

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Production Tax Credit for Refined Coal
Notice 2010-54
OMB Number 1545-2158

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.

Taxpayers 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. The collection of information is required to obtain a benefit. The likely respondents are businesses or other for-profit institutions.

USE OF DATA

This information will be used by the Service to verify that the taxpayer is eligible for the production tax credit for re-fined coal.

USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS publication, regulations, notices and letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998. Due to the low volume of filers and information being submitted, electronic enabling is not feasible or cost effective.

EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Small businesses should not be disadvantaged as the requirements are structured to request the least amount of information and still satisfy the requirements of the statute and the needs of the Service.

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

The information required is needed to verify compliance with Sections 45(c)(7), (d)(8), and (e) (8), of the Internal Revenue Code of the Treasury Regulations. A less frequent collection of taxes and tax information could adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code and hinder the IRS from meeting its mission.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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

In response to the Federal Register notice dated September 12, 2019 (84 FR 48218), we received one comment during the comment period regarding these regulations.

The comment was received by Alan Krupnick, Senior Fellow from Resources for the Future.

They believe the "Service could improve the "quality, utility, and clarity of the information" collected by requiring claimants to certify their qualified emission reductions using CEMS data as first proposed. This would align the Service's regulations with the spirit and the letter of the tax statute. The use of CEMS data could also "minimize the burden" of data collection, since the CEMS is an existing automated collection technique used by the Environmental Protection Agency (EPA) for measuring plant emissions rates for the implementation of environmental laws.

EPA routinely collects that data and makes it publicly available,³ reducing the need for additional

information collection by the Service." They state that their study points the way towards an approach for estimating emission reductions from such data. The approach would vary as situationally appropriate and they outline three specific situations.

Their comment letter is attached to this submission package.

The IRS response is that the Notice permits the Service to request various levels of certification from taxpayers under this credit. The Service may require CEMS testing in appropriate cases as is provided in the notice. Therefore, the course of action recommended by the comment letter, requiring CEMS testing, has no impact on the collection of information burden allowed in the Notice.

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

No payment or gift has been provided to any respondents.

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

No personally identifiable information (PII) is collected.

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.

Notice	Description	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
Notice 2010-54	Production Tax Credit for Refined Coal	100	1	100	15	1,500
Totals		100	1	100		1,500

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

There are no changes being made to the notice or burden estimates at this time.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses for this IC	100	0	0	0	0	100
Annual IC Time Burden (Hours)	1,500	0	0	0	0	1,500

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

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

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.