



November 3, 2022

VIA The Federal eRulemaking Portal at www.regulations.gov

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-50)
Room 5203
P.O. Box 7604,
Ben Franklin Station
Washington, DC 20044

RE: Comments on Notice IRS-2022-0050

On behalf of Plug Power Inc. (“Plug”), please see the below responses to the Department of Treasury’s Request for Comments on Elective Payment of Applicable Credits and Transfer of Certain Credits.

Plug is a leading provider of end-to-end green hydrogen and fuel cell solutions. Through our Proton Exchange Membrane (“PEM”) fuel cell products, Plug successfully created the first commercially viable market for hydrogen fuel cells and has deployed more than 60,000 fuel cells to date. Plug is building an end-to-end green hydrogen ecosystem, from production, storage, and delivery to energy generation. Our capabilities cover all aspects of the entire hydrogen value chain. We are building the world’s first Green Hydrogen Highway, with plans to produce 500 tons of liquid green hydrogen per day by 2025.

i. Elective Payment of Applicable Credits (§ 6417)

- a. What, if any, guidance is needed to clarify the meaning of certain terms in § 6417, such as applicable credit and excessive payment? Is there any term not defined in § 6417 that should be defined in future guidance? If so, what is the term and how should it be defined?*

Plug respectfully requests clarification that compliance with the unrelated third-party verification of hydrogen production, as specified in Section 45V(c)(2)(2)(B)(ii) of the Clean Hydrogen Production Tax Credit, would constitute a safe harbor against excessive payment penalties specified in Section 6417(d)(6)(A)(ii). Specifically, we request clarification that such third-party verification of hydrogen production would meet the “reasonable cause” exception in Section 6417(d)(6)(B). More generally, Plug requests clarification on what will be considered “reasonable cause” under Section 6417, in relation to the production of clean hydrogen under Section 45V.

Plug is appreciative of the opportunity to provide these comments. We are dedicated to supporting the Administration however necessary to ensure that the Inflation Reduction Act guidance on hydrogen tax incentives is successfully implemented. Please feel free to contact us with any comments or questions you may have regarding this submission or any other hydrogen related issue.