

116TH CONGRESS
1ST SESSION

S. 2263

To amend the Internal Revenue Code of 1986 to enhance the requirements for secure geological storage of carbon oxide for purposes of the carbon oxide sequestration credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25, 2019

Mr. HOEVEN (for himself, Mr. DAINES, Mrs. HYDE-SMITH, Mr. WICKER, and Mr. CRAMER) 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 enhance the requirements for secure geological storage of carbon oxide for purposes of the carbon oxide sequestration credit, 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.**

4 This Act may be cited as the “CO2 Regulatory Cer-
5 tainty Act”.

1 **SEC. 2. SECURE GEOLOGICAL STORAGE OF CARBON OXIDE.**

2 (a) IN GENERAL.—Paragraph (2) of section 45Q(f)
3 of the Internal Revenue Code of 1986 is amended to read
4 as follows:

5 “(2) SECURE GEOLOGICAL STORAGE.—

6 “(A) IN GENERAL.—The Secretary, in con-
7 sultation with the Administrator of the Envi-
8 ronmental Protection Agency, the Secretary of
9 Energy, and the Secretary of the Interior, shall
10 establish regulations for determining adequate
11 security measures for the geological storage of
12 carbon oxide under subsection (a) such that the
13 carbon oxide does not escape into the atmos-
14 phere. Such term shall include storage at deep
15 saline formations, oil and gas reservoirs (includ-
16 ing storage associated with qualified enhanced
17 oil or natural gas recovery projects), and
18 unminable coal seams under such conditions as
19 the Secretary may determine under such regu-
20 lations.

21 “(B) REQUIREMENTS.—The regulations
22 established pursuant to subparagraph (A) shall
23 provide that—

24 “(i) for purposes of paragraph (1)(B)
25 or (3)(B) of subsection (a), carbon oxide
26 shall be considered disposed of in secure

1 geological storage if such carbon oxide is
2 stored in compliance with rules promul-
3 gated by the Environmental Protection
4 Agency under subpart RR of part 98 of
5 title 40, Code of Federal Regulations (as
6 in effect on the date of the enactment of
7 this paragraph), under the Clean Air Act
8 (42 U.S.C. 7401 et seq.) and rules under
9 the Safe Drinking Water Act (42 U.S.C.
10 300f et seq.) which are applicable to car-
11 bon oxide disposed of in secure geological
12 storage and not used as a tertiary
13 injectant in a qualified enhanced oil or nat-
14 ural gas recovery project, and

15 “(ii) for purposes of paragraph
16 (2)(B)(i) or (4)(B)(i) of subsection (a),
17 carbon oxide shall be considered disposed
18 of in secure geological storage at a quali-
19 fied enhanced oil or natural gas recovery
20 project if—

21 “(I) such carbon oxide is injected
22 in compliance with rules promulgated
23 by the Environmental Protection
24 Agency which are applicable to carbon
25 oxide used as a tertiary injectant in a

1 qualified enhanced oil or natural gas
2 recovery project under subpart C of
3 part 146 of title 40, Code of Federal
4 Regulations (as in effect on the date
5 of the enactment of this paragraph),
6 under the Safe Drinking Water Act,
7 to the extent such rules are applicable
8 to Class II wells,

9 “(II) the injection of such carbon
10 oxide at such project is reported in
11 compliance with subpart UU of part
12 98 of title 40, Code of Federal Regu-
13 lations (as in effect on the date of the
14 enactment of this paragraph), under
15 the Clean Air Act,

16 “(III) the supply of such carbon
17 oxide to such project is reported in
18 compliance with subpart PP of part
19 98 of title 40, Code of Federal Regu-
20 lations (as in effect on the date of the
21 enactment of this paragraph), under
22 the Clean Air Act,

23 “(IV) the atmospheric emission
24 of such carbon oxide from such
25 project is reported in compliance with

1 subparts C and W of part 98 of title
 2 40, Code of Federal Regulations (as
 3 in effect on the date of the enactment
 4 of this paragraph), under the Clean
 5 Air Act, to the extent such subparts
 6 are applicable to such project, and

7 “(V) the demonstration and doc-
 8 umentation of the containment, moni-
 9 toring and quantification of such car-
 10 bon oxide conforms to ISO
 11 27916:2019 (entitled ‘Carbon dioxide
 12 capture, transportation and geological
 13 storage - Carbon dioxide storage using
 14 enhanced oil recovery (CO2-EOR)’) or
 15 the equivalent standard of the Amer-
 16 ican National Standards Institute.”.

17 (b) QUALIFIED ENHANCED OIL OR NATURAL GAS
 18 RECOVERY PROJECT.—Paragraph (2) of section 45Q(e)
 19 of the Internal Revenue Code of 1986 is amended—

20 (1) by striking “by substituting” and inserting
 21 “determined—

22 “(A) by substituting—”,

23 (2) by striking the period and inserting “,
 24 and”, and

25 (3) by inserting at the end the following:

- 1 “(B) without regard to subparagraph
- 2 (A)(iii) thereof.”.

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