Energy and the Administrator of the

1 Environmental Protection Agency, determines
2 appropriate, were captured and prevented from
3 escaping into the atmosphere through use of a
4 process described in subparagraph (A).

5 “(8) DIRECT AIR CAPTURE FACILITY.—For
6 purposes of this section, the term ‘direct air capture
7 facility’ means any facility which uses carbon cap-
8 ture equipment to capture carbon from the ambient
9 air. Such a term does not include facilities capturing
10 carbon dioxide that is deliberately released from nat-
11 urally-occurring subsurface springs.

12 “(9) INFLATION ADJUSTMENT.—In the case of
13 any taxable year beginning in a calendar year after
14 2009, there shall be substituted for the dollar
15 amount contained in paragraphs (1) and (2) of sub-
16 section (a) an amount equal to the product of—

17 “(A) such dollar amount, multiplied by

18 “(B) the inflation adjustment factor for
19 such calendar year determined under section
20 43(b)(3)(B) for such calendar year, determined
21 by substituting ‘2008’ for ‘1990’.

22 “(f) APPLICATION OF SECTION FOR CERTAIN CAR-
23 BON CAPTURE EQUIPMENT.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), in the case of any carbon capture equip-

1 ment placed in service before the date of the enact-
2 ment of the Carbon Capture Act, the credit under
3 this section shall apply with respect to qualified car-
4 bon dioxide captured using such equipment before
5 the end of the calendar year in which the Secretary,
6 in consultation with the Administrator of the Envi-
7 ronmental Protection Agency, certifies that
8 75,000,000 metric tons of qualified carbon dioxide
9 have been taken into account in accordance with
10 paragraphs (1) and (2) of subsection (a) during the
11 period beginning after October 3, 2008.

12 “(2) SPECIAL RULE FOR CERTAIN FACILITIES
13 NOT CLAIMING PRIOR CREDIT.—In the case of any
14 qualified facility—

15 “(A) which captures not less than 100,000
16 metric tons of carbon dioxide during the taxable
17 year,

18 “(B) which is placed in service after De-
19 cember 31, 2015, and

20 “(C) with respect to which no credit has
21 been allowed under this section (as in effect on
22 the day before the date of the enactment of
23 such Act) by any person for any taxable year
24 beginning prior to the date of enactment of
25 such Act,

1 the taxpayer may elect to treat such qualified facility
2 as placed in service on the date of enactment of such
3 Act.

4 “(g) REGULATIONS.—The Secretary may prescribe
5 such regulations and other guidance as may be necessary
6 or appropriate to carry out this section, including regula-
7 tions or other guidance to—

8 “(1) ensure proper allocation under subsection
9 (a) for qualified carbon dioxide captured by a tax-
10 payer during the taxable year ending after the date
11 of the enactment of the Carbon Capture Act, and

12 “(2) determine whether a facility satisfies the
13 requirements under subsection (d)(1) during such
14 taxable year.”.

15 (b) EFFECTIVE DATE.—Except to the extent pro-
16 vided in section 45Q(f) of such Code, as amended by this
17 Act, the amendments made by this section shall apply to
18 property placed in service on after the date of the enact-
19 ment of this Act.

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