

W. JAY LUNEAU
State Senator
District 29

1010 Main Street
Pineville, LA 71360
Phone (318) 484-2288
Fax (318) 484-2287
luneauj@legisla.gov



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February 23, 2024

Dear Secretary Yellen:

I am writing to express serious concerns about proposed regulations released on December 26, 2023 implementing the Internal Revenue Code section 45V Hydrogen Production Tax Credit. The proposed rules will significantly impede the growth of hydrogen production in the State of Louisiana. Of particular concern are the three pillars of incrementality, temporal matching, and deliverability, as well as the decision to divide the MISO region into two parts, leaving a very small geographic footprint from which Louisianan projects may draw electricity.

Prior to release of the proposed rules, over \$20 billion had been earmarked by investors to develop clean hydrogen projects in Louisiana. Since their release, pending projects have been put on hold as developers try to determine whether they can comply with the three pillars and move forward with projects as planned. Developers also are looking at neighboring states that may have more options for sourcing electricity to meet the stringent requirements, including a larger region from which to draw the electricity. They also are considering moving their investment dollars to non-US projects in Europe and elsewhere, where production tax incentives are not so stringent. Further, even if projects move forward, the three pillars will increase costs to produce clean hydrogen, impose significant administrative burdens to ensure that they are met, and impose substantial risks of falling out of compliance due to outside factors beyond the control of the hydrogen producers.

As the Department of Treasury commences to draft final regulations, I urge you and your staff to reconsider how the implementation of Section 45V is structured, including eliminating the three pillar approach. The statute includes no mention, let alone requirement, of a three pillar concept imposing onerous additionality, timing, and location rules. If Treasury insists on retaining the three pillars, the rules should be significantly modified to reflect the practicalities and challenges of complying with the rules. Among those options would be allowing more time to comply with the rules, grandfathering of existing facilities, greater tolerance percentages for electricity from existing facilities, and ways to avoid the additional costs of lining up redundant sources of energy, including clarification of how energy storage fits into the three pillar regime.

Please contact Vanessa McNeal of my staff for further discussion and additional ideas to mitigate the damaging effects of the rules as proposed.

With best wishes, I remain

Very truly yours

LOUISIANA STATE SENATE, DISTRICT 29

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