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ClearPath: Treasury's Clean Hydrogen Tax Credit Guidance at Odds with Congressional Intent & DOE Hydrogen Shot Program

Including nuclear and hydropower in guidance would lead to more clean hydrogen production

Washington, DC – Tuesday, February 27, 2024 – ClearPath made [recommendations](#) to improve the Department of Treasury's proposed rule regarding Section 45V Credit for the production of clean hydrogen, suggesting the guidance does not follow Congressional intent of the bipartisan Infrastructure Investment and Jobs Act (IIJA).

The IIJA modernized the Department of Energy's (DOE) hydrogen research, development, and demonstration (RD&D) programs and appropriated \$9.5 billion to commercialize hydrogen production and create foundational regional clean hydrogen hubs (H2Hubs), including four which would use nuclear energy for production. The tax credit enacted in the Inflation Reduction Act (IRA) was meant to complement the policies in the IIJA and boost the efficacy of the H2Hubs.

"Treasury runs the risk of squandering nearly \$50 billion in hydrogen investments across the seven H2Hubs and stalling the clean energy deployment needed to meet industrial and power sector demand for energy," **said Colleen Moss, Managing Director – Industrial Policy & Advocacy, ClearPath.** "If 45V guidance is improved, we could see a rapid acceleration of clean hydrogen production and move us toward a low-carbon future — especially as it is produced utilizing clean assets like nuclear and hydropower."

The Section 45V tax credit provides a credit of up to \$3 per kilogram of clean hydrogen produced and was authorized by the Inflation Reduction Act in 2022. Later, in 2022, Treasury and the IRS requested comments on credits for clean hydrogen and clean fuel production. In December of 2023, Treasury issued a proposed rulemaking on the Section 45V credit for the production of clean hydrogen.

ClearPath [submitted comments recommending](#) that Treasury streamline the final rule and include existing nuclear and hydropower assets for production. ClearPath offered these specific recommendations:

- The [45VH2-GREET](#) model developed by DOE's Argonne National Lab to conduct **life cycle analysis (LCA)** needs to remain consistent over the lifetime of a project for investment certainty. Treasury has mandated using a new model annually, which is

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stricter than the California Low Carbon Fuel Standard. Nascent technologies, like hydrogen, require predictability to reach deployment. It would be reasonable to allow the hydrogen producer to verify their lifecycle greenhouse gas emissions rate annually with the 45VH2-GREET model that they initially qualified under.

- Treasury includes upstream methane loss rates as data in the 45VH2-GREET model to **encourage project developers to pursue low-methane intensity natural gas feedstocks.**
- **Exceptions to incrementality** need to be made for existing minimal-emitting energy sources, especially nuclear facilities with new carbon capture and storage, and hydropower, and in areas with already low or enforceable emissions reduction goals.
- **Hourly matching should not be implemented in 2028** or until Treasury conducts a feasibility study finding that there are adequate tracking systems and associated trading markets in existence for taxpayers to comply with the rule. A 2028 implementation date would be more restrictive than the European Union's rules for hydrogen production.

The DOE forecasts demand for 10 million metric tonnes (MMT) of clean hydrogen annually by 2030 and 50 MMT annually by 2050. Those forecasts also suggest 100,000 new jobs through the build-out of new clean hydrogen projects by 2030. The DOE also estimates that \$85-215 billion of cumulative public and private investment is needed through 2030 to realize this job creation and meet demand.

"The Treasury has the opportunity to ensure that federal dollars are spent responsibly to spur the deployment of hydrogen technologies in the U.S. and stimulate job growth," **added Moss.**

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ABOUT CLEARPATH

ClearPath's mission is to develop and advance policies that accelerate innovations to reduce and remove global energy emissions. To advance that mission, we develop cutting-edge policy solutions on clean energy and industrial innovation. An entrepreneurial, strategic nonprofit, ClearPath (501(c)(3)) collaborates with public and private sector stakeholders on innovations in nuclear energy, carbon capture, hydropower, natural gas, geothermal, energy storage, and

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