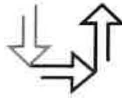
CORE ENERGY, LLC



August 3, 2020

CC:PA:LPD:PR (REG-112339-19)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

Re: Notice of Proposed Rulemaking on Section 45Q Credit

Core Energy is an innovative oil and gas exploration and production company and is the only company in the Midwest performing CO_2 Enhanced Oil Recovery operations. For over 10 years, we have hosted a DOE public/private partnership to research the carbon dioxide storage potential of various oilfields and deep saline reservoir geology.

We appreciate the IRS and Treasury issuing the notice of proposed rulemaking for the Section 45Q carbon oxide sequestration credit and allowing companies to choose to apply the proposed regulations immediately. We want to submit the following comments:

Applicable facilities. We support the regulations regarding the definition of the applicable facility. We also agree that the section 45Q(f)(6) election should be a one-time election. However, we believe the words "described in section 45Q(f)(3)(A)(ii) and 1.45Q-1(h)(1)," in 1.45Q-2(g)(4) should be replaced with "that owns the carbon capture equipment and physically or contractually ensures the capture and disposal, injection or utilization of such qualified carbon oxide". The person described in section 45Q(f)(3)(A)(ii) can be interpreted in more than one way, so the regulations should be clear about who can make the section 45Q(f)(6) election.

Natural CO_2 formations. We think the natural CO_2 formation definition is not consistent with the common knowledge in the oil and gas industry, and adversely affects our CO_2-EOR operations. We inject CO_2 that we capture from a natural gas processing facility. The natural gas wells that feed into that facility have historically produced natural gas with about 5-8% CO_2, but the amount of CO_2 increases over time and is now up to about 15-17% average CO_2 concentration and over 20% in a few isolated cases. The "exclusion" from the industrial facility definition in 1.45Q-2(d)(1) is confusing. It essentially means that some of those wells used to be excluded from being a CO_2 production well because they did not produce from a natural CO_2-bearing formation (because the CO_2 content was below 10%). But the proposed regulation now creates some question if those natural gas wells are producing from a natural CO_2 formation. No one in our industry considers those gas wells to be anything other than natural gas producing wells. The proposed definition is

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unworkable. We are concerned that investment interest in 45Q opportunities might decrease if qualification for credits is based on fluctuating CO_2 concentrations.

The proposed definition of CO_2 production well also seems counterintuitive. The higher the CO_2 concentration in natural gas produced from a well, then the greater amount of CO_2 emissions from the natural gas processing plant. And the greater amount of CO_2, the more likely the plant meets the 100,000 metric ton per year threshold. But under the proposed regulation, the higher the CO_2 concentration, the less certainty is provided.

We have been in the CO_2-EOR industry for over 20 years. Our industry understands that a CO_2 production well is one that that is 90-99% CO2, such as from McElmo Dome in Colorado, Bravo Dome in New Mexico, or Jackson Dome in Mississippi. We agree that 45Q credits should not be available for CO_2 produced from those places. But if a natural gas processing plant separates natural gas from the CO_2, and that CO_2 is then captured and injected underground instead of being emitted, that is exactly what the section 45Q credits were designed for – regardless of the amount of CO_2 concentration.

Secure geological storage. We are the second CO_2-EOR company to ever obtain EPA approval of a subpart RR MRV Plan. We opted into subpart RR. While we do not disagree with the IRS adopting the ISO standard for secure geological storage, the rules should make sure that the ISO standard is applied in a way that makes it equivalent to the subpart RR program in all respects. The ISO standard's initial plan and annual reports should be made public, just like under subpart RR. The inspector general's report from earlier this year demonstrates why public transparency regarding 45Q credit claims are so important. Also, the long-standing rules imposed on the Section 43 EOR credit engineer regarding qualifications and type of certification, which we have to comply with, should also apply to the ISO standard engineer and geologist.

e-GGRT information. There is a lot of information that 1.45Q-1(h)(2)(iv)(D) requires us to turn into the IRS that should not be required. Information about the reservoir, field and unit and county and state is already included in the EPA database, or is not necessary information. The e-GGRT ID number and the operator name ought to be sufficient, and that information will give IRS and EPA all they need to compare information between 45Q credit claims and the e-GGRT database. There is no need for taxpayers to provide more information than what e-GGRT requires.

Applicability date. When the law that amended section 45Q was passed in February 2018, we understood that law change was effective beginning January 1, 2018. But the proposed regulations say that we can choose to rely on the regulations but only for tax years beginning on or after February 9, 2018. We operate on a calendar year, so these regulations say we can't rely on the proposed regulations until January 1, 2019. We are unclear if the regulations apply to 2018, because we think they should and the statute certainly does. We would like for the final regulations to apply for January 1, 2018 and after.

CO_2 and carbon monoxide. The 45Q tax credit is an incentive to capture CO_2 and store it underground. The 2018 amendment opened it up to carbon monoxide and other carbon oxides (if there are any). We don't think the amendment was meant to give a 45Q credit for reducing greenhouse gas emissions like methane or other gases.

Pre-2018 credit program. We read the inspector general's letter to Senator Menendez and we saw the most recent announcement of how much of the pre-2018 tax credits have been used up. We think that it is only fair and right that any credits that have been improperly claimed or disallowed remain in the "old pool" and available to those who are properly claiming the credit. Just because someone didn't play by the rules shouldn't result in a punishment to others. If regulations are needed to make that happen, then we would support those regulations.

Thank you for your attention to our comments.

Sincerely,

Core Energy, LLC

Robert Mannes
President & CEO
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