



December 2, 2022

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-58)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Submitted Electronically via regulations.gov

Re: Notice 2022-58, Request for Comments on Credits for Clean Hydrogen and Clean Fuel Production

Santa Maria Renewable Energy, LLC (“SMRE”) appreciates the opportunity to provide comments to the Office of Associate Chief Counsel (Passthroughs & Special Industries) as well as the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) regarding the anticipated guidance for implementation of the Clean Fuel Production Credit under section 45Z of Public Law 117-169, 136 Stat. 2003 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA).

SMRE is a minority owned vertically integrated renewable energy, and biobased production developer. The company deploys mature proven technologies in a circular economy approach to extract value from residual waste streams and byproducts. Superior project features include renewable diesel production, capture and sequestration of CO₂, combined heat and power cogeneration, renewable fertilizer production a high-animal welfare/ pasture-raised environment for poultry and a zero-waste system. The company will create over 300 local permanent jobs and more than 700 indirect jobs in an economically depressed rural opportunity zone.

We respectfully submit the following comments in an effort to clarify certain issues raised by the Notice 2022-58 (the “Notice”). Specifically, we would like to address (i) the questions raised in Section 3.02(3) related to provisional emissions rates, and (ii) the questions raised in Notice Section 3.02(7) regarding comments on any other topics related to § 45Z credit that may require guidance.

1. Guidance on §45Z(b)(1)(D) (Notice Section 3.02(3))

(a) At what stage in the production process should a taxpayer be able to file a petition for a provisional emissions rate?

For new low-carbon fuel projects, producers should be allowed to submit a petition for a provisional emissions rate based on approved plans from a professional engineer and carbon intensity modeling results from a qualified lifecycle analysis. Once operations have begun at the facility, the producer should validate that actual emissions rate are consistent with then provisional emissions rate.

(b) What criteria should be considered by the Secretary to determine the provisional emissions rate?

SMRE encourages Treasury to allow producers to submit an emissions rate petition that includes upstream emissions reductions resulting from the use of more efficient agricultural practices and technologies. The intent of the law is to reduce carbon emissions from transportation fuels and many carbon-saving technologies are being deployed at the farm level, with more expected as a result of the IRA’s climate-

smart agriculture provisions. Including upstream agricultural practices that can be accurately documented in the GREET model can unlock considerable potential for carbon reduction.


2. Guidance on other § 45Z issues (Notice Section 3.02(7))

Please provide comments on any other topics related to § 45Z credit that may require guidance.

Pursuant to § 45Z(d)(4)(B)(iii), a qualified facilities for purposes of § 45Z does not include any facility for which a credit for carbon oxide sequestration under section § 45Q is allowed under section 38 for the taxable year. However, to the extent both such credits are available to a taxpayer, it should be clear that such taxpayer is eligible to switch between the two credits in different tax years. For example, if a taxpayer initially claimed § 45Q tax credits in its initial year of operation, it should be clear that the taxpayer would be allowed to claim § 45Z tax credits (and forgo the § 45Q tax credits) in a subsequent tax year, or vice versa. SMRE encourages Treasury and IRS to create rules that clearly allow the possibility of claiming different available credits in different tax years.

SMRE looks forward to working with IRS and Treasury on the implementation of the IRA. We thank you again for the opportunity to provide comments. If you have any questions, or need any additional information, please feel free to contact Patricio Sanchez, CEO at pat@smrenewableenergy.com; or Adit Seshadri, Financial Analyst at adit.s@smrenewableenergy.com or (713)-800-9490.

Sincerely,
Santa Maria Renewable Energy, LLC



Patricio Sanchez
Chief Executive Officer