



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

BlueGreen Alliance
Ben Davis, Carbon Management Policy Advisor
1020 19th St., NW | Suite 750
Washington, DC 20036
bdavis@bluegreenallianec.org

December 2, 2022

IRS-2022-57: Response to the Department of Treasury & Internal Revenue Service's Request for Comments on the Credit for Carbon Oxide Sequestration.

The BlueGreen Alliance (BGA) unites labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a stronger, fairer economy. Our partnership is firm in its belief that Americans don't have to choose between a good job and a clean environment—we can and must have both. We appreciate the opportunity to provide input to shape the implementation of the updated 45Q tax credits for carbon sequestration, which could play a key role in achieving our climate goals by reducing industrial emissions and scaling up the removal of carbon dioxide from our atmosphere. With proper implementation, these credits could significantly further our climate goals, support cleaner air and greater economic security in hard-hit industrial communities, and support and create high-quality, union jobs.

To these ends, BGA offers the following responses to the Treasury Department and IRS's questions on the amendments to the carbon oxide sequestration credit under § 45Q.

01 Direct Air Capture

The IRA modifies the applicable dollar amounts under § 45Q(b)(1) for purposes of § 45Q(a)(3) and (a)(4) for qualified carbon oxide captured by DAC facilities.

(1) What types of existing and emerging technologies potentially meet the definition of a DAC facility?

We must pursue Direct Air Capture (DAC) alongside bold action to reduce emissions as integral pieces of the climate puzzle. In its April 2022 report on limiting warming to 1.5°C, the Intergovernmental Panel on Climate Change (IPCC) said that in addition to "rapid and

deep and in most cases immediate GHG emission reduction in all sectors” we must also deploy carbon dioxide removal (CDR) methods to counterbalance residual GHG emissions. The IPCC writes that the deployment of CDR technology like DAC is needed to counterbalance hard-to-abate residual emissions and “is unavoidable if net zero CO₂ or GHG emissions are to be achieved.”¹

DAC is an emerging technology that has potential to help mitigate the most difficult to eliminate emissions. It is vital, then, that this tax credit help drive down the cost and accelerate the development and deployment of DAC at scale.

The U.S. must strive to create and retain millions of high-quality jobs while putting forward bold solutions to climate change. To that end, the IRS should seek to maximize community benefits along with emissions reductions by ensuring that these tax incentives also support high-road labor standards and domestic manufacturing throughout the supply chain. We recommend additional factors be weighed as DAC facilities access the 45Q tax credit, as detailed below, including:

1. Equipping labor unions, community-based organizations, Tribes, disadvantaged communities, and other stakeholders impacted by a project with the tools and resources to engage early and meaningfully in the design of the project;
2. Demonstrating active support from these impacted stakeholders for the project;
3. Requiring or incentivizing facilities to use community benefit/community workforce agreements that increase economic opportunities for communities and local workers—especially for people of color and low-income communities;
4. Requiring or incentivizing manufacturing companies to submit or demonstrate a business plan based on high wages, benefits, and working conditions, along with a plan for monitoring and accountability, and requiring construction contractors or subcontractors to abide by the high-road labor standards outlined below (prevailing wages, Project Labor Agreements, registered apprenticeship programs, and pre-apprenticeship programs);
5. Ensuring implementation of Justice40 through program guidance, technical assistance, and reporting requirements;
6. Targeting investments to hard-hit communities, with a focus on low-income communities, communities of color, and communities facing deindustrialization, environmental injustice, or energy transition;

¹ Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2022: Mitigation of Climate Change, Summary for Policymakers*, (2022). Available online: https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SPM.pdf

7. Favoring funds for facilities that utilize hiring and procurement policies that benefit low-income communities, people of color, women, and formerly incarcerated people;
8. Ensuring investments are in line with the scale of change needed to meet global climate targets by prioritizing projects that will result in the greatest decrease in greenhouse gas emissions; and
9. Prioritizing projects that maximize reductions in air, water, and land pollution and toxic substances that could impair the health of workers and communities, with a particular focus on environmental justice communities, paying attention to impacts at every stage of the process including capture, transportation, use and/or storage.

These criteria serve several overarching goals: ensuring community and labor engagement in project selection and design; promoting high-road labor standards to create and support quality jobs; advancing economic, racial, and environmental justice; and maximizing emissions reductions. Below we offer further details on how DAC facilities can support these goals.

Community and Labor Engagement

Communities often already have a clear vision for economic development goals, but are often marginalized and deprived of resources that would enable them to lead implementation of those plans, build the financial resources necessary to start and sustain community-wide efforts, or attract expertise and resources needed to champion efforts and successfully navigate complex and politically-charged environments. The IRS should provide technical assistance and/or financial support for groups seeking to access the 45Q tax credit, and should provide points of contact that can advise businesses on procedures, deadlines, and implementation requirements.

Prioritizing public input and community and labor participation will be key as DAC develops. With community buy-in, these sites can create long-term, permanent jobs and help diversify the economies of communities. The RECLAIM Act (H.R.1733/S.1455, 117th Congress) offers a potential model to follow. The bill requires local stakeholder collaboration in development of goals and planning.

The IRS should particularly prioritize early consultation with workers and fenceline communities to ensure that the manufacturing facilities benefiting from this program support their environmental and economic needs. It is imperative that the IRS incorporate input from Tribes, communities of color, low-income communities, labor unions, and communities that have suffered from deindustrialization, energy transition, and

environmental injustice into the selection of projects. In particular, community-based organizations' (CBO) input should be sought on matters regarding local hire; labor unions should be consulted on training opportunities and all of the labor standards outlined below; and disadvantaged communities, Tribes, and CBOs should be engaged to ensure that the goals of Justice40 are fulfilled.

The 45Q tax credit should incentivize DAC facilities to use Community Workforce Agreements (CWA) and Community Benefit Agreements (CBA) as a clear means of ensuring meaningful community and worker engagement in projects. A CWA reflects a common pledge between labor and the community to work together to build a high-road path to economic revitalization that includes good jobs. CWAs frequently include local hire provisions, targeted hire of low-income or disadvantaged workers, and the creation of preapprenticeship pathways for careers on the project. A CBA typically includes more than economic benefits and utilizes a community input process to develop an agreement with the community for a broader array of benefits (i.e., housing or transportation priorities). It is also important to link DAC facilities to community-driven economic development efforts to ensure that the projects actually meet the needs of the community.

Quality Jobs

We recommend that the IRS encourage DAC facilities seeking to access the 45Q tax credit to include the following high-road labor standards. These standards primarily apply to jobs in the construction sector, unless otherwise noted:

- **Prevailing Wage:** Projects should require all construction contractors and subcontractors to comply with the Davis-Bacon Act and Related Acts (DBRA). Contractors and subcontractors shall therefore agree that all employees shall be paid the local prevailing wages and receive accompanying benefits as identified under DBRA in the construction of projects funded by this program.
- **Project Labor Agreements (PLA):** Large construction projects, not subject to Executive Order 14063 requiring use of Project Labor Agreements (PLA) for Federal Construction Projects over \$35 million, can still benefit from a PLA. PLAs control the terms and conditions of employment of workers on specific construction projects, including wages, hours, working conditions, and dispute resolution methods. These agreements can be utilized at the state and local level to ensure high-road labor standards, a qualified workforce, and timely projects.
- **Registered Apprenticeship, Pre-apprenticeship, and Labor-Management Partnerships:** One of the main mechanisms for building career pathways in

construction is through registered apprenticeship, pre-apprenticeship, and other union-affiliated training programs. Apprenticeships are registered through a state apprenticeship agency or through the U.S. Department of Labor. Registered apprenticeships are paid positions that combine on-the-job training with classroom instruction in a trade. Construction unions operate robust registered apprenticeship programs while industrial unions work with employers on joint labor-management training programs that also provide a combination of classroom and on-the-job skills training. Additionally, many unions offer training throughout a member's career to enable them to stay up to date with changes in technology. Pre-apprenticeship programs have become a key tool for improving equitable access to jobs in the building trades. Such programs aim to ensure that workers can qualify for entry into an apprenticeship program and have the skills and support they need to succeed. These programs are generally designed to support certain populations or demographics such as low-income workers, workers of color, women, and other marginalized communities. The most successful pre-apprenticeship programs are those affiliated with registered apprenticeships or other contractually agreed on-the-job training programs. Wraparound services such as transportation and childcare also help with recruitment and retention of underrepresented and disadvantaged workers.

- **Targeted Hire:** Targeted Hire provisions—often a key feature of CWAs—mandate or incentivize the hiring of workers on a project from certain communities, which may include women, people of color, veterans, the formerly incarcerated, indigenous people, economically disadvantaged communities, communities heavily impacted by climate change or climate change policies, and many others. These communities may be targeted through contracting requirements, hiring requirements, or the use or establishment of pre-apprenticeship programs. Ideally, these provisions establish long-lasting pipelines for members of disadvantaged communities to access good jobs and careers in the clean economy.
- **Local Hire:** Local Hire provisions mandate or incentivize the hiring of workers from within the state or local community. Without this provision, work crews from out of state can be brought in, minimizing the job creation benefits for the local community. Local hire provisions may mandate a certain percentage of local workers be used, they may offer incentives to hire local workers, or they may simply require that local employment impacts are considered alongside other benefits of projects being evaluated.

The IRS should consider additional high-road labor standards, such as: union neutrality, high-road wages and benefits, occupational health and safety standards and programs,

avoidance of misclassification, and avoidance of excess use of contracted or temporary employees.

Economic, Racial, and Environmental Justice

The economic benefits of deploying DAC at scale should be intentionally focused towards low-income communities, communities of color, and communities enduring deindustrialization, energy transition, or environmental injustice. The buildout of CO₂ infrastructure must not perpetuate the environmental injustices of past energy infrastructure construction, and must prioritize the health and safety of host communities while maximizing the reduction of pollution in already overburdened communities. In particular, communities must be given an opportunity to negotiate tangible benefits and offer explicit support before hosting DAC infrastructure. We offer the following guidance in defining these communities:

- Environmental justice communities: Government tools such as the CEQ screening tool, DOE mapping tool, and/or state-specific environmental justice screening tools should be used to help identify environmental justice and other disadvantaged communities where the project benefits should be concentrated. The 45Q credit should support implementation of Justice40 through program guidance, technical assistance, and reporting requirements.

Projects also should demonstrate how the proposed program will provide disadvantaged workers with improved access to career opportunities in manufacturing. This may include:

- Requiring or incentivizing local or targeted hire or other hiring and procurement policies that benefit dislocated workers, low-income communities, people of color, and/or women in disadvantaged communities, as identified by CEQ's screening tool or DOE's mapping tool;
- Requiring or incentivizing community benefit/community workforce agreements that increase economic opportunities for communities and local workers—especially for dislocated workers, people of color and low-income communities;
- Creating a community task force to monitor and enforce a local hire provision or CWA/CBA;
- Requiring or incentivizing pre-apprenticeship opportunities that are linked to registered apprenticeship programs and that target disadvantaged communities;

- Integrating training programs with community-based “wrap around” services to maximize retention of disadvantaged and underrepresented workers as they enter careers (e.g., child care services and transportation);
- Omitting or limiting drug testing or background checks; and
- Identifying existing community networks for recruitment of disadvantaged workers.

02 Definitions.

The IRA modifies the definition of a “qualified facility” under Sec. 45Q(d) and related definitions under Sec. 45Q(e).

(2)What clarifications are needed regarding the definition of a qualified facility under § 45Q(d)?

Lowering the amount of CO₂ emissions needed for industrial facilities to access the 45Q tax credit from 100,000 tons to 12,500 tons could help accelerate the transformation of U.S. industry and manufacturing, especially for hard-to-abate processes like cement and steel production. Industry represents 30% of U.S. primary energy-related CO₂ emissions, and DOE identified CCUS as one of the four key pillars of industrial emissions reductions in their September 2022 Industrial Decarbonization Roadmap, writing that their modeling showed that “CCUS was predicted to be the largest source of long-term emission reductions” and it “will be critical to achieving the final carbon reductions—those not achievable through other decarbonization technologies and strategies.”² CCUS could play a key role in achieving net-zero GHG emissions in manufacturing and industry, and the permanent storage of carbon will play a key role in achieving that goal. This enhanced tax credit will help equip U.S. industrial facilities with the CCUS technology necessary to meet our climate goals, and can help to reduce local pollution and create significant opportunities for good jobs as well.

As the U.S. begins to deploy industrial CCUS, there must be tangible economic, health, and environmental benefits for the communities where new carbon management infrastructure is planned. If this first wave of deployment does not deliver such benefits, it risks sullyng the waters for the future of CCUS, making the path to achieving our climate goals much more difficult. As laid out in response to question one on DAC, similarly here, community benefit, workforce, and other similar agreements that improve access to jobs

² Department of Energy (DOE), *Industrial Decarbonization Roadmap* (2022). Available online: <https://www.energy.gov/sites/default/files/2022-09/Industrial%20Decarbonization%20Roadmap.pdf>

and career paths, and identify and implement mechanisms to ameliorate and improve local economic and environmental impacts, will be key to the successful deployment of CCUS.

The IRS should seek to maximize community benefits along with emissions reductions by ensuring that these tax incentives also support high-road labor standards and domestic manufacturing throughout the supply chain.

Generations of economic and racial inequality have disproportionately exposed low-income workers, communities of color, and others to low wages, toxic pollution, and climate threats. By incentivizing the capture of hard-to-abate industrial carbon emissions, the 45Q tax credit can result in significant greenhouse gas emissions reductions as well as a reduction in particulate matter, and other non-GHG pollutants, especially in industrial communities where emissions pose an outsized health burden. Indeed, projects should be evaluated and selected based on their potential to avoid or reduce air, water, and land pollution—particularly pollution that would impact or has impacted environmental justice and other fenceline communities.

Federal, state, and local governments must ensure that the collection, transportation, use and/or storage of captured CO₂ is safe and effective. The transport and storage of captured carbon must be deployed with informed community consent; ironclad protections for water, land, and other natural resources; and a comprehensive accounting for environmental justice concerns. Projects should address the cumulative environmental and health impacts that burden frontline communities with disproportionate air, water, and land pollution risks. Protections for fenceline communities must be included in any planned carbon dioxide transportation and storage.

In addition to being clean, CCUS must also be safe. This must include stepping up workplace protections and improving our industrial infrastructure through improved process safety and investments in inherently safer technologies. Strong health and safety protections for the workers inside the fenceline and the communities outside the fenceline of these plants, as well as those working on and living next to CO₂ transport and storage infrastructure, are needed.

Developing CCUS responsibly, with strong protections for workers, communities, and the environment and attention to emission reductions at every stage of the project, can support good, family-supporting, union jobs across the full value chain of projects: from domestic manufacturing supply chains, to construction, to operation and maintenance.