



November 21, 2022

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-49)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

To Whom It May Concern:

GreenPeak Resources LLC (“GreenPeak”) is a premier supplier of clean hydrogen, accelerating the nation’s renewable energy transition. GreenPeak produces and supplies ultra-low-carbon GreenPeak Hydrogen™ with a negligible carbon footprint. We are writing in response to the request for information in Notices 2022-49 and Notice 2022-58 regarding implementation of new incentives with respect to the production of qualified clean hydrogen under Section 45V of the Internal Revenue Code (IRC) as established in the *Inflation Reduction Act (IRA) of 2022*. We respectfully request that forthcoming regulations and/or other guidance implementing these provisions be implemented in a manner that allows a clear reliable measurement of Lifecycle Greenhouse Gas Emissions (LGGE) rates and an application of the rules in a technology neutral manner as discussed herein to fully encourage the production of qualified clean hydrogen.

New Section 45V

Section 45V(a) calculates the amount of the clean hydrogen production credit for any taxable year is an amount equal to the product of— the kilograms of qualified clean hydrogen produced by the taxpayer . . . , multiplied by the applicable amount which is the applicable percentage of \$0.60. Section 45V(b)(2) defines the applicable percentage for qualified clean hydrogen based on certain stated lifecycle greenhouse gas emissions rates of CO₂e per kilogram of hydrogen. Section 45V(b)(2)(D) provides that in the case of any qualified clean hydrogen which is produced through a process that results in a LGGE rate of less than 0.45 kilograms of CO₂e per kilogram of hydrogen, the applicable percentage shall be 100 percent.

Verification Guidelines

GreenPeak agrees with the IRS acknowledgement in Notice 2022-49 that there should be guidelines so that taxpayers can rely on a standardized third-party verification process. Specifically the H₂ volumes produced at a hydrogen production facility should be allowed to be confirmed by industry accepted reputable third-party companies with established expertise in gas measurement. This is currently the process in other contexts

with the Department of Energy (DOE) and the US Department of Agriculture (USDA) at the federal level, and the California Air Resources Board (CARB), California Energy Commission (CEC) and other state-level entities that fund or authorize incentives for energy technologies and the projects using them. CARB's standards are adopted by other jurisdictions, such as Oregon and Washington, as well as several Canadian provinces to harmonize the trade in LCFS credits and other attributes. In order for this harmonization to work, these other jurisdictions have generally adopted CARB's third-party verification processes and protocols.

LGGE Rates Assigned for Feedstock

Developers of hydrogen projects need to know what LGGE rates the IRS is going to assign them for (1) their hydrogen production plants; (2) their sequestration and utilisation of CO₂; and (3) the procurement of feedstock natural gas from common carrier pipelines. Estimating the third segment is currently the most difficult/uncertain one and out of the control of the developers. Guidance should include recognition of industry certification groups that are certifying lower methane gas from natural gas producers. Examples are MiQ and Project Canary.

The regulator needs to define the methodology for calculating the LGGE for the procurement of natural gas from common carrier pipelines. We note that it is important to be cognizant that a methodology that results in uncertain or imprecise LGGE values or in higher values of LGGE from the procurement of natural gas from common carrier pipelines would result in very few blue hydrogen plants being built, and Section 45V would then not achieve its objective of strongly promoting the development of these clean hydrogen plants.

Apply LGGE Measurements Incrementally During the Year

We recommend that the LGGE measurements be determined throughout the year in increments or batches, and not simply based on the year as a whole. This would allow needed flexibility to produce in batches and have needed certainty as to the qualification of interim production for purposes of financing.

Recording Keeping and Reporting -- Book and Claim System

We strongly agree with Section 3.01(4)(f) of Notice 2022-58 that guidance should clarify that indirect book accounting such as a book and claim system should be used to reduce a taxpayer's effective greenhouse gas emissions. This is also consistent with the intent that Sen. Wyden read into the Congressional record.¹ In particular a renewable energy credit (REC) concept to calculate LGGE rates is critical to allow a nationwide market for low-emission feedstocks. The well-to-gate emissions testing for feedstocks

¹ See Page S4166 found at: <https://www.govinfo.gov/content/pkg/CREC-2022-08-06/html/CREC-2022-08-06-pt1-PgS4165-3.htm>

should be based on looking to the emissions from the REC feedstock (with any transportation emissions for travel to the hydrogen plant being based on the actual feedstock used in the hydrogen plant. This would add the needed certainty as to the carbon intensity of the project input and encourage a nationwide market for cleaner feedstock. For example, with the RECs for the natural gas feedstock, doing this would allow for plants to be built regardless of where the 'cleaner' natural gas is located and will help develop this industry. Not doing this would limit potential locations for plants.

Certification for New Technologies

The regulatory measurement process should include the ability to measure and certify new technologies to encourage innovation. For example third-party verification processes should be able to certify a process that is not outlined in the current GREET model. A process for such future adaption can include both a list of facts and circumstances such process should take into account and also include planned future regulatory clarifications as these technologies develop.

Thank you for considering these comments. We look forward to working with you on implementing these provisions and promoting investment in clean energy.

Sincerely,

A handwritten signature in blue ink that reads "Quinn Laws". The signature is fluid and cursive, with the first name "Quinn" and last name "Laws" clearly distinguishable.

Quinn Laws, CFO
GreenPeak Resources LLC