

August 3, 2020

Via Regulations.gov

Department of the Treasury
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station,
Washington, DC 20044.



Re: Notice of proposed rulemaking on Credit for Carbon Oxide Sequestration, Docket No. REG-112339-19

Clean Air Task Force
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Dear Secretary Mnuchin and Commissioner Rettig,

Clean Air Task Force (“CATF”) respectfully submits the following comments on the Internal Revenue Service’s (“IRS”) proposed regulations for the requirements associated with receiving credits associated with carbon oxide utilization and sequestration under Section 45Q of the tax code, 85 Fed. Reg. 34,050 (June 2, 2020). CATF is an environmental organization with the mission to push for change in technologies and policies needed to get to a zero-emissions, high-energy planet at an affordable cost.

We write to expand on our positions with respect to several issues contained in separate comment letters we have submitted jointly with the Carbon Capture Coalition; a working group consisting of the Carbon Utilization Research Council, Clean Air Task Force, ClearPath, Environmental Defense Fund, Oxy Low Carbon Ventures, Shell Oil Company, and The Nature Conservancy; and a group of NGOs including ClearPath and the Bipartisan Policy Center. Specifically, we write to encourage IRS to work jointly with the Environmental Protection Agency (“EPA”) on prompt regulatory amendments incorporating compliance with the ISO 27916 standard into the Greenhouse Gas Reporting Program, and to encourage IRS to adopt measures that would enhance public disclosure and accountability.

We support the approach to accountability and public disclosure outlined in our comments with the group consisting of Carbon Utilization Research Council, ClearPath, Environmental Defense Fund, Oxy Low Carbon Ventures, Shell Oil Company, and The Nature Conservancy submitted to this docket. Under that approach, IRS would maintain subpart RR as the principal pathway for demonstrating secure geologic storage and would anticipate promulgation of new EPA regulations under the Greenhouse Gas Reporting Program. Those EPA regulations would add a new alternative method that CO₂-EOR operators may use to demonstrate secure geologic storage using the ISO standard, together with other public disclosure or technical requirements. As an interim measure, until such time as EPA finalizes those regulations, IRS would permit compliance with the ISO standard as a voluntary, alternative pathway on the condition that the taxpayer makes the relevant information for documenting secure geologic storage available to the public by posting the ISO-required information on a public website.

Specifically, it is CATF’s position that EPA should promulgate new regulations under 40 C.F.R. Part 98 recognizing the ISO pathway as a means of demonstrating secure storage. To that end, CATF will petition EPA to initiate a rulemaking that would add or amend provisions under 40 C.F.R. Part 98 for CO₂-EOR operators that prefer to demonstrate secure geologic storage via the ISO methodology rather than the current subpart RR requirements.

We encourage IRS to adopt and support this joint approach with EPA in part because compliance with EPA Greenhouse Gas Reporting Program rules is necessary for entities

wishing to comply with EPA's New Source Performance Standards for greenhouse gases using enhanced oil recovery sequestration. See, e.g., 40 C.F.R. §§ 60.5555(f), 98.426(h). Adding the ISO alternative option under Part 98 is the most efficient way to both support EPA emissions standards and ensure secure geologic storage for the 45Q credit.



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Additionally, we urge IRS to determine the extent to which it may encourage or mandate public disclosure of information necessary to verify the integrity of geologic storage. For instance, under Section 45Q(f)(2), IRS has authority to “establish regulations for determining adequate security measures for the geological storage of qualified carbon oxide” in consultation with EPA. Given the importance of public disclosure for accountability and integrity of the program, that authority may permit public disclosure of certain information.

Thank you for the opportunity to provide comments on IRS proposed regulations regarding the Section 45Q tax credit.

Sincerely,

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