February 26, 2024

Internal Revenue Service
P.O. Box 7604
Ben Franklin Station,
Washington, DC 20044

Re: Comments on IRS REG-117631-23 (Section 45V Credit for Production of Clean Hydrogen; Section 48(a)(15) Election To Treat Clean Hydrogen Production Facilities as Energy Property).

Dear Sir/Madame,

On behalf of the Four Corners Clean Energy Alliance (4CCEA), I would like to submit the following comments on the proposed guidelines for the 45V Credit for Production of Clean Hydrogen.

By way of background, 4CCEA is a 501c4 tribal organization registered on the Navajo Nation and is organized and funded by companies, academic and economic development entities who seek to invest human and financial capital in the people and future of the Four Corners area.

Background
The Biden Administration has indicated support for identifying economically disadvantaged communities across the United States, who are experiencing the real human and fiscal impact of decarbonization efforts, for reinvestment and revitalization.

The Four Corners area is an economically disadvantaged community with a significant tribal population that has seen a decline in because of the coal-fired Navajo Generation Station, Navajo Mine and pending closure of the Four Corners Generating Station as well as corresponding declines in natural gas and coal production.

The Four Corners area of Colorado, New Mexico, Utah and Arizona as well as the Navajo Nation, Southern Ute Indian Tribe, Ute Mountain Ute Indian Tribe and Jicarilla Apache Nation is an emerging epicenter of clean energy development in the United States including but not limited to hydrogen, solar, wind development and battery storage, carbon capture and sequestration (CCS), pumped storage hydropower, and Responsibly Sourced Natural Gas (RSG).

The Four Corners area is prepared for a hydrogen energy economy in that there is abundant natural gas, electricity delivery systems, existing and building renewable energy resources (geothermal, wind and solar), fuel delivery infrastructure, subsurface geology for carbon and hydrogen storage, and a dedicated and hungry workforce.

Comments on proposed guidelines for the 45V Credit for Production of Clean Hydrogen
The Treasury Department's proposed PTC rules rely on the use of energy attribute certificates (EACs) to demonstrate a hydrogen producer's purchase of clean power. The guidelines establish three (3) critical

criteria that must be reflected in the EACs used to claim the tax credit: temporal matching, deliverability and additionality.

Broadly, the proposed rules are too rigid with the potential cause-and-effect of a major slowdown in hydrogen project development and production.

The technical and economic hurdles toward establishing a strong and dynamic hydrogen industry are not insignificant. As with the establishment of past "Infant Industries," hydrogen producers and power generators should be allowed more flexibility to launch themselves and develop projects with the drive toward more stringent standards used to claim the larger tax credit benefits to be ratcheted up on a liner basis.

For example, the new standards as proposed could severely limit how much of the tax credit is available to many of the potential low-carbon hydrogen production facilities. A blue hydrogen project — one in which hydrogen is produced through the auto thermal reforming (ATR) or steam methane reforming (SMR) of natural gas, which is abundant in the Four Corners area, with the resulting emissions mitigated by carbon capture — can qualify for the credit if it has sufficiently high carbon-capture rates, but the proposed regulations likely limit it to the less lucrative bottom two tiers of the credit due to a "locked" upstream natural gas feedstock emissions factor.

Additionally, the following are key areas of concern in the proposed regulations that might prove to be overly burdensome and could unintentionally hurt hydrogen investment include, but are not limited to:

- *Complex Eligibility Criteria:* If the eligibility criteria for the tax credit are too complex or restrictive, it could deter potential investors from pursuing clean hydrogen projects. This complexity might include stringent requirements for the purity of hydrogen, the source of energy used in production, or the carbon intensity thresholds that must be met.

- *Administrative Burden:* Extensive documentation, reporting, and verification requirements can add significant administrative burdens to hydrogen production projects. This can increase the cost and time required to qualify for the tax credit, making clean hydrogen projects less attractive to investors.

- *Uncertainty in Regulations:* If the proposed rules are subject to frequent changes or lack clarity, it can create uncertainty for investors and developers. This uncertainty can lead to delays in project development and deter investment in clean hydrogen production.

- *Cap on Tax Credits:* If there is a cap on the total amount of tax credits available or on the amount that can be claimed per project, it could limit the scalability of clean hydrogen projects and reduce the incentive for large-scale investments.

- *Phase-out Provisions:* If the tax credit is designed to phase out over time or based on the achievement of certain market milestones, it could create uncertainty about the long-term viability of investments in clean hydrogen production.

- *Interplay with Other Incentives:* The interaction between Section 45V credits and other federal or state incentives for clean energy and hydrogen production needs to be carefully considered. Overly restrictive rules on stacking incentives could limit the overall financial viability of clean hydrogen projects.

To address these concerns, we encourage you to consider simplifying eligibility criteria, streamlining administrative processes, providing clear and stable guidance, and ensuring that the tax credit structure supports the long-term growth of the clean hydrogen industry.

Communities and tribes in the Four Corners area have borne the brunt of the government policy and regulations geared toward curtailing coal and natural gas production. 4CCEA encourages the adoption of 45V regulations flexible enough to encourage the development of clean hydrogen energy projects in the Four Corners region that will bring real and tangible benefits to the Navajo and other tribal communities as well as the Four Corners region broadly through good paying jobs, educational opportunities and investments in local infrastructure.

Sincerely,

Matthew Gonzales
Executive Director
Four Corner Clean Energy Alliance