

*International Brotherhood of*

**BOILERMAKERS • IRON SHIP BUILDERS**

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February 26, 2024

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

Mr. John Podesta  
Senior Advisor to the President for Clean  
Energy Innovation and Implementation  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Subject: REG-117631-23: Feedback Regarding the Internal Revenue Service's Proposed Regulations to Implement the Section 45V Credit for the Production of Clean Hydrogen

Dear Secretary Yellen and Senior Advisor Podesta:

Please accept these comments on behalf of the Western States Section of the International Brotherhood of Boilermakers.

The Boilermakers have been transitioning for over 140 years. We started by building the steam engines that allowed our country to grow, we built the great warships that delivered victory to the allied forces in the second world war, and we have built the traditional power production that has powered North America. Now, we are building the infrastructure and the new energy innovation that will enable our nation to meet the climate crisis- from carbon capture, offshore wind turbines and barges, hydrogen, nuclear, bio-fuel power production, the hard-working blue-collar members and apprentices of the Boilermakers will be on the frontline.

We were thrilled to see the generous award by the Department of Energy for the ARCHES hydrogen hub. ARCHES, if successful, will create thousands of journey people and apprentice hours for Boilermakers. It is our collective job to ensure that ARCHES is successful. California has been a global leader in energy policy. Working with the Building Trades, the Boilermakers have passed historic legislation that ensures that a skilled workforce will be working on the technologies that will power the state to ensure community safety. We have been at the forefront of energy policy in California and the other states that are within our jurisdiction. The time to develop the hydrogen infrastructure is now. Truth be told, we are behind other countries in adopting new technologies to fight climate change and produce clean and affordable power. We have concerns with the draft Section 45V and the potential unintended consequences.

Because of California's aggressive climate goals and existing renewable resources, the ARCHES hub is in a different position than many of the other hubs. Because of this we fear that, as drafted, 45V will have the effect of disincentivizing private investment in hydrogen development which we will need even with the generous state and federal funding and create market conditions that will not allow California-produced hydrogen to get a foothold in the end-user market. We might not always want to acknowledge the importance of commercial financing and private investment, but we will need stability in both, along with public funding, to be able to fully embrace the new energy technologies that we need to fight climate change.

We agree with the proposed changes to draft Section 45V requested by ARCHES to create an alternative compliance path for California. I have attached the suggested changes hereto.

Please feel free to reach out to me with any questions about our position or California energy policy in general.

Thank you for your hard work in trying to incentivize new energy projects that will put hundreds of thousands of blue-collar workers throughout the country to work. We look forward to building these projects and working together to ensure an energy future that is clean, affordable and embraces high road labor standards.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Tom Baca', with a stylized flourish at the end.

J. Tom Baca

Cc: President Warren Fairly, International Brotherhood of Boilermakers

**Recommendation 1: Amendment to § 1.45V-4: Procedures for determining lifecycle greenhouse gas emissions rates for qualified clean hydrogen.**

We propose minimally invasive revisions to the draft regulations through the addition of the following italicized and underlined text in section 1.45V-4(d):

...The requirements of this paragraph (d)(1) apply regardless of whether the electricity generating facility is grid connected, directly connected, or co-located with the hydrogen production facility. However, the requirements of this paragraph shall not apply, and a taxpayer shall not be required to acquire and retire qualifying EACs, for hydrogen production facilities where all of the following conditions exist and are verified in accordance with section 45V-5(g)(6):

(i) The hydrogen production facility is located in a state with mandatory requirements that clean electricity supply 100 percent of all retail sales to end-use customers a state with mandatory requirements for the production of 100% clean electricity by a date certain and in no circumstances later than December 31, 2050;

(ii) Any hydrogen production facility relying on grid power has the capability to increase or decrease electricity consumption on demand to follow grid needs; and

(iii) The hydrogen production facility's electricity demand is fully accounted for in the state's energy planning system, including applicable system-level, state-mandated time-matching and deliverability requirements.

**Recommendation 2: Amendment to §1.45V-5: Procedures for verification of qualified clean hydrogen production and sale or use.**

We propose that the aforementioned alternative compliance pathway can be verified by adding the following new subsection to section 1.45V-5(g):

... (6) If the taxpayer claims an exemption from acquiring and retiring EACs pursuant to section 45V-5(d)(1), a statement that the hydrogen production facility meets the three conditions described in sections 45V-5(d)(1)(i)-(iii).