



Edison Electric
INSTITUTE

December 2, 2022

The Honorable Lily Batchelder
Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Douglas O'Donnell
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

The Honorable Tom West
Deputy Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mrs. Batchelder, Mr. O'Donnell, and Mr. West:

The Edison Electric Institute (EEI), on behalf of its members, request guidance from the United States Department of Treasury (the "Treasury Department") on § 45W and § 30C of the Internal Revenue Code (Code), as amended by §§ 13403 and 13404 respectively, § 45Q of the Code, as amended by § 13104, and § 45V and § 45Z, as added to the Code by §§ 13204 and 13704 respectively, of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA). The Treasury Department invited comments on each of these topics on November 3, 2022, in I.R.S. Notice 2022-56, I.R.S. Notice 2022-57, and I.R.S. Notice 2022-58, respectively.

EEI is the trade association that represents all U.S. investor-owned electric companies. Organized in 1933, EEI provides public policy leadership, strategic business intelligence, and essential conferences and forums. Our members represent over 70 percent of the U.S. electric power industry and provide electricity for more than 235 million Americans and operate in all 50 states and the District of Columbia. The electric power industry also supports more than 7 million jobs in communities across the United States and contributes 5 percent to the nation's GDP.

EEI members are committed to getting the energy they provide as clean as they can as fast as they can, without compromising on the reliability and the affordability that their customers value. Our member companies are leaders on clean energy. Carbon emissions from the U.S.

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power sector were 36 percent below 2005 levels at the end of 2021. These emission levels are as low as they were in 1984, while electricity use is up 72 percent since then. In addition, electric companies invest more than \$130 billion on average each year to make the energy grid stronger, smarter, cleaner, more dynamic, and more secure. Today, 40 percent of all U.S. power generation comes from clean, carbon-free sources, including nuclear energy, hydropower, wind, and solar energy. The clean energy tax credits that were part of the IRA are critical to meeting aggressive emission reductions goals and making the clean energy transition affordable for our customers, especially during these times of rising inflation and supply chain disruptions.

In response to I.R.S Notice 2022-56, I.R.S. Notice 2022-57, and I.R.S. Notice 2022-58, EEI has identified several main issues, including:

1. General issues of clarification around the 45V clean hydrogen credit, including how lifecycle greenhouse gas emissions are determined, whether virtual power purchase agreements (PPAs) are taken into account when determining lifecycle greenhouse gas emissions, how section 45V may coordinate with section 45Q, among others;
2. Issues around scope of the point where motor vehicles are recharged under the 30C credit and clarification of certain definitions, including eligible census tracts;
3. Guidance on factors to determine comparable vehicles, clarification on what constitutes “mobile machinery” and “qualified manufacturers”, and other terms or issues under section 45W; and
4. Clarification that secure geological storage includes carbon oxides converted into a stable solid byproduct under section 45Q.

We have included separate documents for these topics that outline our specific comments. Thank you for considering these comments. If you have any questions or need further clarifications, please contact Alex Zakupowsky of Miller & Chevalier (202-626-5950), or Eric Grey (202-508-5471), Mark Agnew (202-508-5049) or Kristen Siegele (925-413-8899) of EEI.

Sincerely,



Richard F. McMahon, Jr.
Senior Vice President, Energy Supply & Finance
Edison Electric Institute

cc: Jonathan Davidson, Deputy Under Secretary of the Treasury
Shelley Leonard, Treasury Special Counsel
Jarrett Jacinto, Attorney-Advisor, Office of Tax Policy at Treasury
John Morton, Climate Counselor to Treasury Secretary Janet Yellen