
Via FOIA.gov, email, and certified mail

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IRS FOIA Request
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IRS FOIA Request
Baltimore Disclosure Office
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Re: Request Under the Freedom of Information Act and Section 6110 of the Tax Code For Records Concerning the Department of the Treasury's Interpretation and Application of the Alternative Fuel Excise Tax Credit

This is a request on behalf of Friends of the Earth pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as well as under Section 6110 of the Tax Code (“Section 6110”), 26 U.S.C. § 6110, where applicable, for information concerning the Department of the Treasury’s (“the Department”) and the Internal Revenue Service’s (“IRS”) application of the alternative fuel excise tax credit, *see* 26 U.S.C. § 6426(d), to liquefied natural gas (“LNG”) bunker fuel. This request first provides background that illustrates the importance of the information at issue and then specifically identifies the information being requested. This request also demonstrates that Friends of the Earth is entitled to a fee waiver under both FOIA and Section 6110.

I. BRIEF FACTUAL BACKGROUND

First passed in 2005 and extended through December 31, 2024 by the Inflation Reduction Act, the alternative fuel excise tax credit provides a fifty-cent per gallon incentive for taxpayers who sell or use eligible alternative fuels “as a fuel in a . . . motorboat.” 26 U.S.C. § 6246(d)(1). “Alternative fuel” is defined to include natural gas, propane, P-Series fuel, liquid fuel derived from coal through the Fischer-Tropsch process, and compressed or liquefied gas derived from biomass. *Id.* § 6246(d)(2).

The alternative fuel excise tax was ostensibly created to promote the use of more energy efficient and environmentally friendly vehicles and boats at a time of concern for the United States’ energy independence in the aftermath of the September 11, 2001 terrorist attacks. Sellers

or users of eligible alternative fuels can claim the alternative fuel excise tax credit to offset federal fuel taxes. In the event that federal fuel taxes are fully offset (i.e., reduced to \$0), any excess credits can be claimed as a refundable income tax credit.

In its 2025 Annual Report to the Securities and Exchange Commission, fossil fuel giant Cheniere disclosed that its “use of LNG as transport fuel . . . enabled [the company] to claim federal alternative fuel excise tax credits totaling \$370 million for the period spanning from 2018 to 2024, preceding the expiration of the incentive program on December 31, 2024.”¹ This came as a surprise to tax experts, who informed the media that “the alternative-fuels incentive was never meant to be used on the massive vessels” used to transport LNG.² The IRS’s decision to approve Cheniere’s use of the tax credits raises significant questions about the Department’s and agency’s interpretation of the scope of the alternative fuel excise tax credit; the application of the tax credit to benefit the already heavily subsidized fossil fuel industry; and the undue influence of outside special interest groups on the development and implementation of federal tax policy.

II. REQUESTED RECORDS

Pursuant to FOIA, 5 U.S.C. § 552(a)(3), and Section 6110, where applicable, Friends of the Earth requests information from the Department concerning the Department’s consideration of the proper scope and application of the alternative fuel excise tax. Specifically, Friends of the Earth requests the following:

1. Any Revenue Ruling, Chief Counsel advice, written determination, legal guidance, and/or any other interpretive guidance offered in connection with the fuel excise tax, 26 U.S.C. §§ 4041, 4081, and/or the alternative fuel excise tax credit, 26 U.S.C. § 6426, including *but not limited to* records that address the following questions:
 - (a) what types of alternative fuel qualify for the alternative fuel excise tax credit;
 - (b) what categories of sellers and users of alternative fuels qualify for the alternative fuel excise tax credit; and/or
 - (c) what categories/types of motor vehicles and/or motorboats qualify for the alternative fuel excise tax credit;
2. All communications between Department employees and/or contractors and Congressional members, committees, and/or staffers that mention, discuss, address, explain, describe, refer to, contain, deal with, or otherwise cite to, either in whole or in part, directly or indirectly, the scope and application of the alternative fuel excise tax credit, 26 U.S.C. § 6426, including *but not limited to*

¹ CHENIERE ENERGY, INC., *Form 10-K 47-48* (2026), <https://tinyurl.com/kcsvurae>.

² See Evan Halper, *Fossil fuel giant wins \$370 million tax break for burning gas as an ‘alternative fuel’*, WASH. POST (Feb. 26, 2026), <https://tinyurl.com/34xxy98n>.

communications that address questions (a) through (c) from Item 1 above (i.e., (a) what types of alternative fuel qualify for the alternative fuel excise tax credit, (b) what categories of sellers and users of alternative fuels qualify for the alternative fuel excise tax credit, and/or (c) what categories/types of motor vehicles and/or motorboats qualify for the alternative fuel excise tax credit);

3. All records mentioning, discussing, addressing, explaining, describing, referring to, containing, dealing with, or otherwise citing to, either in whole or in part, directly or indirectly, Departmental consideration of the scope and/or definition of the following two terms as used in the Tax Code and/or Treasury regulations:
 - “Motorboat”, and
 - “Alternative fuel”; and
4. All records mentioning, discussing, addressing, explaining, describing, referring to, containing, dealing with, commenting on, or otherwise citing to, either in whole or in part, directly or indirectly, the promulgation of proposed regulations at 26 C.F.R. §§ 6426, 6427, *see, e.g.*, 73 Fed. Reg. 43890.

For this request, the term “records” refers to, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, peer review comments, work papers, reports, studies, and/or data, as well as any other information regarding the foregoing types of records. Additionally, the terms “information” and “communication” encompasses records and documents (handwritten, typed, electronic or otherwise produced, reproduced, or stored) in the Department’s possession or control that were generated, received, obtained, held, or created by or for the agency by any entity, agent, consultant, affiliate, or representative within or outside the federal government.

FOIA states that “[e]ach agency, upon any request for records made under paragraph . . . (3) . . . shall determine within 20 [working] days . . . whether to comply with such request and shall immediately notify the person making such request of . . . such determination and the reasons therefor.” 5 U.S.C. § 552(a)(6)(A)(i). “[I]n order to make a determination,” an agency must, *inter alia*, “determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents.” *Citizens for Responsibility & Ethics in Wash. v. Fed. Election Comm’n*, 711 F.3d 180, 188 (D.C. Cir. 2013). FOIA likewise provides that if portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed. 5 U.S.C. § 552(b). Accordingly, for any documents or portions of documents that you block release due to specific exemption(s) from the requirements of FOIA, please provide an index itemizing and describing the documents or portions of documents withheld. The index should provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld. *See Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974)

Section 6110 of the Tax Code requires that “the text of any written determination and any background file document relating to such written determination shall be open to public inspection at such place as the [Department] may by regulations prescribe,” following the

deletion of “the names, addresses, and other identifying details of the person to whom the written determination pertains” and other identified persons, and review for redaction of information under the FOIA exemptions. 26 U.S.C. § 6110(a), (c)(1), (i)(3). “Written determination” is defined to mean “a ruling, determination letter, technical advice memorandum, or Chief Counsel advice.” *Id.* § 6110(b). “Chief Counsel advice” is broadly defined to include any “written advice or instruction . . . prepared by any national component of the Office of Chief Counsel which” was “issued” to local or regional IRS offices and “convey[ed]” legal interpretations of or official policies concerning Tax Code provisions. *Id.* § 6110(i).

Like FOIA, Section 6110 requires that portions of documents that contain non-exempt information be released after the Department redacts certain information that could identify a particular taxpayer. Accordingly, we request that you provide us with all non-exempt portions of the requested written determinations, along with an explanation of which documents, if any, may be privileged or exempt from disclosure and the basis for any exemption applied.

The Tax Code prohibits the disclosure of “return information,” which is broadly defined to include information pertaining to a taxpayer’s identity, tax liability, credits received, or other data collected by the Department for the purposes of determining a taxpayer’s tax liability. 26 U.S.C. § 6103(b)(2)(A). While this definition is broad, it has generally been interpreted to include only information that is “factual in nature” and “taxpayer-specific.” *See Tax Analysts v. IRS*, 117 F.3d 607, 613-15 (D.C. Cir. 1997). In contrast, legal conclusions that are reasonably segregable from taxpayer specific, factual information may be subject to disclosure under FOIA (unless another exemption applies). *Id.*

This request under FOIA and Section 6110 (where applicable) does not seek “return information” unique to any particular taxpayer. Rather, this request seeks records pertaining to the Department’s general implementation of the Tax Code, including its application of the alternative fuel excise credit to groups or classes of taxpayers, discussion of tax law principles, and legal analyses and/or conclusions.

III. REQUEST FOR A FEE WAIVER

Regarding fee waivers, FOIA provides that “[d]ocuments shall be furnished without any charge or at a charge reduced below the [regular fee schedule] if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The Department’s regulations specify that it will provide a full or partial fee waiver if the requester demonstrates that “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 31 C.F.R. § 1.7(k)(1). The Department’s FOIA regulations enumerate several factors that must be considered when determining whether disclosure of the requested information is in the public interest. Specifically, the Department will consider: (i) whether “[d]isclosure . . . would shed light on the operations or activities of the government”; (ii) whether “[d]isclosure . . . would be likely to contribute significantly to public understanding of those operations or activities”; and (iii) whether the disclosure is “primarily in the commercial interest of the

requester.” *Id.* § 1.7(k)(2). The IRS’s regulations implementing the fee waiver provision of FOIA mirror the Department’s. *See* 26 C.F.R. § 601.702(f)(2)(i).

Regulations implementing Section 6110 likewise provide the IRS “shall reduce or waive the fees” if the IRS “determines” that the request “primarily benefits the general public,” as described in the FOIA implementing regulations. 26 C.F.R. § 301.6110-7(d)(2) (citing 26 C.F.R. § 601.702(f)(2)(i)). Accordingly, entities that meet the criteria for a fee waiver under FOIA are also entitled to a fee waiver under Section 6110.

A. The FOIA Request Directly Concerns the Activities or Operations of the Federal Government.

It is beyond legitimate dispute that this request directly concerns the activities or operations of the federal government. 31 C.F.R. § 1.7(k)(2)(i); *accord* 26 C.F.R. § 601.702(f)(2)(i)(A). The request involves records relating to the actions, communications, and activities of federal officials in their official capacity, and thus clearly relates to the activities or operations of the federal government. Indeed, it has been said that the taxing power is “‘an incident of sovereignty,’ and ‘essential to the existence of government.’” *Providence Bank v. Billings*, 29 U.S. 514, 548 (1830). Because this request seeks information concerning the Department’s decisions and actions with request to the implementation of tax policy, this request therefore directly concern the activities or operations of the federal government.

B. The FOIA Request is Likely to Contribute to the Public Understanding of Those Activities and Operations

The Department’s regulations provide that a full or partial fee waiver is appropriate where the requested information “would be likely to contribute significantly to public understanding of [the federal government’s] operations or activities. 31 C.F.R. § 1.7(k)(2)(ii). This factor is satisfied where: (A) the disclosure is “meaningfully informative about government operations or activities”; and (B) the disclosure “contribute[s] to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester.” *Id.*; *accord* 26 C.F.R. § 601.702(f)(2)(i)(B), (C), (D). This FOIA request satisfies both of those criteria.

1. The Requested Information is Meaningfully Informative

The disclosure of the requested information will be “meaningfully informative about government operations [and] activities.” 31 C.F.R. § 1.7(k)(2)(ii)(A); *accord* 26 C.F.R. § 601.702(f)(2)(i)(D) (requiring that the IRS examine the “significance of the [information’s] contribution to the general public’s understanding of the agency’s operations or activities”). As an initial matter, the requested information has not been publicly disclosed. *See* 31 C.F.R. § 1.7(k)(2)(ii)(A) (stating that the “disclosure of information that is already in the public domain . . . would not be meaningfully informative if nothing new would be added to the public’s understanding”); *accord* 26 C.F.R. § 601.702(f)(2)(i)(D).

Additionally, the requested information will help to confirm or clarify the Department’s implementation of important tax policies and incentives. The alternative fuel excise tax credit was originally designed to subsidize the sale and use of certain “alternative fuels,” including

those derived from biodiesel and LNG. However, recent public disclosures by Cheniere suggest that the tax credit is being extended beyond its original intent to offer a windfall to companies that claim the tax credit despite not owing any fuel excise tax in the first place. The requested information will also help clarify the influence of Congressional members and other special interest groups on the Department's decisions and actions. These crucial pieces of information will contribute to the public's understanding of the federal government's decision-making process regarding tax policy at a crucial time in the unprecedented climate crisis. Specifically, the records requested will be meaningfully informative as to the Department's interpretation and application of the alternative fuel excise tax credit to the fossil fuel industry; the types of policy decisions that are being made; and whether/how those decisions are being considered. The records will therefore shed light on the Department's actions that support the fossil fuel industry while scientists' warnings regarding the impacts of climate change grow increasingly dire.

It has been said that to understand what a nation values, look no further than its tax policy. To that end, through these records, Friends of the Earth expects to significantly increase the public's understanding of whether fossil fuel companies are eligible for taxpayer-funded subsidies; the Department's role in defining the scope of the alternative fuel excise tax credit; and whether and to what extent special interests are influencing the United States' policy goals. The question of whether to subsidize the fossil fuel industry through taxpayer-funded tax credits despite the long-term risks presented by fossil fuel use is fraught and is of increasing importance in light of global events. Hence, there has been considerable public interest in the various efforts by federal agencies—including the Department—to support (or curtail) domestic fossil fuel extraction, production, and exportation. As demonstrated by various news articles, *see, e.g.*, Evan Halper, *supra*, a broad sector of the public is deeply concerned about the federal government's actions that serve to legitimize and support ongoing and expanded fossil fuel extraction despite the array of harms that this industry poses on the ecosystem, public health, and even the financial system. Accordingly, information concerning the federal government's actions that directly or indirectly support the fossil fuel industry is essential to the public's understanding of the government's core principles, analysis of the risks of climate change, and response to the climate crisis. The contents of the request are therefore meaningfully informative because they relate to information about the actions of a federal agency on matters that have a nexus to environmental, energy, geopolitical, and economic impacts.

The public is always well-served when it knows how the government conducts its activities. The records produced from this FOIA request will produce the most reliable information available to the public on these important matters ongoing within the Department, and, indeed, in most cases, this is the only way that the public has to gain insight. Hence, there can be no dispute that disclosure of the requested records to the public will significantly contribute to educating the public about the Department's operations, activities, and decisionmaking. Friends of the Earth will utilize the released records and our organizational expertise to help our members, lawmakers, activists, the general public, and the media to increase their understanding of these important issues.

2. *The Information Will Contribute to the Understanding of a Broad Audience*

The requested information will “contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester,” because it concerns issues that are controversial and highly impactful to matters directly affecting American’s lives and futures, including decisions to provide taxpayer-funded support to the fossil fuel industry despite the risks of climate change. 31 C.F.R. § 1.7(k)(ii)(B); accord 26 C.F.R. § 601.702(f)(2)(i)(B), (C). The public will benefit from the broad disclosure of the requested information by better understanding the federal government’s assessment of the risks presented by the fossil fuel industry and whether and to what extent the government should provide taxpayer-funded subsidies to fossil fuel companies.

This factor is further supported by Friends of the Earth’s position as a representative of the news media with considerable expertise in the subject matter, in addition to the fact that Friends of the Earth possesses the intent and the proven ability to disseminate the information to a very broad audience. The Department’s regulations implementing FOIA define “representative of the news media” to mean “any person or entity that actively gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 31 C.F.R. § 1.7(b)(6).³ When determining whether a person or entity qualifies as a representative of the news media, the Department must “also consider a requestor’s past publication record.” *Id.*

It is beyond dispute that Friends of the Earth “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii); *Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 800 F.2d 1381, 1387 (D.C. Cir. 1989). Friends of the Earth’s primary objective is disseminating information relevant to environmental concerns. Indeed, one of Friends of the Earth’s primary missions is “to change the perception of the public, media, and policymakers—and effect policy change—with hard-hitting, well-reasoned policy analysis and advocacy campaigns that describe what needs to be done.”⁴ To that end, a key aspect of Friends of the Earth’s recent work is investigation and publication of how the fossil fuel industry continues to benefit from the direct and indirect support of the federal government, even as fossil fuel extraction, production, and use threatens our climate and puts our oceans at risk.⁵ Friends of the Earth has long been a prominent opponent of federal subsidies for the fossil fuel industry, and has a proven record of compiling and disseminating information to the general public, Congress,

³ The IRS likewise defines “news media requester” to mean “Any person actively gathering news for an entity that is organized and operated to publish or broadcast news (*i.e.*, information about current events or of current interest to the public) to the public.” 26 C.F.R. § 601.702(f)(3)(ii)(B).

⁴ FRIENDS OF THE EARTH, *What We Do*, <https://foe.org/about-us/>.

⁵ See, e.g., FRIENDS OF THE EARTH, *Fossil Fuels*, <https://foe.org/projects/fossil-fuels/?issue=5>; FRIENDS OF THE EARTH et al., *Big Oil’s Wartime Bonus* (Apr. 5, 2022), <https://tinyurl.com/432w67vz>.

and policymakers highlighting the risks of allowing export facilities to qualify for tax incentives to the climate, communities, and investors.⁶

Particularly relevant here, Friends of the Earth has been at the forefront of efforts to ensure that taxpayers do not foot the bill for corporate handouts propping up the fossil fuel industry. The organization has continued to compile, synthesize, and disseminate information relevant to the fossil fuel industry's efforts to exploit subsidies and other benefits to garner short-term profits and/or long-term policy concessions. For example, Friends of the Earth recently co-authored a report detailing how fossil fuel companies "have benefited massively from carve-outs they won" in the 2017 tax bill.⁷ Friends of the Earth's analyses have informed the reporting of national news media outlets like Yahoo! News, Washington Post, and Time Magazine, and have been explicitly referenced by members of Congress in various fora.⁸ The information sought by Friends of the Earth's FOIA request will further its efforts to inform the public about the dangers of the United States' current energy and tax policy by providing information relevant to the Department's understanding and application of federal tax credits and subsidies to the fossil fuel industry that is threatening the health of the American people and the global climate.

⁶ See, e.g., Evan Halper, *supra* (citing Friends of the Earth's research); Brian Dabbs & Christa Marshall, *How the megabill shakes up fossil fuels, renewables*, E&E News (July 2, 2025), <https://shorturl.at/0015x> (same); Evan Halper, *While cutting solar and wind, Senate GOP plans rewards for oil drillers*, WASH. POST (June 18, 2025), <https://tinyurl.com/2t5mvvde> (same); Alleen Brown, *Biden Subsidies for Liquid Natural Gas Could Doom International Climate Goals*, THE INTERCEPT (June 21, 2021), <https://tinyurl.com/2zur9zdp> (same).

⁷ FRIENDS OF THE EARTH et al., *12 Guilty Fogeys: Big Oil's \$86 billion offshore tax bonanza* (2021), <https://shorturl.at/cazJ8>; see also Alan Zibel, PUB. CITIZEN, & Lukas Shankar-Ross, FRIENDS OF THE EARTH, *One Bountiful Oil Billionaire Bonanza* (May 23, 2025), <https://shorturl.at/yDNSj>; Lukas Ross, FRIENDS OF THE EARTH, & Alan Zibel, PUB. CITIZEN, *Minimum Tax, Maximum Influencer* (Mar. 24, 2025), <https://shorturl.at/KQqd4>; FRIENDS OF THE EARTH, *Biofuels in the Trump Era: A Budding Romance Between Big Ag and Big Oil* (Jan. 7, 2026), <https://tinyurl.com/mtwdtchb>.

⁸ See, e.g., Ben Adler, *Biden Pledges To Help Europe Kick Its Dependence On Russian Energy*, YAHOO! NEWS (Mar. 25, 2022), <https://tinyurl.com/mrytac29>; Maxine Joselow, *Big oil companies are using wartime profits to enrich investors, report says*, WASH. POST (Apr. 5, 2022), <https://tinyurl.com/355rkxwv>; Shant Shahrigian, *Big Oil's gushing profits call for government crackdown, says Sen. Schumer*, NY DAILY NEWS (Apr. 24, 2022), <https://tinyurl.com/mhbbn2zr>; Emily Barone, *Oil Companies Posted Huge Profits. Here's Where The Cash Will Go (Hint: Not Climate)*, TIME (May 11, 2022), <https://tinyurl.com/ysrne9nw>; Mark DeGeuring, *5 Oil Execs Cashed Out \$99 Million in Stock During Ukraine Invasion*, GIZMODO (Aug. 11, 2022), <https://tinyurl.com/mrxuj7s2>; Amy Westervelt, *US energy firms use Ukraine war to lock in long-term gas contracts, report says*, THE GUARDIAN (Feb. 22, 2023), <https://tinyurl.com/2s3czkksk>; U.S. SEN., COMM. ON THE BUDGET, *New Report Reveals How Much Republicans' Big Oil Donors Will Benefit From the Big, Ugly Betrayal Law* (Feb. 26, 2026), <https://tinyurl.com/4kmcr655> (citing report authored by coalition including Friends of the Earth).

In addition to its demonstrated expertise in the subject of energy policy, Friends of the Earth has the intent and ability to disseminate this information broadly as it has a large member base of individuals with a strong interest in matters that concern the environmental and energy policy of the United States. Friends of the Earth has over 1.7 million members and activists across the United States who place a priority on ensuring that the federal government takes proper consideration of the impacts of its actions on the environment and public health. This starts with knowing what the government is doing, who they are in communications with, and what is being asked of policymakers.

To that end, Friends of the Earth utilizes various means of communication to update our members and activists, as well as the media and general public, on government activities that may impact human health and the environment. These methods include, but are not limited to, providing essential information in easy-to-read reports, a quarterly news magazine, fact sheets, press statements, public hearings and events, phone calls, letters to the editor, blogs, email alerts, and webpage updates. For this request, Friends of the Earth plans to alert the public, members of Congress, policymakers, and activists as to recent government meetings and activities undertaken as part of federal programs that legitimize and support the fossil fuel industry, especially amid the purported domestic energy crisis and its impacts on the global climate crisis. As a result of its partnerships with other non-profit organizations and journalists, and its respected role in public education, Friends of the Earth is well-positioned to disseminate the requested information to its partners and the media, who will in turn disseminate the information across their networks of members and supporters, amplifying the organization's reach.

In summary, as a well-known non-profit organization with a large following, experience in news dissemination, and multiple partnerships with other non-profit groups, the news media, and Congressional offices, Friends of the Earth will most certainly have the ability to disseminate this information to a reasonably broad audience. As Friends of the Earth is a non-profit committed “to chang[ing] the perception of the public, media, and policymakers—and effect[ing] policy change—with hard-hitting, well-reasoned policy analysis and advocacy campaigns that describe what needs to be done,”⁹ including through the investigation and publication of how the fossil fuel industry continues to benefit from the fossil fuel export boom that threatens our climate and puts our oceans at risk,¹⁰ actions taken by a federal agency to encourage and facilitate the expansion of the fossil fuel industry are directly correlated both with the expertise of Friends of the Earth and with the interests of its supporters and partners.¹¹

⁹ FRIENDS OF THE EARTH, *What We Do*, <https://foe.org/about-us/>.

¹⁰ FRIENDS OF THE EARTH, *Fossil Fuels*, <https://foe.org/projects/fossil-fuels/?issue=5>.

¹¹ For these same reasons, the information sought by this request is also “likely to contribute to an understanding of the [IRS’s] operations or activities,” as required by the IRS’s regulations implementing Section 6110. 26 C.F.R. § 301.6110-7(d)(2) (directing the IRS to grant a fee waiver where the requested information is “likely to contribute to an understanding of the agency’s operations or activities,” as described in the IRS’s regulations implementing FOIA’s fee waiver provision). Accordingly, a fee waiver is appropriate for any searches and reproductions of “written determinations” made public under that statute.

C. Friends of the Earth Does Not Have a Commercial Interest that Would be Furthered by the Requested Disclosure

Friends of the Earth is a not-for-profit charitable organization with no commercial interest in or use for the information requested. *See* 31 C.F.R. § 1.7(k)(2)(iii); *accord* 26 C.F.R. § 601.702(f)(2)(i)(E). There is no “existence” or “magnitude” to any commercial interest associated with this request, and Friends of the Earth’s primary interest in disclosure is simply to benefit the public interest by informing the public and other members of the media as to government activities. 26 C.F.R. § 601.702(f)(2)(i)(E). Nor does Friends of the Earth have any “commercial, trade, or profit interest” that would be furthered by the requested disclosure; rather, Friends of the Earth’s “primary interest in disclosure” is simply to benefit the public interest by informing the public and other members of the media as to government activities. 31 C.F.R. § 1.7(k)(2)(iii). The organization’s main purpose in requesting the documents is to increase public knowledge and participation in the government process so fundamental to the effective working of a democracy.¹² The requested information will be broadly disseminated to the public, and will be used to educate and inform the public regarding the federal government’s decisionmaking processes and actions responding to the energy crisis. Thus, Friends of the Earth’s request is not rooted in a purpose that furthers its commercial, trade, or profit interests. *See* Off. Mgmt. & Budget, *Uniform Freedom of Information Act Fee Schedule and Guidelines*, 52 Fed. Reg. 10,012, 10,017-18 (Mar. 27, 1987); 31 C.F.R. § 1.7(k)(2)(iii). Accordingly, Friends of the Earth does not have a commercial interest in the disclosure of the requested information.

For the reasons outlined above, Friends of the Earth is entitled to a fee waiver for this request. As a non-profit, public interest organization, Friends of the Earth has extremely limited financial resources with which to cover the copying and search expenses of this request. If the request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain Friends of the Earth’s approval before any such charges are incurred.

CONCLUSION

We look forward to receiving the agency’s response within twenty business days. Thank you for your prompt attention to this matter. Please email me at lizzie@eubankslegal.com with any questions about this FOIA request. Please include Lukas Ross at lross@foe.org and Raena Garcia at rgarcia@foe.org on all correspondence.

Respectfully submitted,

/s/Elizabeth L. Lewis

Elizabeth L. Lewis

Senior Associate Attorney

¹² As explained, *supra* at Section III.B, Friends of the Earth also qualifies as a “representative of the news media,” and is therefore entitled to document search and review without charge (as well as the first 100 pages of paper copies free of charge). *See* 31 C.F.R. § 1.7(d)(1), (k)(2).