

any dollar limitation contained in such section). Such term shall not include any amount taken into account for purposes of determining any other credit allowed under this subpart.

**(h) Election to have credit not apply**

**(1) In general**

A taxpayer may elect to have this section not apply for any taxable year.

**(2) Other rules**

Rules similar to the rules of paragraphs (2) and (3) of section 51(j) shall apply for purposes of this subsection.

**(i) Termination**

This section shall not apply to wages paid in taxable years beginning after December 31, 2025.

(Added Pub. L. 115–97, title I, §13403(a)(1), Dec. 22, 2017, 131 Stat. 2135; amended Pub. L. 116–94, div. Q, title I, §142(a), Dec. 20, 2019, 133 Stat. 3234; Pub. L. 116–260, div. EE, title I, §119(a), Dec. 27, 2020, 134 Stat. 3051.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Family and Medical Leave Act of 1993 and that Act, referred to in subsecs. (c)(2)(B) and (e)(1), (3), is Pub. L. 103–3, Feb. 5, 1993, 107 Stat. 6. Title I of the Act is classified generally to subchapter I (§2611 et seq.) of chapter 28 of Title 29, Labor. Section 102 of the Act is classified to section 2612 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 29 and Tables.

Section 3(e) of the Fair Labor Standards Act of 1938, referred to in subsec. (d), is classified to section 203(e) of Title 29, Labor.

**AMENDMENTS**

2020—Subsec. (i). Pub. L. 116–260 substituted “December 31, 2025” for “December 31, 2020”.

2019—Subsec. (i). Pub. L. 116–94 substituted “December 31, 2020” for “December 31, 2019”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2020 AMENDMENT**

Pub. L. 116–260, div. EE, title I, §119(b), Dec. 27, 2020, 134 Stat. 3051, provided that: “The amendment made by this section [amending this section] shall apply to wages paid in taxable years beginning after December 31, 2020.”

**EFFECTIVE DATE OF 2019 AMENDMENT**

Pub. L. 116–94, div. Q, title I, §142(b), Dec. 20, 2019, 133 Stat. 3234, provided that: “The amendment made by this section [amending this section] shall apply to wages paid in taxable years beginning after December 31, 2019.”

**EFFECTIVE DATE**

Section applicable to wages paid in taxable years beginning after Dec. 31, 2017, see section 13403(e) of Pub. L. 115–97, set out as an Effective Date of 2017 Amendment note under section 38 of this title.

**§ 45T. Auto-enrollment option for retirement savings options provided by small employers**

**(a) In general**

For purposes of section 38, in the case of an eligible employer, the retirement auto-enrollment credit determined under this section for any taxable year is an amount equal to—

- (1) \$500 for any taxable year occurring during the credit period, and
- (2) zero for any other taxable year.

**(b) Credit period**

For purposes of subsection (a)—

**(1) In general**

The credit period with respect to any eligible employer is the 3-taxable-year period beginning with the first taxable year for which the employer includes an eligible automatic contribution arrangement (as defined in section 414(w)(3)) in a qualified employer plan (as defined in section 4972(d)) sponsored by the employer.

**(2) Maintenance of arrangement**

No taxable year with respect to an employer shall be treated as occurring within the credit period unless the arrangement described in paragraph (1) is included in the plan for such year.

**(c) Eligible employer**

For purposes of this section, the term “eligible employer” has the meaning given such term in section 408(p)(2)(C)(i).

(Added Pub. L. 116–94, div. O, title I, §105(a), Dec. 20, 2019, 133 Stat. 3148.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section applicable to taxable years beginning after Dec. 31, 2019, see section 105(d) of Pub. L. 116–94, set out as an Effective Date of 2019 Amendment note under section 38 of this title.

**§ 45U. Zero-emission nuclear power production credit**

**(a) Amount of credit**

For purposes of section 38, the zero-emission nuclear power production credit for any taxable year is an amount equal to the amount by which—

- (1) the product of—
  - (A) 0.3 cents, multiplied by
  - (B) the kilowatt hours of electricity—
    - (i) produced by the taxpayer at a qualified nuclear power facility, and
    - (ii) sold by the taxpayer to an unrelated person during the taxable year, exceeds
- (2) the reduction amount for such taxable year.

**(b) Definitions**

**(1) Qualified nuclear power facility**

For purposes of this section, the term “qualified nuclear power facility” means any nuclear facility—

- (A) which is owned by the taxpayer and which uses nuclear energy to produce electricity,
- (B) which is not an advanced nuclear power facility as defined in subsection (d)(1) of section 45J, and
- (C) which is placed in service before the date of the enactment of this section.

**(2) Reduction amount**

**(A) In general**

For purposes of this section, the term “reduction amount” means, with respect to any

qualified nuclear power facility for any taxable year, the amount equal to the lesser of—

(i) the amount determined under subsection (a)(1), or

(ii) the amount equal to 16 percent of the excess of—

(I) subject to subparagraph (B), the gross receipts from any electricity produced by such facility (including any electricity services or products provided in conjunction with the electricity produced by such facility) and sold to an unrelated person during such taxable year, over

(II) the amount equal to the product of—

(aa) 2.5 cents, multiplied by

(bb) the amount determined under subsection (a)(1)(B).

### **(B) Treatment of certain receipts**

#### **(i) In general**

Subject to clause (iii), the amount determined under subparagraph (A)(ii)(I) shall include any amount received by the taxpayer during the taxable year with respect to the qualified nuclear power facility from a zero-emission credit program. For purposes of determining the amount received during such taxable year, the taxpayer shall take into account any reductions required under such program.

#### **(ii) Zero-emission credit program**

For purposes of this subparagraph, the term “zero-emission credit program” means any payments with respect to a qualified nuclear power facility as a result of any Federal, State or local government program for, in whole or in part, the zero-emission, zero-carbon, or air quality attributes of any portion of the electricity produced by such facility.

#### **(iii) Exclusion**

For purposes of clause (i), any amount received by the taxpayer from a zero-emission credit program shall be excluded from the amount determined under subparagraph (A)(ii)(I) if the full amount of the credit calculated pursuant to subsection (a) (determined without regard to this subparagraph) is used to reduce payments from such zero-emission credit program.

### **(3) Electricity**

For purposes of this section, the term “electricity” means the energy produced by a qualified nuclear power facility from the conversion of nuclear fuel into electric power.

### **(c) Other rules**

#### **(1) Inflation adjustment**

The 0.3 cent amount in subsection (a)(1)(A) and the 2.5 cent amount in subsection (b)(2)(A)(ii)(II)(aa) shall each be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), as applied by substituting “calendar year 2023” for “calendar year 1992” in subparagraph (B) thereof) for the calendar year in

which the sale occurs. If the 0.3 cent amount as increased under this paragraph is not a multiple of 0.05 cent, such amount shall be rounded to the nearest multiple of 0.05 cent. If the 2.5 cent amount as increased under this paragraph is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

#### **(2) Special rules**

Rules similar to the rules of paragraphs (1), (3), (4), (5), and (13) of section 45(e) shall apply for purposes of this section.

### **(d) Wage requirements**

#### **(1) Increased credit amount for qualified nuclear power facilities**

In the case of any qualified nuclear power facility which satisfies the requirements of paragraph (2)(A), the amount of the credit determined under subsection (a) shall be equal to such amount (as determined without regard to this sentence) multiplied by 5.

#### **(2) Prevailing wage requirements**

##### **(A) In general**

The requirements described in this subparagraph with respect to any qualified nuclear power facility are that the taxpayer shall ensure that any laborers and mechanics employed by the taxpayer or any contractor or subcontractor in the alteration or repair of such facility shall be paid wages at rates not less than the prevailing rates for alteration or repair of a similar character in the locality in which such facility is located as most recently determined by the Secretary of Labor, in accordance with subchapter IV of chapter 31 of title 40, United States Code.

##### **(B) Correction and penalty related to failure to satisfy wage requirements**

Rules similar to the rules of section 45(b)(7)(B) shall apply.

#### **(3) Regulations and guidance**

The Secretary shall issue such regulations or other guidance as the Secretary determines necessary to carry out the purposes of this subsection, including regulations or other guidance which provides for requirements for recordkeeping or information reporting for purposes of administering the requirements of this subsection.

### **(e) Termination**

This section shall not apply to taxable years beginning after December 31, 2032.

(Added and amended Pub. L. 117-169, title I, §§ 13105(a), 13204(b)(2), Aug. 16, 2022, 136 Stat. 1929, 1940.)

### **Editorial Notes**

#### **REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsec. (b)(1)(C), is the date of enactment of Pub. L. 117-169, which was approved Aug. 16, 2022.

#### **AMENDMENTS**

2022—Subsec. (c)(2). Pub. L. 117-169, § 13204(b)(2), substituted “(5), and (13)” for “and (5)”.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2022 AMENDMENT**

Amendment by section 13204(b)(2) of Pub. L. 117-169 applicable to electricity produced after Dec. 31, 2022, see section 13204(b)(3) of Pub. L. 117-169, set out as a note under section 45 of this title.

**EFFECTIVE DATE**

Pub. L. 117-169, title I, §13105(c), Aug. 16, 2022, 136 Stat. 1931, provided that: “This section [enacting this section and amending section 38 of this title] shall apply to electricity produced and sold after December 31, 2023, in taxable years beginning after such date.”

**§ 45V. Credit for production of clean hydrogen****(a) Amount of credit**

For purposes of section 38, the clean hydrogen production credit for any taxable year is an amount equal to the product of—

(1) the kilograms of qualified clean hydrogen produced by the taxpayer during such taxable year at a qualified clean hydrogen production facility during the 10-year period beginning on the date such facility was originally placed in service, multiplied by

(2) the applicable amount (as determined under subsection (b)) with respect to such hydrogen.

**(b) Applicable amount****(1) In general**

For purposes of subsection (a)(2), the applicable amount shall be an amount equal to the applicable percentage of \$0.60. If any amount as determined under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

**(2) Applicable percentage**

For purposes of paragraph (1), the applicable percentage shall be determined as follows:

(A) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—

(i) not greater than 4 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

(ii) not less than 2.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

the applicable percentage shall be 20 percent.

(B) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—

(i) less than 2.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

(ii) not less than 1.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

the applicable percentage shall be 25 percent.

(C) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of—

(i) less than 1.5 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, and

(ii) not less than 0.45 kilograms of CO<sub>2</sub>e per kilogram of hydrogen,

the applicable percentage shall be 33.4 percent.

(D) In the case of any qualified clean hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of less than 0.45 kilograms of CO<sub>2</sub>e per kilogram of hydrogen, the applicable percentage shall be 100 percent.

**(3) Inflation adjustment**

The \$0.60 amount in paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor (as determined under section 45(e)(2), determined by substituting “2022” for “1992” in subparagraph (B) thereof) for the calendar year in which the qualified clean hydrogen is produced. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

**(c) Definitions**

For purposes of this section—

**(1) Lifecycle greenhouse gas emissions****(A) In general**

Subject to subparagraph (B), the term “lifecycle greenhouse gas emissions” has the same meaning given such term under subparagraph (H) of section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)), as in effect on the date of enactment of this section.

**(B) GREET model**

The term “lifecycle greenhouse gas emissions” shall only include emissions through the point of production (well-to-gate), as determined under the most recent Greenhouse gases, Regulated Emissions, and Energy use in Transportation model (commonly referred to as the “GREET model”) developed by Argonne National Laboratory, or a successor model (as determined by the Secretary).

**(2) Qualified clean hydrogen****(A) In general**

The term “qualified clean hydrogen” means hydrogen which is produced through a process that results in a lifecycle greenhouse gas emissions rate of not greater than 4 kilograms of CO<sub>2</sub>e per kilogram of hydrogen.

**(B) Additional requirements**

Such term shall not include any hydrogen unless—

(i) such hydrogen is produced—

(I) in the United States (as defined in section 638(1)) or a possession of the United States (as defined in section 638(2)),

(II) in the ordinary course of a trade or business of the taxpayer, and

(III) for sale or use, and

(ii) the production and sale or use of such hydrogen is verified by an unrelated party.

**(C) Provisional emissions rate**

In the case of any hydrogen for which a lifecycle greenhouse gas emissions rate has not been determined for purposes of this section, a taxpayer producing such hydrogen may file a petition with the Secretary for