

section (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).

(Added Pub. L. 109-58, title XIII, §1307(b), Aug. 8, 2005, 119 Stat. 999; amended Pub. L. 109-432, div. A, title II, §203(a), Dec. 20, 2006, 120 Stat. 2945; Pub. L. 110-172, §11(a)(10), Dec. 29, 2007, 121 Stat. 2485; Pub. L. 110-234, title XV, §15346(a), May 22, 2008, 122 Stat. 1523; Pub. L. 110-246, §4(a), title XV, §15346(a), June 18, 2008, 122 Stat. 1664, 2285; Pub. L. 110-343, div. B, title I, §111(a)-(d), Oct. 3, 2008, 122 Stat. 3822, 3823; Pub. L. 111-5, div. B, title I, §1103(b)(2)(C), Feb. 17, 2009, 123 Stat. 321.)

REFERENCES IN TEXT

The enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (b)(3), is the date of enactment of title XI of Pub. L. 101-508, which was approved Nov. 5, 1990.

The date of enactment of this section, referred to in subsecs. (d)(1), (4)(A) and (f)(3), is the date of enactment of Pub. L. 109-58, which was approved Aug. 8, 2005.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111-5 inserted “(without regard to subparagraph (D) thereof)” after “section 48(a)(4)”.

2008—Subsec. (a)(3). Pub. L. 110-343, §111(a), added par. (3).

Subsec. (d)(2)(A). Pub. L. 110-343, §111(c)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).”

Subsec. (d)(3)(A). Pub. L. 110-343, §111(b), substituted “\$2,550,000,000” for “\$1,300,000,000”.

Subsec. (d)(3)(B). Pub. L. 110-343, §111(c)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

“(i) \$800,000,000 for integrated gasification combined cycle projects, and

“(ii) \$500,000,000 for projects which use other advanced coal-based generation technologies.”

Subsec. (d)(5). Pub. L. 110-343, §111(d), added par. (5).

Subsec. (e)(1)(G). Pub. L. 110-343, §111(c)(3)(A), added subpar. (G).

Subsec. (e)(3). Pub. L. 110-343, §111(c)(5), substituted “certain” for “integrated gasification combined cycle” in heading.

Subsec. (e)(3)(B)(iii), (iv). Pub. L. 110-343, §111(c)(4), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (e)(3)(C). Pub. L. 110-343, §111(c)(3)(B), added subpar. (C).

Subsec. (h). Pub. L. 110-246, §15346(a), added subsec. (h).

Subsec. (i). Pub. L. 110-343, §111(c)(3)(C), added subsec. (i).

2007—Subsec. (d)(4)(B)(ii). Pub. L. 110-172 struck out “subsection” before “paragraph” in two places.

2006—Subsec. (f)(1). Pub. L. 109-432 inserted concluding provisions.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to periods after Dec. 31, 2008, under rules similar to the rules of

section 48(m) of this title as in effect on the day before Nov. 5, 1990, see section 1103(c)(1) of Pub. L. 111-5, set out as a note under section 25C of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title I, §111(e), Oct. 3, 2008, 122 Stat. 3823, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section] shall apply to credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act [Oct. 3, 2008].

“(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) [amending this section] shall apply to certifications made after the date of the enactment of this Act.

“(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) [amending this section] shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005 [Pub. L. 109-58].”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, §15346(b), May 22, 2008, 122 Stat. 1523, and Pub. L. 110-246, §4(a), title XV, §15346(b), June 18, 2008, 122 Stat. 1664, 2285, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [June 18, 2008] and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title II, §203(b), Dec. 20, 2006, 120 Stat. 2945, provided that: “The amendment made by this section [amending this section] shall take apply [sic] with respect to applications for certification under section 48A(d)(2) of the Internal Revenue Code of 1986 submitted after October 2, 2006.”

EFFECTIVE DATE

Section applicable to periods after Aug. 8, 2005, under rules similar to the rules of section 48(m) of this title, as in effect on the day before Nov. 5, 1990, see section 1307(d) of Pub. L. 109-58, set out as an Effective Date of 2005 Amendment note under section 46 of this title.

§ 48B. Qualifying gasification project credit

(a) In general

For purposes of section 46, the qualifying gasification project credit for any taxable year is an amount equal to 20 percent (30 percent in the case of credits allocated under subsection (d)(1)(B)) of the qualified investment for such taxable year.

(b) Qualified investment

(1) In general

For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project—

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

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

(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

(2) Special rule for certain subsidized property

Rules similar to section 48(a)(4) (without regard to subparagraph (D) thereof) shall apply for purposes of this section.

(3) Certain qualified progress expenditures rules made applicable

Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

(c) Definitions

For purposes of this section—

(1) Qualifying gasification project

The term “qualifying gasification project” means any project which—

(A) employs gasification technology,

(B) will be carried out by an eligible entity, and

(C) any portion of the qualified investment of which is certified under the qualifying gasification program as eligible for credit under this section in an amount (not to exceed \$650,000,000) determined by the Secretary.

(2) Gasification technology

The term “gasification technology” means any process which converts a solid or liquid product from coal, petroleum residue, biomass, or other materials which are recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

(3) Eligible property

The term “eligible property” means any property which is a part of a qualifying gasification project and is necessary for the gasification technology of such project.

(4) Biomass

(A) In general

The term “biomass” means any—

(i) agricultural or plant waste,

(ii) byproduct of wood or paper mill operations, including lignin in spent pulping liquors, and

(iii) other products of forestry maintenance.

(B) Exclusion

The term “biomass” does not include paper which is commonly recycled.

(5) Carbon capture capability

The term “carbon capture capability” means a gasification plant design which is determined by the Secretary to reflect reasonable consideration for, and be capable of, ac-

commodating the equipment likely to be necessary to capture carbon dioxide from the gaseous stream, for later use or sequestration, which would otherwise be emitted in the flue gas from a project which uses a nonrenewable fuel.

(6) Coal

The term “coal” means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

(7) Eligible entity

The term “eligible entity” means any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to—

(A) chemicals,

(B) fertilizers,

(C) glass,

(D) steel,

(E) petroleum residues,

(F) forest products,

(G) agriculture, including feedlots and dairy operations, and

(H) transportation grade liquid fuels.

(8) Petroleum residue

The term “petroleum residue” means the carbonized product of high-boiling hydrocarbon fractions obtained in petroleum processing.

(d) Qualifying gasification project program

(1) In general

Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying gasification project program to consider and award certifications for qualified investment eligible for credits under this section to qualifying gasification project sponsors under this section. The total amounts of credit that may be allocated under the program shall not exceed—

(A) \$350,000,000, plus

(B) \$250,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project’s total carbon dioxide emissions.

(2) Period of issuance

A certificate of eligibility under paragraph (1) may be issued only during the 10-fiscal year period beginning on October 1, 2005.

(3) Selection criteria

The Secretary shall not make a competitive certification award for qualified investment for credit eligibility under this section unless the recipient has documented to the satisfaction of the Secretary that—

(A) the award recipient is financially viable without the receipt of additional Federal funding associated with the proposed project,

(B) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is spent efficiently and effectively,

(C) a market exists for the products of the proposed project as evidenced by contracts

or written statements of intent from potential customers,

(D) the fuels identified with respect to the gasification technology for such project will comprise at least 90 percent of the fuels required by the project for the production of chemical feedstocks, liquid transportation fuels, or coproduction of electricity,

(E) the award recipient's project team is competent in the construction and operation of the gasification technology proposed, with preference given to those recipients with experience which demonstrates successful and reliable operations of the technology on domestic fuels so identified, and

(F) the award recipient has met other criteria established and published by the Secretary.

(4) Selection priorities

In determining which qualifying gasification projects to certify under this section, the Secretary shall—

(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).

(e) Denial of double benefit

A credit shall not be allowed under this section for any qualified investment for which a credit is allowed under section 48A.

(f) Recapture of credit for failure to sequester

The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).

(Added Pub. L. 109-58, title XIII, § 1307(b), Aug. 8, 2005, 119 Stat. 1004; amended Pub. L. 110-343, div. B, title I, § 112(a)-(e), Oct. 3, 2008, 122 Stat. 3824; Pub. L. 111-5, div. B, title I, § 1103(b)(2)(D), Feb. 17, 2009, 123 Stat. 321.)

REFERENCES IN TEXT

The enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (b)(3), is the date of enactment of title XI of Pub. L. 101-508, which was approved Nov. 5, 1990.

The date of the enactment of this section, referred to in subsec. (d)(1), is the date of enactment of Pub. L. 109-58, which was approved Aug. 8, 2005.

AMENDMENTS

2009—Subsec. (b)(2). Pub. L. 111-5 inserted “(without regard to subparagraph (D) thereof)” after “section 48(a)(4)”.

2008—Subsec. (a). Pub. L. 110-343, § 112(a), inserted “(30 percent in the case of credits allocated under subsection (d)(1)(B))” after “20 percent”.

Subsec. (c)(7)(H). Pub. L. 110-343, § 112(e), added subpar. (H).

Subsec. (d)(1). Pub. L. 110-343, § 112(b), substituted “shall not exceed—” for “shall not exceed \$350,000,000 under rules similar to the rules of section 48A(d)(4).” and added subpars. (A) and (B).

Subsec. (d)(4). Pub. L. 110-343, § 112(d), added par. (4).
Subsec. (f). Pub. L. 110-343, § 112(c), added subsec. (f).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 applicable to periods after Dec. 31, 2008, under rules similar to the rules of section 48(m) of this title as in effect on the day before Nov. 5, 1990, see section 1103(c)(1) of Pub. L. 111-5, set out as a note under section 25C of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. B, title I, § 112(f), Oct. 3, 2008, 122 Stat. 3824, provided that: “The amendments made by this section [amending this section] shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act [Oct. 3, 2008].”

EFFECTIVE DATE

Section applicable to periods after Aug. 8, 2005, under rules similar to the rules of section 48(m) of this title, as in effect on the day before Nov. 5, 1990, see section 1307(d) of Pub. L. 109-58, set out as an Effective Date of 2005 Amendment note under section 46 of this title.

§ 48C. Qualifying advanced energy project credit

(a) In general

For purposes of section 46, the qualifying advanced energy project credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying advanced energy project of the taxpayer.

(b) Qualified investment

(1) In general

For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project.

(2) Certain qualified progress expenditures rules made applicable

Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

(3) Limitation

The amount which is treated as the qualified investment for all taxable years with respect to any qualifying advanced energy project shall not exceed the amount designated by the Secretary as eligible for the credit under this section.

(c) Definitions

(1) Qualifying advanced energy project

(A) In general

The term “qualifying advanced energy project” means a project—

(i) which re-equips, expands, or establishes a manufacturing facility for the production of—

(I) property designed to be used to produce energy from the sun, wind, geothermal deposits (within the meaning of section 613(e)(2)), or other renewable resources,

(II) fuel cells, microturbines, or an energy storage system for use with electric or hybrid-electric motor vehicles,