Comment from Environmental Defense Fund with Energy Futures Initiative, Good Energy Collective, and League of Conservation Voters

See attached comments from the Environmental Defense Fund with Energy Futures Initiative, Good Energy Collective, and League of Conservation Voters regarding data collection, data management, and evaluation programing. A copy of these comments was also filed in Notice 2022-49.

November 4, 2022

The Honorable Lily L. Batchelder
Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

Mr. William M. Paul
Principal Deputy Chief Counsel and Deputy Chief
Counsel (Technical)
Internal Revenue Service
1111 Constitution Ave., NW
Washington, D.C. 20224

RE: Notice 2022-49 Comments on Low-Income Communities
Notice 2022-51 Comments on Energy Communities
General Comments on the Prioritization of Data Collection, Data Management and Evaluation Programing

Submitted via: www.regulations.gov;

Environmental Defense Fund (EDF) appreciates the opportunity to provide comments[1] regarding the implementation of the Inflation Reduction Act's (IRA) Clean Energy Tax Incentives. EDF is a global non-profit organization that leverages its expertise in science, economics, law, and business partnerships to create transformational solutions to the most serious environmental challenges.

EDF is joined by the Energy Futures Initiative, Good Energy Collective, and League of Conservation Voters in submitting these comments.

Contacts: Nicole Buell (nbuell@edf.org) and Elizabeth Gore (egore@edf.org); Joseph Hezir (jshezir@energyfuturesinitiative.org); Jackie Toth (jackie@goodenergycollective.org); Matthew H. Davis (matthew_davis@lcv.org)

Introduction

With the unprecedented investments made in the IRA comes predictable scrutiny and the need to demonstrate the local, environmental, and economic impact of these provisions. Standing up a robust program evaluation framework is critical to a successful rollout of the IRA. Knowing more information about policy outcomes can help on multiple fronts -- (1) improving policy design and delivery; (2) identifying new policy needs and informing policy updating; (3) enabling more effective cross-agency coordination; and (4) demonstrating policy effectiveness that could enhance public and stakeholder support for clean energy policies.[2]

[1] These comments are in response to the Department of Treasury's RFI. Comments are of a technical nature and do not represent a political position.
[2] Conclusions from Harvard University Professor Joseph Aldy's recent publication Learning How to Build Back Better through Clean Energy Policy Evaluation

As the Department of Treasury (Treasury) begins its implementation of the IRA's Clean Energy Tax Incentives, now is the precise moment that we recommend Treasury plan for systematic evaluation of the performance and impact of these provisions. This includes the data collection, data management, and methods needed for evaluating program performance both through Treasury and through other agencies and external researchers. This can be accomplished with modest effort, time, resources, and capacity now, at the design and implementation stage. Treasury is already set to receive a large influx of data on tax incentive applicants, and by designing those data collection and management processes well on the front end, we can both lessen the reporting burden and unlock an invaluable set of learnings. This focus on program design and evaluation is also consistent with the three core principles[3] Treasury identified to guide its implementation of the IRA's tax incentives and the Administration's prioritization of evidence-based policymaking.[4]

Recommendations

Notice 2022-49: 06 IRA Addition of Special Programs for Certain Facilities Placed in Service in Connection with Low-income Communities (§§ 48(e) and 48E(h)) - (8) Please provide comments on any other topics relating to the environmental justice capacity limitation under §§ 48(e) and 48E(h) that may require guidance.

Notice 2022-51: .04 Energy Community Requirement - (7) Please provide comments on any other topics relating to the energy community requirement that may require guidance.

In response to the broader "catch-all" questions in Notice 2022-51 on energy communities and in Notice 2022-51, we submit the following comments. These comments are also intended to be viewed more broadly across all of the funding and tax incentives included in IRA. The goal is for Treasury and the IRS to utilize and expand on existing interagency programs such as the IRS Federal Intergovernmental Program (FIP) but within the needed constraints of data sharing protections such as those contained in IRC Section 6103.

In particular, we recommend that Treasury undertake the following:

Recommendation 1: Data Collection. Treasury should develop a plan for data collection to enable timely and rigorous evaluation of the tax incentives that will increase transparency, provide the ability to evaluate how and where government funds are utilized, and minimize reporting burdens on taxpayers. As Treasury develops the new forms that will be required to implement these tax incentives, thoughtful consideration should be given to how targeted data collection can provide similar visibility into how

---

[3] The core principles include (1) robust public engagement; (2) clarity and certainty; and, (3) sound stewardship. In particular, Treasury states it aims to "work closely with the IRS to put in place effective guardrails and **reporting to ensure the benefits are delivered as Congress intended."** | Treasury Seeks Public Input on Implementing the Inflation Reduction Act's Clean Energy Tax Incentives

[4] The Biden Administration has emphasized the importance of bringing evidence to inform the design and implementation of policy. Danny Yagan, Former Associate Director for Economic Policy at the Office of Management and Budget has stated that that "[b]y integrating learning into the efforts we undertake, we can continue to identify ways to improve and learn from our experience. This allows us to have confidence that government investments are being used wisely to benefit the American people." | Using Evaluation to Advance Our Priorities

government funds are utilized, as the public has had for grants, loans, and other financing programs for decades.

Recommendation 1.1: Interagency Data Collection Coordination. Treasury should leverage existing data collection across the federal government. Data-sharing agreements that allow for other agencies (including Environmental Protection Agency, Energy Information Administration (EIA), Census Bureau, National Center for Health Statistics, among others) to share their data with Treasury would enable Treasury to minimize the reporting burden associated with claims of IRA tax incentives. For example, the EIA collects extensive data from utility-scale wind farms, including their location, installed capacity, monthly power generation, average price paid for power, etc. A tax information instrument that asks the taxpayer to provide its EIA facility identification code would eliminate the need for Treasury to collect information that EIA regularly collects. Likewise, Census could provide information about facility-level identifiers in the Annual Survey of Manufactures and the Economic Census that could reduce the reporting burden on taxpayers and facilitate integration of datasets at Treasury for program evaluation.[5]

Recommendation 1.2: Location Data. Treasury should collect data on the location of an investment or activity eligible for an IRA tax incentive. Location-specific data are necessary for conducting evaluations on the local impacts of IRA programs, and particularly on disadvantaged and climate vulnerable communities. Specifically, Treasury can collect and analyze the necessary data – in conjunction with data collected by other government agencies and by non-governmental entities – both to determine eligibility for place-based tax credit bonuses[6] and to evaluate progress in delivering on the Administration's Justice40 Initiative "goal that 40 percent of the overall benefits flow to disadvantaged communities."[7] A credible assessment of the Justice40 Initiative must include the nearly three-quarters of the IRA investments that operate through the tax code and must also go beyond simply accounting for who claims IRA tax incentives, and examine how clean energy investment improves public health and quality of life in communities around the country.

Recommendation 1.3: Cost Data. Treasury should collect data on the cost of the technologies, and the costs of components of the technologies, that are eligible for production and investment tax incentives. These data should be collected regularly in order to determine how these costs change over time and evaluate the impacts that IRA incentives have on technology costs and performance. Data on the costs of technology components can also be used to evaluate whether certain technologies are eligible for tax incentives, particularly for the domestic content requirements. Treasury should prioritize collecting and relying on data that are specific to the production or investment being reported as opposed to industry-wide averages (*e.g.*, data should be collected for specific vehicle batteries and vehicle models, as opposed to averages across fleets of vehicles or the industry). Treasury should also prioritize collecting separable data on both unit costs or values (e.g., \$/kW or \$/kWh) and amounts (total kW or kWh), rather than just costs or values (e.g., \$) for products and projects being incentivized. These data will allow for further evaluation of the impacts of IRA tax incentives on

---

[5] Treasury and the Census Bureau currently have a partnership underway to perform aggregated, statistical analyses of the Economic Impact Payments paid under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) | Progress Towards an Evaluation of Economic Impact Payment Receipt by Race and Ethnicity

[6] This includes tax credit bonuses for projects located in energy communities or low-income communities.

[7] Executive Order on Tackling the Climate Crisis at Home and Abroad

technological change over time and can be collected and utilized in collaboration with other federal entities.[8]

Recommendation 2: Secure Data Management. Treasury should develop a plan for secure data management to facilitate Treasury, as well as and external researchers, in evaluating the clean energy tax incentives. Enabling access to data for program evaluation, subject to appropriate safeguards for secure access and confidentiality, can leverage expertise beyond the government to reduce internal capacity burden and to replicate – and improve the credibility of – government program evaluations. It also provides opportunities for non-governmental researchers to identify ways of improving policy design and implementation. While Treasury should continue to dedicate internal resources and capacity to conducting program evaluation, robust public engagement through data access and analysis can facilitate learning that will promote more effective climate and public policy over time. This also aligns with the National Secure Data Service authorized in the recent CHIPS and Science Act of 2022, which prioritizes making government data high-quality, accessible, and usable to enable more evidence-informed policymaking.

[8] This recommendation is derived from Massachusetts Institute of Technology Professor Jessika Trancik's recent publication [Accelerating Climate Innovation: A Mechanistic Approach and Lessons for Policymakers]