

9 August 2016

Rhonda O'Reilly
IRS FOIA Request
HQ FOIA
Stop 211
PO Box 621506
Atlanta, GA 30362-3006

Re: FOIA Request

Dear Ms. O'Reilly:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and Internal Revenue Service regulation 26 CFR § 601.702, Friends of the Earth would like to request records pertaining to tax credits disbursed for carbon capture and sequestration.

The Emergency Economic Stabilization Act of 2008 established 26 U.S.C. § 45Q, a tax credit for capturing CO₂ from power plants and other industrial sources. It allows an inflation-adjusted credit worth \$20 per ton for CO₂ captured for underground storage and \$10 per ton for CO₂ captured and used for enhanced oil recovery. Congress never intended this subsidy to be permanent and timed it to expire in whatever year 75 million tons of credits had been used.

Regarding this tax credit, we would like to request the following records:

- The total number of credits disbursed per year under Section 45Q since the provision was established in 2008.
- The total number of credits disbursed by year for both underground sequestration and enhanced oil recovery, broken down so that the totals can be viewed separately.

Emphatically, we are requesting no records about individual taxpayers, and seek only the annual totals for both the 45Q credit overall and for underground storage and enhanced oil recovery individually.

Request for Expedited Processing

Friends of the Earth would like to request expedited processing pursuant to 26 CFR 601.702(c)(6). Our sole intent with this data is to publish it independently as part of a broader effort to educate lawmakers and the general public.

Time is an undeniable factor. A legislative effort is now underway to both extend and expand the 45Q tax credit. A bill introduced by Rep. Mike Conaway, R-Texas, in February would make the measure permanent, and raise its value for new facilities to \$30 for both underground storage and enhanced oil recovery. Similar language was considered as an amendment to the Federal Aviation Administration reauthorization in April, although the effort ultimately was unsuccessful. Last

month, Sens. Sheldon Whitehouse, D-R.I., and Heidi Heitkamp, D-N.D., introduced another bill that would increase the value of the credit for new facilities to \$35 for enhanced oil recovery and \$50 for underground storage.

As these changes are considered, no public data exists detailing the extent to which current policy has supported enhanced oil recovery versus underground storage. Before Congress votes to expand this tax provision considerably, lawmakers and the public must have complete information about how current policy has performed. Citizens and taxpayers have a right to know the extent to which current policy already privileges the former over the latter.

Before legislation is enacted, we request this data in order to educate lawmakers and the public about the fiscal and environmental implications of using a purported "climate solution" to subsidize common oil-extraction practices. The initial intent for the 45Q provision was to sequester CO₂ emissions, a rationale that may be undermined by the current legislative proposals. There is thus both a compelling public interest and "current exigency" that justifies this request for expedited processing under 26 CFR 601.702(c)(6).

Request for Waiver of Fees

Friends of the Earth makes this request on behalf of Green Scissors, a nonpartisan coalition that seeks to end wasteful and environmentally harmful government spending. Friends of the Earth and its coalition partners—the R Street Institute and Taxpayers for Common Sense—are all financially constrained nonprofit organizations organized under section 501(c)(3) of the tax code. By definition, neither Friends of the Earth nor its partners have any commercial interest in the data requested and seek it solely in the interest of the public good for the purposes of publication and education. As such, we request a fee waiver under 26 CFR 601.702(f)(2)(i).

Thank you in advance for your consideration. We look forward to your timely reply. Email is the preferred means both of contacting me and transmitting the results of your search.

Respectfully,

Lukas Ross



lross@foe.org

Climate and Energy Campaigner

Friends of the Earth

1101 15th Street NW

11th Floor

Washington, DC 20005

Direct: 202-222-0724