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## Review of Current Clean Energy Tax Credits and Legislative Proposals

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Policymakers are working with the White House to expand existing clean energy tax credits, as well as creating new credits for certain projects. This *Energy Law Insight* will focus on certain existing tax credit provisions within the Internal Revenue Code related to medium and heavy duty zero-emission vehicle (ZEV) trucking, carbon oxide sequestration, hydrogen production, and advanced energy project credits:

### Existing Credits

- New qualified plug-in electric drive motor vehicles (26 U.S.C. § 30D)
  - Allows for a tax or business credit in the base amount of \$2,500 per vehicle, with additional allowances available
  - Applicable to Class 3 vehicles and below
- Credit for carbon oxide sequestration (26 U.S.C. § 45Q)
  - Between \$12.83 and \$50 per metric ton of qualified carbon oxide captured using carbon capture equipment
  - The applicable credit depends upon the method of carbon capture utilized, and the in-service date between calendar year 2016 and 2027
- Qualifying advanced energy project credit (26 U.S.C. § 48C)
  - Allowed for the total allocation of \$2.3 billion in available tax credits under the program
  - Limited to qualified advanced energy projects using the following criterion:
    - Job creation, both direct and indirect, during the credit period
    - Net impact in avoiding or reducing air pollutants and GHG emissions
    - Potential for technological innovation and commercial deployment
    - Cost of generated or stored energy, or measured reduction in energy consumption and emissions (based on costs of the full supply chain), and
    - Project timeline from certification to completion

### Proposed Changes and Expansions

- The Green Book (U.S. Treasury Department's "General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals")
  - Creates a new tax credit for medium and heavy-duty ZEVs, ranging from \$25,000 per vehicle for Class 3, to \$120,000 for Class 7 & 8 vehicles
  - Extends the deadline for 45Q carbon oxide sequestration projects from January 1, 2026, to January 1, 2031
    - Increased the credit to \$85 per metric ton for industrial carbon oxide capture such as cement production, steelmaking and hydrogen production
    - Total credit per metric ton is dependent upon method and difficulty of carbon capture related to that particular industry
  - Establish a credit for low-carbon hydrogen production during the first six years of service for facilities applied to energy, industrial and transportation sectors
    - Credit of up to \$3 per kilogram produced between 2022 and 2024 would also depend upon the particular hydrogen production process, and the amount of emitted carbon actually sequestered
    - Applicable processes include zero-carbon emissions electricity as feedstock (green hydrogen), and natural gas as feedstock with all carbon oxide captured and sequestered (blue hydrogen)
  - Expand tax credits available for qualifying advanced energy projects under Section 48C
    - Expansion would include processes such as recycling and production, technological expansions, energy storage and grid modernization, as well as carbon oxide sequestration
    - Of the \$10 billion in available tax credits, \$5 billion would be allocated to coal communities
    - The program would include a three-year application window commencing on December 31, 2021
- The House Ways and Means Committee and the Senate Finance Committee have proposed the GREEN Act and the Clean Energy for America Act, respectively, both of which closely mirror or additionally expand those proposals listed above from the Green Book

The energy infrastructure and transportation industries will continue to closely monitor these developments, as large dollar amounts continue to be committed to clean energy and renewable production and development. Dickie, McCamey & Chilcote, P.C.'s Energy Group will continue to monitor these developments, as well as discuss state-related programs in subsequent *Energy Law Insights*.



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