

SUPPORTING STATEMENT
Notice 2010-54 - Production Tax Credit for Refined Coal
OMB No. 1545-2158

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This notice sets forth interim guidance pending the issuance of regulations relating to the tax credit under § 45 of the Internal Revenue Code (Code) for refined coal.

Sections 45(c)(7), (d)(8), and (e)(8) of the Code provide definitions and rules relating to the tax credit for refined coal (the refined coal credit). Section 45(e)(8) provides that the refined coal credit increases a taxpayer's credit determined under the other provisions of § 45. The credit is allowed for qualified refined coal (1) produced by the taxpayer at a refined coal production facility during the ten-year period beginning on the date the facility is originally placed in service, and (2) sold by the taxpayer to an unrelated person during that ten-year period.

2. USE OF DATA

Taxpayer must file certification that its refined coal has achieved 'qualified emissions reduction' with its tax return in order to claim the production tax credit for refined coal.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

NA

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible. IRS did consult with EPA in developing the CEMS test. We recognize that not every facility may have a CEMS unit, but the testing can be done on any commercial boiler with a CEMS unit installed even if the coal is not ultimately sold for use in that boiler. Also CEMS use is optional. Taxpayers may use it if they want to rely on their own test without having the IRS come in to second-guess their testing procedures. Other testing methods are permitted but if alternative methods are used the IRS reserves the right to examine to make sure the required emissions reduction has been achieved.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

8. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Notice 2010-54 (2010-40 I.R.B, October 4, 2010) supersedes Notice 2009-90 (2009-51 I.R.B, December 21, 2009) which also sets forth interim guidance regarding the tax credit under § 45 of the Code for refined coal by republishing the guidance with modifications. Comments were solicited in the notice.

In response to the Federal Register notice (78 FR 21500), dated April 10, 2013, we received no comments during the comment period regarding Notice 2010-54.

9. **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

We estimate that there are 100 responses per year that will elect the tax credit under § 45 of the Internal Revenue Code (Code) for refined coal. We estimate that it will take an average of 15 hours per response for a total burden estimated to be 1,500 hours.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. **ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our Federal Register notice dated April 10, 2013, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change to the paperwork burden associated with this collection. This submission is being made for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.