

117TH CONGRESS
2D SESSION

H. R. 9121

To amend the Internal Revenue Code of 1986 to establish a tax credit for abatement and sequestration of carbon dioxide equivalent through agricultural methods.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2022

Mr. RYAN of Ohio 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 establish a tax credit for abatement and sequestration of carbon dioxide equivalent through agricultural methods.

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 “Qualified Agricultural
5 Carbon Sequestration Act of 2022”.

6 **SEC. 2. QUALIFIED AGRICULTURAL CARBON SEQUESTRA-**
7 **TION CREDIT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 45Z the fol-
 2 lowing new section:

3 **“SEC. 45AA. QUALIFIED AGRICULTURAL CARBON SEQUES-**
 4 **TRATION CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 38, in
 6 the case of a qualified applicant, the qualified agricultural
 7 carbon sequestration credit for the taxable year is an
 8 amount equal to the sum of—

9 “(1) the carbon dioxide equivalent abatement
 10 credit,

11 “(2) the carbon dioxide equivalent sequestration
 12 credit, and

13 “(3) the early adopter credit.

14 “(b) CARBON DIOXIDE EQUIVALENT ABATEMENT
 15 CREDIT.—

16 “(1) IN GENERAL.—The amount of the carbon
 17 dioxide equivalent abatement credit for the taxable
 18 year shall be equal to the applicable dollar amount
 19 per metric ton of qualified carbon dioxide equivalent
 20 abatement by a qualified applicant.

21 “(2) QUALIFIED CARBON DIOXIDE EQUIVALENT
 22 ABATEMENT.—For purposes of this subsection, the
 23 term ‘qualified carbon dioxide equivalent abatement’
 24 means the amount (not less than zero) equal to—

1 “(A) the amount of carbon dioxide equiva-
2 lent emitted into the atmosphere by the quali-
3 fied applicant during the counterfactual base-
4 line year, minus

5 “(B) the amount of carbon dioxide equiva-
6 lent emitted into the atmosphere by such farm
7 during the taxable year.

8 “(3) APPLICABLE DOLLAR AMOUNT.—

9 “(A) For purposes of this subsection, the
10 applicable dollar amount shall be an amount
11 equal to—

12 “(i) for any taxable year beginning in
13 a calendar year after 2022 and before
14 2027, the dollar amount established by lin-
15 ear interpolation between \$22.66 and \$50
16 for each calendar year during such period,
17 and

18 “(ii) for any taxable year beginning in
19 a calendar year after 2026, an amount
20 equal to the product of \$50 and the infla-
21 tion adjustment factor determined under
22 section 43(b)(3)(B) for such calendar year,
23 determined by substituting ‘2025’ for
24 ‘1990’.

1 “(B) ROUNDING.—The applicable dollar
2 amount determined under subparagraph (A)
3 shall be rounded to the nearest cent.

4 “(4) LIMITATION.—For purposes of this sub-
5 section, the carbon dioxide equivalent abatement
6 credit shall only be allowed in each taxable year sub-
7 sequent to the counterfactual baseline year.

8 “(c) CARBON DIOXIDE EQUIVALENT SEQUESTRA-
9 TION CREDIT.—

10 “(1) IN GENERAL.—The amount of the carbon
11 sequestration credit for any taxable year shall be an
12 amount equal to the sum of—

13 “(A) the qualifying amount, plus

14 “(B) an amount equal to the sum of any
15 carbon sequestration allotment for such taxable
16 year.

17 “(2) QUALIFYING AMOUNT.—For purposes of
18 this subsection, the term qualifying amount means—

19 “(A) in the case of a taxable year for
20 which qualified carbon sequestration by a quali-
21 fied applicant is greater than zero, 10 percent
22 of the applicable dollar amount per metric ton
23 of such qualified carbon sequestration by such
24 applicant, and

“(B) in the case of a taxable year for which qualified carbon sequestration by a qualified applicant is equal to or less than zero, 0 percent of such applicable dollar amount.

“(3) APPLICABLE DOLLAR AMOUNT.—

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

“(i) for any taxable year beginning in a calendar year after 2022 and before 2027, the dollar amount established by linear interpolation between \$12.83 and \$35 for each calendar year during such period, and

“(ii) for any taxable year beginning in a calendar year after 2026, an amount equal to the product of \$35 and the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting ‘2025’ for ‘1990’.

“(B) ROUNDING.—The applicable dollar amount determined under paragraph (1) shall be rounded to the nearest cent.

“(4) CARBON SEQUESTRATION ALLOTMENT.—

For purposes of this subsection, the term ‘carbon se-

1 sequestration allotment’ means, for each of the 9 tax-
 2 able years subsequent to any taxable year described
 3 in paragraph (1)(A), an amount equal to the amount
 4 described in such paragraph.

5 “(5) QUALIFIED CARBON SEQUESTRATION.—

6 “(A) IN GENERAL.—For purposes of this
 7 subsection, the term ‘qualified carbon seques-
 8 tration’ means the amount (not less than zero)
 9 equal to—

10 “(i) the stock of soil organic carbon
 11 stored in the soil of the qualified farm dur-
 12 ing the taxable year, minus

13 “(ii) the stock of soil organic carbon
 14 stored in the soil of such farm during the
 15 preceding taxable year.

16 “(B) FIRST YEAR.—For purposes of the
 17 first taxable year beginning after the date on
 18 which a taxable entity after the date the tax-
 19 payer becomes a qualified applicant, the taxable
 20 year described in subparagraph (A)(ii) shall be
 21 the counterfactual baseline year.

22 “(6) RECAPTURE.—The Secretary shall, by reg-
 23 ulations, provide for recapturing the benefit of any
 24 carbon sequestration credit allowable under this sub-
 25 section with respect to any carbon which ceases to

1 be sequestered in a manner consistent with the re-
2 quirements under this section for a period of not less
3 than 10 years.

4 “(d) EARLY ADOPTER CREDIT.—

5 “(1) IN GENERAL.—The amount of the early
6 adopter credit for any taxable year shall be an
7 amount equal to the applicable dollar amount per
8 metric ton of early adopter carbon sequestration.

9 “(2) EARLY ADOPTER CARBON SEQUESTRA-
10 TION.—For purposes of this subsection, the term
11 ‘early adopter carbon sequestration’ means the
12 amount (not less than zero) equal to—

13 “(A) the stock of soil organic carbon
14 stored in the soil of the qualified farm during
15 the taxable year, minus

16 “(B) the average stock of soil organic car-
17 bon stored in the soil of other farms in the
18 county in which such qualified farm is located
19 during the taxable year.

20 “(3) CREDIT MAY BE TAKEN ONLY ONCE.—The
21 credit under this subsection may only be taken with
22 respect to a qualified farm in the first year a credit
23 is allowed to such farm under this section.

24 “(4) APPLICABLE DOLLAR AMOUNT.—

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

3 “(i) for any taxable year beginning in
4 a calendar year after 2022 and before
5 2027, the dollar amount established by lin-
6 ear interpolation between \$12.83 and \$35
7 for each calendar year during such period,
8 and

9 “(ii) for any taxable year beginning in
10 a calendar year after 2026, an amount
11 equal to the product of \$35 and the infla-
12 tion adjustment factor for such calendar
13 year determined under section 43(b)(3)(B)
14 for such calendar year, determined by sub-
15 stituting ‘2025’ for ‘1990’.

16 “(B) ROUNDING.—The applicable dollar
17 amount determined under paragraph (1) shall
18 be rounded to the nearest cent.

19 “(e) QUALIFIED APPLICANT.—For purposes of this
20 section, the term ‘qualified applicant’ means a farm (in-
21 cluding the taxpayer with operational control over seques-
22 tration on such farm, or a third party project developer
23 or aggregator acting on the taxpayer’s behalf) which has
24 been certified by the Secretary pursuant to subsection (f).

1 “(f) QUALIFIED AGRICULTURAL CARBON SEQUES-
2 TRATION AND ABATEMENT PROGRAM.—

3 “(1) IN GENERAL.—Not later than 180 days
4 after the date of enactment of this section, the Sec-
5 retary, after consultation with the Secretary of Agri-
6 culture, shall establish a qualified agricultural car-
7 bon sequestration and abatement program to con-
8 sider and award certifications for qualified appli-
9 cants eligible for credits under this section.

10 “(2) APPLICATION.—An applicant under this
11 subsection shall submit an application containing
12 such information as the Secretary may require, in-
13 cluding information required for the selection de-
14 scribed in paragraph (3).

15 “(3) SELECTION.—In determining which appli-
16 cants to certify under this subsection, the Secretary
17 shall do the following:

18 “(A) Certify the manner and methods by
19 which the taxpayer will measure the amount of
20 carbon dioxide equivalent abatement and se-
21 questration. Such manner and methods shall be
22 consistent with current best practices, with
23 measured changes independently verified by the
24 Secretary of Agriculture as—

25 “(i) real,

1 “(ii) additional,

2 “(iii) based on a realistic and credible
3 baseline,

4 “(iv) quantified, monitored, reported,
5 and verified,

6 “(v) having a clear and transparent
7 chain of custody,

8 “(vi) representing permanent emis-
9 sions reductions,

10 “(vii) assessed and mitigated against
11 potential increase in emissions elsewhere,

12 “(viii) only counted once towards a
13 mitigation obligation, and

14 “(ix) causing no net harm.

15 “(B) Assess and approve independent
16 greenhouse gas crediting programs which reg-
17 ister projects and credits involving qualified
18 farms.

19 “(4) 5-YEAR CERTIFICATION.—A certification
20 under paragraph (3) shall be valid for a period of 5
21 years after the date such certification is issued.

22 “(g) COUNTERFACTUAL BASELINE YEAR.—For pur-
23 poses of this section, the term ‘counterfactual baseline
24 year’ means the year in which the Secretary certifies a
25 qualified applicant under subsection (f).

1 “(h) REQUIREMENTS REGARDING CARBON DIOXIDE
2 EQUIVALENT.—The credit under this section shall apply
3 only with respect to carbon dioxide equivalent the abate-
4 ment or sequester of which is—

5 “(1) within the United States or a possession of
6 the United States, and

7 “(2) measured on a qualified farm and verified
8 using the methods or independent greenhouse gas
9 crediting programs certified by the Secretary under
10 subsection (f)(3).

11 “(i) REGULATIONS.—Not later than 14 months after
12 the date of enactment of this section, the Secretary shall,
13 after consultation with the Secretary of Agriculture, pre-
14 scribe such regulations and guidance as may be necessary
15 or appropriate to carry out this section, including regula-
16 tions or guidance to—

17 “(1) establish the method and frequency by
18 which soil samples are taken from qualified farms to
19 determine the amount of carbon which is seques-
20 tered in the soil of such farms,

21 “(2) provide rules for the treatment of credits
22 in cases where a qualified farm is sold or transferred
23 to another person subsequent to the baseline year,
24 and

1 “(3) provide rules for the early adopter credit
2 in subsection (d).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 38(b) of such Code is amended by
5 striking “plus” at the end of paragraph (37), by
6 striking the period at the end of paragraph (38) and
7 inserting “, plus”, and by adding at the end the fol-
8 lowing new paragraph:

9 “(39) the qualified agricultural carbon seques-
10 tration credit determined under section 45AA(a).”.

11 (2) The table of sections for subpart D of part
12 IV of subchapter A of chapter 1 of such Code is
13 amended by inserting after the item relating to sec-
14 tion 45Z the following new item:

“Sec. 45AA. Qualified agricultural carbon sequestration credit.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2022.

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