



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C.

April 13, 2007

Number: **INFO 2007-0018**

Release Date: 6/29/2007

UIL: 48A.00-00

CONEX-112381-07

The Honorable Jeff Bingaman
United States Senate
Washington, DC 20510

Dear Senator Bingaman:

I am responding to your letter of March 6, 2007, requesting a meeting between the IRS and representatives of _____ to discuss the sulfur dioxide removal requirement on their 2006 application for certain tax credits. These credits are available under the Qualifying Advanced Coal Project Program of the Energy Policy Act of 2005 (EPACT) for an integrated gasification combined cycle (IGCC) project using sub-bituminous coal.

The tax credits are found under section 48A of the Internal Revenue Code (the Code), which the Congress enacted as part of EPACT. This law required the Secretary of the Treasury, in consultation with the Secretary of Energy, to establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies. On March 13, 2006, the IRS published Notice 2006-24, which established the qualifying advanced coal project program. We developed this notice in consultation with the U.S. Department of Energy (DOE), and the Treasury Department's Office of Tax Policy approved it. I am enclosing a copy of the notice.

The notice permitted us to consider a project under the qualifying advanced coal project program only if the DOE certified the project for feasibility and consistency with energy policy goals. See section 4.01 of Notice 2006-24. If the DOE certified a project, we allocated the tax credits according to the procedures in section 4 of the Notice.

For the 2006 allocation round, DOE did not certify any IGCC sub-bituminous coal projects, and the letter from DOE did not provide an explanation. Because we do not have any information concerning DOE's decision not to certify these projects, we do not believe it would be beneficial for _____ to meet with us on the DOE's certification process.

For the sulfur dioxide (SO₂) removal requirement, the law provides an alternative measurement for projects using feedstock that is substantially sub-bituminous coal. Such projects

must achieve either 99 percent SO₂ removal or an emission level of 0.04 pounds or less of SO₂ per million Btu, determined on a 30-day average. The latter measurement is the alternative provided by the Act [Section 48A(f)(1) of the Code amended by section 203(a) of the Tax Relief and Health Care Act of 2006, Pub. L. 109-432, 120 Stat. 2922 (December 20, 2006) (the Act)].

This alternative measurement for the SO₂ removal requirement applies to applications for certifications under section 48A(d)(2) submitted after October 2, 2006 (that is, for the allocation rounds in 2007 and later). We expect to issue guidance soon regarding the 2007 allocation round. This guidance will provide additional information about the alternative measurement.

I hope this information is helpful. I am also writing to Senator Domenici. If you have any questions, please call me or contact _____ at () _____.

Sincerely,

Mark W. Everson

Mark W. Everson

Enclosure



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 13, 2007

UIL: 48A.00-00

CONEX-112381-07

The Honorable Pete Domenici
United States Senate
Washington, DC 20510

Dear Senator Domenici:

I am responding to your letter of March 6, 2007, requesting a meeting between the IRS and representatives of [redacted] to discuss the sulfur dioxide removal requirement on their 2006 application for certain tax credits. These credits are available under the Qualifying Advanced Coal Project Program of the Energy Policy Act of 2005 (EPACT) for an integrated gasification combined cycle (IGCC) project using sub-bituminous coal.

The tax credits are found under section 48A of the Internal Revenue Code (the Code), which the Congress enacted as part of EPACT. This law required the Secretary of the Treasury, in consultation with the Secretary of Energy, to establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies. On March 13, 2006, the IRS published Notice 2006-24, which established the qualifying advanced coal project program. We developed this notice in consultation with the U.S. Department of Energy (DOE), and the Treasury Department's Office of Tax Policy approved it. I am enclosing a copy of the notice.

The notice permitted us to consider a project under the qualifying advanced coal project program only if the DOE certified the project for feasibility and consistency with energy policy goals. See section 4.01 of Notice 2006-24. If the DOE certified a project, we allocated the tax credits according to the procedures in section 4 of the Notice.

For the 2006 allocation round, DOE did not certify any IGCC sub-bituminous coal projects, and the letter from DOE did not provide an explanation. Because we do not have any information concerning DOE's decision not to certify these projects, we do not believe it would be beneficial for [redacted] to meet with us on the DOE's certification process.

For the sulfur dioxide (SO₂) removal requirement, the law provides an alternative measurement for projects using feedstock that is substantially sub-bituminous coal.

Such projects must achieve either 99 percent SO₂ removal or an emission level of 0.04 pounds or less of SO₂ per million Btu, determined on a 30-day average. The latter measurement is the alternative provided by the Act [Section 48A(f)(1) of the Code amended by section 203(a) of the Tax Relief and Health Care Act of 2006, Pub. L. 109-432, 120 Stat. 2922 (December 20, 2006) (the Act)].

This alternative measurement for the SO₂ removal requirement applies to applications for certifications under section 48A(d)(2) submitted after October 2, 2006 (that is, for the allocation rounds in 2007 and later). We expect to issue guidance soon regarding the 2007 allocation round. This guidance will provide additional information about the alternative measurement.

I hope this information is helpful. I am also writing to Senator Bingaman. If you have any questions, please call me or contact _____ at () _____.

Sincerely,

Mark W. Everson

Mark W. Everson

Enclosure