

November 4, 2022

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

RE: Notice 2022-49, Request for Comments on Certain Energy Generation Incentives

Dear Secretary Yellen:

On behalf of the National Association of State Energy Officials (NASEO), we appreciate the U.S. Department of Treasury's rapid action on a number of important energy-related tax provisions included in the Inflation Reduction Act (IRA). NASEO represents the nation's 56 governor-designated State, Territory, and District of Columbia Energy Offices focused on advancing clean, affordable, reliable energy solutions in energy production, distribution, and end-use. Following are NASEO's suggestions and comments in response to select questions in Notice 2022-49, Request for Comments on Certain Energy Generation Incentives.

Regarding changes to the renewable electricity production credit in §45, and the question about standards that can be used to verify whether electricity produced is qualified clean hydrogen as defined in §45V(c)(s), NASEO recommends that the Internal Revenue Service (IRS) assess and aim to harmonize with the U.S. Department of Energy's recently released Clean Hydrogen Production Standard, which is currently open for public comment through November 14, 2022.¹

Regarding the reduction in credits (relevant to §45, §48, §45Y, and §48E) for tax-exempt bond financing, NASEO recommends that IRS develop more detailed guidance to support the calculation of the credit and enable state and local bond counsel to have maximum confidence in authorizing issuances of the financing. While the capacity of state and local entities in navigating bond issuances for clean energy is robust,² past experience suggests that there is deep scrutiny as to the costs, terms, technical qualifications, and expected payback of bond-supported projects and programs. IRS could consider publishing an online calculator tool online that would support these determinations.

Regarding the establishment of a special program to encourage the placement of certain facilities in connection with low-income communities, NASEO recommends that the Secretary:

¹ <https://www.energy.gov/eere/fuelcells/articles/clean-hydrogen-production-standard>

² Some of this experience stems from the federally-subsidized Qualified Energy Conservation Bonds (QECBs), which were authorized by the 2008 Energy Improvement and Extension Act and repealed by the Tax Cuts and Jobs Act of 2017.

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- Provide flexibility for states with potentially qualifying programs to determine the allocation of any qualifying environmental justice capacity consistent with the programs administered by those states.
- Avoid creating new definitions and criteria by using existing state and federal databases and systems to identify target communities (such as state environmental justice maps, recipient networks of benefits programs (e.g., Weatherization Assistance Program, Low Income Home Energy Assistance Program, Temporary Assistance for Needy Families).
- Require that projects making use of the special allocations be operational *prior* to receiving credits, so that there are proven benefits flowing to the target communities.
- Require that projects receiving special allocations undertake community engagement on project planning and siting.
- Prioritize projects that support community ownership and/or improved access to clean energy (such as some types of community solar projects) and that maximize benefits to target communities (e.g., energy burden reduction, public health improvements, improvements in rural and remote energy access).
- Provide additional clarity as to the distribution of allocations between the 5mw minimum and the 1.5gw/year cap.

We hope that the U.S. Treasury is able to address the above issues in favor of maximizing the benefits of clean, domestic energy for all Americans.

Best regards,

A handwritten signature in blue ink, appearing to read 'David Terry', with a stylized flourish at the end.

David Terry, NASEO Executive Director

cc: State Energy Directors