

## Part III - Administrative, Procedural, and Miscellaneous

### Qualifying Advanced Coal Project Program--Special Allocation Round

Notice 2008-26

#### SECTION 1. PURPOSE

This notice updates and amplifies the procedures for the allocation of credits under the qualifying advanced coal program of § 48A of the Internal Revenue Code by announcing the immediate beginning of a special allocation round. This special allocation round applies only to the pool of investment credits available for integrated gasification combined cycle (IGCC) projects using bituminous coal as primary feedstock. This notice provides that, except as specifically provided in this notice, this special allocation round will be conducted in the same manner and under the same procedures as provided under Notice 2007-52 (including Appendices A, B, and C), 2007-26 I.R.B. 1456, which updated and modified the advanced coal project program established under Notice 2006-24, 2006-11 I.R.B. 595. To be considered in this special allocation round, applications must be submitted to the Department of Energy (DOE) on or before May 2, 2008, and to the Internal Revenue Service before June 3, 2008. See section 3 of this notice for additional rules regarding applications for § 48A and DOE certification.

## SECTION 2. BACKGROUND

.01 Section 46 provides that the amount of the investment credit for any taxable year is the sum of the credits listed in § 46. This list includes the qualifying advanced coal project credit.

.02 Section 48A(a) provides that the qualifying advanced coal project credit for any taxable year includes 20 percent of the qualified investment (as defined in § 48A(b)) for that taxable year in certified qualifying advanced coal projects (as defined in § 48A(c)(1) and § 48A(e)) using an integrated gasification combined cycle (as defined in § 48A(c)(7)). Section 48A(d)(3) provides that \$800 million of credits are to be allocated to IGCC projects. Section 48A(e)(3)(A) provides that the credits for IGCC projects must be allocated in accordance with the procedures set forth in § 48A(d), and in relatively equal amounts to (i) projects using bituminous coal as a primary feedstock, (ii) projects using subbituminous coal as a primary feedstock, and (iii) projects using lignite as a primary feedstock. Further, § 48A(e)(3)(B) provides that IGCC projects that include (i) greenhouse gas capture capability (as defined in § 48A(c)(5)), (ii) increased by-product utilization, and (iii) other benefits must be given high priority in the allocation of credits for IGCC projects.

.03 Section 48A(d)(1) provides that the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies. The Treasury Department and the Service established this program in Notice 2006-24. Under section 4.02(2)(b) of Notice 2006-24, \$267 million of qualifying advanced coal project credit was

available for allocation from the pool for IGCC projects using bituminous coal as a primary feedstock and the maximum amount that could be allocated to such a project was \$133.5 million.

.04 Section 4.02(2)(b) of Notice 2007-52 provides that no allocation round will be conducted in 2007-08 for IGCC projects using bituminous coal as a primary feedstock.

.05 At this time, \$133.5 million of credit is available for allocation from the pool for IGCC projects using bituminous coal as a primary feedstock. Under Notice 2007-52, the allocation of the credit for this pool would not occur before the allocation round conducted in 2008-09. To avoid this delay, this notice provides a special allocation round for IGCC projects using bituminous coal as a primary feedstock.

### SECTION 3. SPECIAL ALLOCATION ROUND FOR IGCC PROJECTS USING BITUMINOUS COAL AS A PRIMARY FEEDSTOCK

.01 Except as otherwise specifically provided in this notice, this special allocation round will be conducted in the same manner and under the same procedures as provided under Notice 2007-52 including Appendices A, B, and C. This notice restates or references certain provisions in Notice 2007-52 as a convenience to taxpayers. The restatement or referencing of these provisions does not diminish the effect of provisions that are not restated or referenced.

.02 This special allocation round applies only to the pool of qualifying advanced coal project credit for IGCC projects using bituminous coal as a primary feedstock. The aggregate amount of credits available for allocation from this pool is \$133.5 million. The entire \$133.5 million is available for allocation in this special allocation round and may

be allocated to a single project.

.03 For this special allocation round, the application period begins on February 13, 2008\_ and ends on June 2, 2008. During the application period, an application for § 48A certification and a separate application for DOE certification must be submitted for each qualifying advanced coal project. See section 3.07 for the date by which the application for DOE certification must be submitted to the DOE. Any completed application for § 48A certification for an IGCC project using bituminous coal as a primary feedstock that is received by the Service on or after February 13, 2008, and before June 3, 2008, will be deemed to be submitted by the taxpayer on June 2, 2008.

.04 For this special allocation round, the Service will consider a project only if the application for § 48A certification for the project is submitted during the application period for this round and the DOE provides the DOE certification and the DOE ranking (if any) for the project before July 4, 2008.

.05 If an application for DOE certification does not include all of the information required by section 5.02 of Notice 2007-52 and meet the requirements in sections 7.01 and 7.02 of Notice 2007-52, the DOE may decline to accept the application. If an application for § 48A certification does not include all of the information listed in section 5.03 of Notice 2007-52 and meet the requirements in sections 7.01 and 7.02 of Notice 2007-52, the application will not be accepted by the Service.

.06 An application for § 48A certification must be submitted in the manner provided in section 5.04 of Notice 2007-52.

.07 For this special allocation round, the DOE will consider an application for

DOE certification only if the application is postmarked on or before May 2, 2008. The DOE will determine the feasibility of each project for which it receives a timely application for DOE certification and, if the project is determined to be feasible, will provide a DOE certification for the project to the Service. If the DOE certifies two or more projects, the DOE also will rank each of the projects it certifies (for example, first, second, third, etc.) relative to other certified projects. The DOE will provide the DOE certification for projects determined to be feasible and the DOE ranking (if any) to the Service on or before July 3, 2008.

.08 By July 31, 2008, the Service will accept or reject the taxpayer's application for § 48A certification and will notify the taxpayer, by letter, of its decision.

.09 If the taxpayer's application for § 48A certification is accepted, the acceptance letter will state the amount of the credit allocated to the project. If a credit is allocated to a taxpayer's project, the taxpayer will be required to execute an agreement in substantially the form set forth in Appendix A to Notice 2007-52. By September 8, 2008, the taxpayer must execute and return the agreement to the Service at the appropriate address listed in section 5.04 of Notice 2007-52 or listed in later guidance published in the Internal Revenue Bulletin. The Service will execute and return the agreement to the taxpayer by September 29, 2008. The executed agreement applies only to the accepted taxpayer.

.10 If the amount available for allocation from the pool for IGCC projects using bituminous coal as a primary feedstock is not fully allocated in the special allocation round, the remaining amount in the pool will be treated for purposes of Notice 2007-52

as an amount that is not fully allocated in the 2007-08 allocation round. The remaining amount in the pool will be available for allocation in the allocation round conducted in 2008-09 under the provisions of Notice 2007-52. The provisions of Notice 2007-52 relating to the allocation round conducted in 2008-09 will be applied with respect to this pool by substituting June 3, 2008, for March 3, 2008. Thus, the application period for this pool begins on June 3, 2008, and ends on March 2, 2009, and any completed application for § 48A certification for IGCC projects using bituminous coal as a primary feedstock received by the Service after June 2, 2008, and before March 3, 2009, will be deemed to be submitted by the taxpayer on March 2, 2009. As under Notice 2007-52, an application to the DOE for IGCC projects using bituminous coal as a primary feedstock will not be considered in the allocation round conducted in 2008-09 unless it is postmarked by October 31, 2008.

#### SECTION 4. EFFECTIVE DATE

This notice is effective February 13, 2008.

#### SECTION 5. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-2003.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in section 3 (and in sections 4, 5,

6, 7, 8, and Appendix B of Notice 2007-52). This information is required to obtain an allocation of qualifying advanced coal project credits. This information will be used by the Service to verify that the taxpayer is eligible for the qualifying advanced coal project credits. The collection of information is required to obtain a benefit. The likely respondents are business or other for-profit institutions.

The estimated total annual reporting burden is 4,950 hours.

The estimated annual burden per respondent varies from 70 to 150 hours, depending on individual circumstances, with an estimated average of 110 hours. The estimated number of respondents is 45.

The estimated annual frequency of responses is on occasion.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law.

Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

#### DRAFTING INFORMATION

The principal author of this notice is Jaime C. Park of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Jaime C. Park at (202) 622-3110 (not a toll-free call).