

February 7, 2024

The Honorable Lily L. Batchelder  
Assistant Secretary for Tax Policy  
Department of the Treasury

Mr. Seth Hanlon  
Deputy Assistant Secretary for Tax and Climate Policy  
Department of the Treasury

Mr. William M. Paul  
Principal Deputy Chief Counsel and Deputy Chief Counsel (Technical)  
Internal Revenue Service

Mr. John Podesta  
Senior Advisor to the President for Clean Energy Innovation and Implementation  
White House

Mr. Ali Zaidi  
Assistant to the President and National Climate Advisor  
White House

The Honorable Jennifer Granholm  
Secretary  
U.S. Department of Energy

**Re: Section 45V Credit for Production of Clean Hydrogen – proposed regulations dated December 22, 2023 (Document 2023-28359)**

Dear Assistant Secretary Batchelder, Mr. Hanlon, Mr. Paul, Mr. Podesta, Mr. Zaidi, and Secretary Granholm:

GRAMM Energy applauds the Biden administration for its leadership in setting concise, logical and attainable eligibility requirements for the 45V tax credit to stimulate the production of clean hydrogen that will advance US decarbonization by spurring, inter alia, production of clean fuels. Crucially, those bold requirements – based on the three pillars of incrementality, regionality, and temporal matching – not only benefit the national economy but also enable the US companies to competitively target the European renewable fuel market.

GRAMM Energy (“GRAMM”) appreciates the opportunity to provide the following comments as requested.

**1. BACKGROUND**

GRAMM develops and operates competitive scalable production and supply of clean fuels for the global aviation and marine industries that are going through the unprecedented and transformative energy transition.

The company collaborates with the leading global players in the fields of renewable energy, renewable hydrogen, e-methanol and Sustainable Aviation Fuel (SAF), as well as with major companies that facilitate storage, shipping and bunkering of renewable fuels worldwide. Our offtakers are the industry leaders from the global marine and aviation sectors.

At present, GRAMM develops a 650MW clean fuel plant in Texas, in close collaboration with the regional authorities, aiming to contributing to the local economy and communities.

## 2. QUESTIONS RAISED BY THE IRS AND THE U.S. TREASURY DEPARTMENT

We would like to address the following point raised in the Section V.C.2c, titled “Explanation of Provisions”:

*The Treasury Department and the IRS request comments on whether there are additional ways to establish deliverability, such as circumstances indicating that electricity is actually deliverable from an electricity generating facility to a hydrogen production facility, even if the two are not located in the same region or if the clean electricity generator is located outside of the United States.*

It is important to understand that the flow of electricity within a given region is determined by multiple factors, including Kirchhoff's Law. That means that electrons from a given renewable energy (RE) facility are not always physically reaching the hydrogen facility that is relying on the proposed energy attribute certificates (EACs) from that RE generator. Likewise, the actual grid power supplied to a hydrogen facility could originate from a different region. Therefore, lack of physical deliverability calls for a different logical interpretation of that rule.

Thus, there could be a remote hydrogen facility, for example on the Tribal land, that is interconnected to the local mini-grid, but not to the balancing authority. By using locally available power, such a facility would, in fact, be more efficient in respect of GHG emissions than a hydrogen facility that is interconnected to the balancing authority and, therefore, is subject to the corresponding grid losses and grid congestion.

Also, a hydrogen facility that is interconnected to several balancing authorities – for example, a facility located near the region's border – would, unfairly, be able to use EACs from multiple regions within a given temporal period, whilst physically still taking the power from one specific grid.

Last but not least, there are circumstances where physical interconnection of the hydrogen facility to a regional balancing authority is impossible or impractical. For example, an off-shore floating hydrogen facility in the Gulf of Mexico could still be in the US territorial waters, attributed to a given region or multiple regions. It would be unfeasible to interconnect such a hydrogen facility to any balancing authority – although, were it interconnected, the facility would be able to correctly and legitimately utilize the proposed EACs from a relevant region.

With that in mind, it would be logical to implement the deliverability rule without requiring that a hydrogen facility is interconnected to the balancing authority associated with the relevant EACs – as long as both the RE facility and the hydrogen facility are physically located within the geographical boundaries, including territorial waters, of a given region (as defined in the proposed section § 1.45V-4(d)(2)(vi)).

In summary, the rule of deliverability should be based on the physical location of a hydrogen facility, and not determined by its interconnection to a given balancing authority. Renewable electrons and clean molecules do not have to be physically interconnected to achieve the IRA goals and objectives.

I personally would be happy to answer any questions regarding these comments.

Sincerely,



Alexander Peschkoff  
CEO  
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