February 26, 2024

VIA ELECTRONIC FILING (www.regulations.gov) (REG-117631-23)

Internal Revenue Service
CC:PA:LPD:PR (REG-132569-17)
Room 5203
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: REG-117631-23: Section 45V Credit for Production of Clean Hydrogen; Section 48(a)(15) Election To Treat Clean Hydrogen Production Facilities as Energy Property

On behalf of the 20 bipartisan, bicameral state legislators of the California Problem Solvers Caucus, we appreciate the opportunity to provide comments to the proposed regulations published by the Internal Revenue Service and the U.S. Treasury Department regarding the Internal Revenue Code section 45V Credit for Production of Clean Hydrogen (Clean Hydrogen PTC) and the energy credit, as established and amended by the Inflation Reduction Act of 2022, Public Law 117-169, 136 Stat. 1818 (August 16, 2022).

California has led the nation in the development of a clean hydrogen economy. Since 2008, the state has spent more than $200 million on hydrogen research, development, and deployment projects. Our state's Low Carbon Fuel Standard (LCFS) has incentivized the use of renewable hydrogen in transportation applications - reaching 90% renewable in 2021 - demonstrating that with the right policies in place, the hydrogen fuel supporting fleets of zero emission fuel cell vehicles can further our collective greenhouse gas emission reduction goals.

California is a global leader in the fight against carbon. Our Renewable Portfolio Standard (RPS) has been in place for more than 20 years and 2026 will mark the 20th Anniversary of our landmark policy to reduce greenhouse gas emissions below 1990 levels. We have expedited these goals and now look forward to a 100% renewable and zero carbon grid in 2045 in addition to achieving carbon-neutrality in the same year.

Part and parcel to this work is having built the policy framework to protect against things like resource shuffling and ensuring accurate accounting for renewable power purchases and dispatch. With respect to the inclusion of the "3 Pillars" in the proposed federal guidance, these requirements are not necessary in a state that has already contemplated these issues and put appropriate protections in place. While we recognize these protections may be necessary in other states, we believe that California should be exempted.

As it relates to the concept of "additionality" which solves for concerns around resource shuffling and grid pressure, Public Utilities Code 454.53 requires the achievement of our 100% renewable and zero carbon grid not increase emissions elsewhere in the grid or allow resource shuffling. These provisions have guided grid planning for increased demand from building and transportation electrification. The same will be true for hydrogen production demand.

With respect to "hourly matching," which requires consumption be matched with power generation from new renewables on an hourly basis, California already has matching provisions in place. Our RPS requires utilities to match consumption and demand on an annual basis and for participants in the Low Carbon Fuel Standard program, it is required quarterly. Not only is the hourly matching functionality limited, but it adds incredible costs to production which undermines the goals associated with the Department of Energy's hydrogen hubs program. The accountability that exists in today's policy framework should apply equally to hydrogen, there is no reason why battery electric vehicle fuel should be held to a once per year matching standard while fuel cell electric vehicle fuel is held to an 8,760-times per year matching standard.

Finally, as it relates to "deliverability," which requires power purchases from the same region as the hydrogen production facility, we encourage the Internal Revenue Service to consider expanding the proposed boundary to the Western Electricity Coordinating Council (WECC). As currently proposed, the boundary would restrict California projects from sourcing wind or solar power from within the WECC region outside of California, inconsistent with our energy procurement and deliverability today. This will increase the cost of producing hydrogen in California with no additional environmental benefits.

We are committed to supporting the development of a clean hydrogen economy in California and nationally. We believe there are robust policies already in place to protect against the concerns the 3 Pillars intends to address and as such, support an exemption for the Golden State. We have a lot at risk including our Clean Cars II, Innovative Clean Transit, Advanced Clean Fleets, and In-use Locomotive Regulations if we are unable to successfully grow California's hydrogen industry. Achieving our climate goals requires a balance of bold vision, successful execution, and consumer affordability. As it stands, the 3 Pillars requirements would undermine California's hydrogen market and climate goals.

We appreciate the opportunity to comment on this matter before you. For additional information, please contact April Manatt (april@caproblemsolversfoundation.com).

Sincerely, the California Problem Solvers Caucus Co-Chairs,

Heath Flora

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Assemblymember Heath Flora (Co-Chair)

Carlos Villapudua

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Assemblymember Carlos Villapudua (Co-Chair)

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Senator Josh Newman (Co-Chair)

Scott Wilk

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Senator Scott Wilk (Co-Chair)