Inflation Reduction Act Summary: Biogas Project Opportunities

The Inflation Reduction Act (IRA) provides for a significant federal commitment to jump start clean electricity projects. As enacted, the bulk of assistance is delivered as tax credits for project construction. The Internal Revenue Service will implement. CASA is providing this summary to assist you in any discussions on developing biogas projects. **CASA encourages you to consult with your tax counsel on the feasibility of any project being eligible for federal assistance.**

The incentives are important to local governments: IRA expands current tax credit policy by allowing all local governments to secure a cash subsidy (or transfer the credit to an entity with higher tax liability). The base credit can be up to 40% of the project cost with an additional 10% if the project complies with federal mandates described below. Since local governments are tax-exempt and do not benefit from tax credits, the policy will be a critical driver in deciding whether to construct biogas facilities.

Why the provision matters: For the first time, incentives for biogas are elevated to the same level as other clean electricity generation technologies. This means that CASA agencies that are developing projects to comply with SB 1833 now have a federal assistance program. There are some important elements to be aware of that are detailed below:

- Diminished benefit if tax exempt bonds used
- Construction start dates qualify
- Methane concentration levels define eligibility
- Compliance with BABA, prevailing wage and apprenticeship/journeyman mandates

There is an important condition attached to application of the credit. If a project is financed using tax-exempt obligations, then the credit would be reduced based upon a formula.

The following summarizes the tax credit program (Subtitle D—Energy Security, Part 1-Clean Electricity and Reducing Carbon Emissions).

The Details Behind The Incentive Program: ***Summary of Tax Credits for Biogas Projects (Subtitle D—Energy Security, Part 1-Clean Electricity and Reducing Carbon Emissions)***

- A qualified biogas property is eligible for tax credits based upon the definition of such facilities that effectively eliminates any use of coal or oil in the generation of energy (subsection (f)).
  - Qualified property is a system that converts biogas that:
    - Consists of not less than 52% methane by volume **or**
    - Concentrated by system into a gas not less than 52% methane **and**
    - Captured gas is for sale or productive use and not disposal
  - Property that is for cleaning or gas conditioning is eligible as qualified

- Property that begins construction **after** 12/31/2024 is excluded as a defined qualified property.
    - No double benefits are allowed if the project has a credit under section 48 of the Internal Revenue Code
- Increased amount of tax credit is determined by a set of criteria.
    - Credit is equal to amount multiplied by 5
    - Energy project for purposes of increased credit is defined as a project consisting of one or more properties that are part of a single project provided project meets criteria:
        - Net output of less than 1MW of electrical or thermal energy
        - Project construction begins before the date that is 60 days after Treasury issues guidance related prevailing wage and apprenticeship mandates
        - Project complies with prevailing wage and apprenticeship mandates
- Prevailing Wage mandate required for any project construction and for alteration or repair during the five year period after placed in service date
    - Penalties similar to existing rules apply
    - If violation of mandate occurs, Treasury can recapture benefits from increased credit awarded
- Apprenticeship to Journeyman mandate for employment ratio applies:
    - Project construction begins before 1/1/2023 10%
    - Project construction begins after 12/31/2022 but before 1/1/2024 12.5%
    - Project construction begins after 12/31/2023 15%
    - Penalties for failure to comply provided
- Domestic Content bonus credit amount would be determined if a project meets compliance with U.S. produced iron, steel, and manufactured products
    - The bonus credit would be 10%
    - For manufactured products compliance would be deemed met if the total costs of all manufactured products in the project are not less than 40%
    - In the case of a project that elects a credit, the credit would be applied to the tax year elected
        - Value of credit would be phased out by value of credit multiplied by applicable percentage of 2% for a project that does not comply with domestic content
        - Value of bonus credit would be set at 10% if project complies with domestic content
        - Value of bonus credit would be boosted an additional 10% if project located in an energy community (if a project does not comply with Domestic Content, credit is only 2%)

- For purposes of effective date, the amendments made by the section are applicable to property place in service after 12/31/2022