POLICY

Treasury IG: A decade of carbon-capture tax credits were faulty

Of nearly $1 billion in carbon-capture tax credits sought through 2019, $893 million was submitted in ways that didn't meet EPA rules

Sen. Bob Menendez, D-N.J., shown here at a Senate Foreign Relations Committee hearing in December, sought a review of the carbon capture tax credit program. (Caroline Brehman/CQ Roll Call file photo)

By **Benjamin J. Hulac**, *Roll Call* April 30, 2020 https://bit.ly/3K07mhB

Ten companies claimed almost every penny of $1 billion tax credits for capturing carbon emissions from 2010-2019, and $893 million worth of those credits were submitted in ways that didn't meet EPA rules under the incentive program, according to a Treasury Department watchdog.

The 10 companies, which collected 99.9 percent of the credits from that billion-dollar pool shared by 672 firms, were not identified in a letter from Treasury Inspector General for Tax Administration J. Russell George to a member of the Senate Finance Committee. Nor did the letter make clear if the credits in the federal program known as 45Q were claimed by corporate or individual taxpayers, though the program is intended for companies.

Of the 10 taxpayers that collected almost all of the credits, three followed EPA rules, three are under audit and four were out of compliance, according to the report. The IRS took action against those four and it withheld $531 million of the roughly $900 million in credits after it reviewed tax records.

The inspector general made its review after years of requests from Finance Committee member Sen. Bob Menendez, D-N.J. to scrutinize how the government has implemented the program.

George said in the letter that the levels of sequestered carbon dioxide emissions reported to the IRS did not match up with the figures reported to EPA, which were lower. In part, he said, “the discrepancy is based on taxpayers reporting amounts of carbon dioxide sequestration to the IRS without reporting the amounts to the EPA as required.”

Menendez pressed IRS Commissioner Charles Rettig Wednesday to direct the IRS to audit every taxpayer that has claimed more than $10,000 in credits under 45Q and retroactively deny credits that didn’t meet EPA rules. He also urged the agency to disclose every company that has claimed credits since 2010 and turn over the names of those 10 unnamed companies by May 13.

Monitoring

Participants in the 45Q program are required to follow EPA guidelines, including so-called “MRV” plans companies must file with the agency to monitor, report and verify the project in question. Companies draft those plans, which the agency must approve.

That companies did not follow EPA rules amounts to “apparent failure of the fossil fuel industry to act in good faith,” Menendez said.

Carbon capture technology, used to trap high-emitting projects, remains an expensive and a niche aspect of the fossil fuel industry, though some projects have proven successful, including the Petra Nova coal-fired plant near Houston that opened in January 2017.

Petra Nova, often held up by proponents of the technology as a crown jewel of carbon capture, was built to trap about 90 percent of carbon dioxide. After trapping those emissions, the compressed carbon dioxide is sent to a Texas oil field to increase oil production.

Kurt Waltzer, managing director of the Clean Air Task Force, said it's been clear for years that the credits claimed at the IRS were not lining up with the emissions reported to the EPA.

"Clearly there was a problem," Waltzer said in an interview, adding that the review by the inspector general "provides a lot more insight into a problem we've known about for a while."

Some companies have supported efforts to weaken the EPA reporting requirements, including Exxon Mobil Corp. and Denbury Resources, a Plano, Tex.-based operator. "Exxon and Denbury have probably been the most vocal," Waltzer said.

Other large firms, including Occidental Petroleum Corp. and Royal Dutch Shell PLC, have supported the requirements.

Carbon capture

The carbon capture credit program was born out of 2008 legislation and then amended in 2009. Congress changed 45Q in 2018 by expanding the program, but the Treasury has been slow to respond, issuing new guidance on the updated version in early 2020.

Brad Crabtree, director of the Carbon Capture Coalition, a nonpartisan group of companies, unions and environmental organizations, said the public trust of and bipartisan support in carbon capture technology is critical to its success and widespread adoption.

Crabtree said in an interview it is "disappointing" some companies have not hewed to the requirements under the tax credit, but was pleased the IG is paying attention.

"It's heartening that the IRS has done its job," he said. "The system is working."

There are 13 commercial-scale carbon capture projects running in the U.S., including in the chemical, hydrogren, fertilizer and ethanol industries, according to Crabtree.

But, he said, widespread adoption, like what wind and solar power have achieved in recent years, is still out of reach.

“What we don’t yet have,” he said, “is widespread commercial deployment across the economy.”

Public alarm over abuse of the 45Q could damage the prospects for companies that want to build new projects under the updated version of the program, Crabtree said. “The last thing they want is all their investments and efforts to be tainted by a perception that people are gaming the system and not doing what’s required.”