



June 14, 2023

The Honorable Janet Yellen
Secretary
U.S. Department of Treasury
Washington, DC 20220

Mr. John Podesta
Senior Advisor to the President
for Clean Energy Innovation and
Implementation
The White House
Washington, DC 20220

Re: Section 45V Credit for Production of Clean Hydrogen

Dear Secretary Yellen and Senior Advisor Podesta:

The U.S. Chamber of Commerce (Chamber) appreciates the opportunity to provide feedback on the implementation of the clean hydrogen production credit in section 45V of the Internal Revenue Code (section 45V credit), enacted as part of the Inflation Reduction Act of 2022 (IRA), and the lifecycle greenhouse gas emissions calculation requirements under development by the Department of Treasury (Treasury), Department of Energy, and other federal agencies.

The Chamber's members include companies across all components of the hydrogen value chain that will be impacted by the section 45V credit. The IRA and Infrastructure, Investment, and Jobs Act (IIJA) both provide historic funding for climate and clean energy provisions, but they must be leveraged with private sector investment to meet ambitious climate targets.

Fostering rapid buildout of the hydrogen economy will be pivotal to meeting these goals, particularly in hard-to-decarbonize sectors such as trucking, aviation, shipping, steel, chemicals, and cement and concrete. In releasing the Department of Energy's *National Clean Hydrogen Strategy and Roadmap* (Roadmap) last week, Secretary of Energy Jennifer Granholm rightly described clean hydrogen as the "Swiss army knife of zero-carbon technologies."¹ Consistent with the Roadmap's goal of producing 10 million metric tons (mmt) of clean hydrogen by 2030 and 50 mmt by 2050, it is imperative that implementation of the section 45V credit enables robust investment across the hydrogen supply chain.

Clearly, this enormous potential was a driving force behind Congress's decision to create the section 45V credit, which is designed to incentivize production of hydrogen, scale up the hydrogen economy, and provide a solution to many economy-wide decarbonization challenges. The U.S. business community is committed to leading in this effort and calls your attention to four aspects of the forthcoming implementation guidance needed to ensure the section 45V credit is clear, accessible, and maximizes long-term emissions reduction opportunities: additionality; deliverability; temporal matching, and indirect book accounting.

Additionality

The concept of additionality suggests that hydrogen producers can receive credit for clean electricity and feedstocks used in their processes only if they are derived from new clean energy

¹ <https://www.hydrogen.energy.gov/clean-hydrogen-strategy-roadmap.htm>

projects. Additionality requirements would significantly constrain the clean hydrogen market by adding unreasonable costs and uncertainty for clean hydrogen producers, in conflict with both the letter and spirit of the IRA and undermining its potential economic, jobs, and environmental benefits. In its final guidance, therefore, we urge Treasury to ensure an equitable approach to all clean hydrogen development opportunities by avoiding the inclusion of any additionality requirements.

Deliverability

Deliverability would require electrolyzers to source clean electricity from within the same region in which they operate. Geographic restrictions on environmental attributes would prevent electrolytic hydrogen projects from sourcing power from much of the United States' existing zero carbon feedstock and would undermine the development of regional clean hydrogen hubs across the country created by the IJJA. Moreover, a limited geographic correlation guidance could create disparate tax credit eligibility impacts due to the variability of renewable resources from state to state, as well as related factors such as solar irradiance, wind speed, local utility rules, regulatory environment, and community acceptance.

Temporal Matching

If adopted by Treasury, restrictive temporal matching requirements under section 45V would reduce clean hydrogen production during periods of low renewable resource availability, contrary to the credit's goal. Under annual matching, however, renewable power generation would be matched to the electricity consumed for hydrogen production on a yearly basis, helping to make clean hydrogen more cost competitive. Conversely, hourly or monthly time matching would tend to limit the economic viability of electrolytic hydrogen projects to nuclear or hydroelectric energy resources as intermittent renewables vary tremendously across both day and season, necessitating annual accounting of renewable energy credits as opposed to hourly. Recognizing that environmental concerns associated with clean hydrogen production must be balanced with the need to rapidly expand supplies necessary to facilitate emissions reductions downstream of production, temporal matching requirements could be phased in over time, both at a later date and incrementally from one metric of matching to another.

Indirect Book Accounting ("book-and-claim")

Treasury and IRS should include indirect accounting to rapidly grow the U.S. hydrogen economy and lower the cost of domestic low-carbon hydrogen production. Indirect book accounting, also referred to as "book-and-claim", would allow hydrogen production to claim low-carbon feedstocks, such as renewable natural gas (RNG) and responsibly sourced gas (RSG), as production inputs without physically transporting the molecules or electrons to the production site, while complying with 45V lifecycle emissions thresholds. This should include renewable energy credits ("RECs"), power purchase agreements ("PPAs"), or other market structures representing indirect book accounting. Indirect accounting would further enable hydrogen production centers to be located closer to demand centers, thereby reducing transportation infrastructure costs. Requiring hydrogen production facilities to co-locate next to renewable energy generation would restrict the variety of feedstocks that could help produce low-carbon hydrogen, which may reduce supply and raise overall costs.

Indirect book accounting is in use today across multiple sectors, including renewable power, sustainable aviation fuel, and lower-carbon transportation fuels. Companies produce renewable natural gas (on farms and landfills) and "book" the low-carbon attributes as registered credits. Customers can then access lower-carbon fuels where they need it and "claim" those credits, without having to build a physical connection between farms and customers. Without indirect book accounting, low carbon

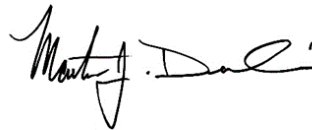
hydrogen projects will not be technically or commercially viable, delaying or preventing the development of a domestic low-carbon hydrogen industry.

In summary, the central purpose of the section 45V credit is to rapidly grow the clean hydrogen economy in order to enable deep decarbonization pathways for carbon intensive sectors. Stringent restrictions on section 45V credit eligibility could cripple investment in this burgeoning sector and deprive would-be consumers of adequate and affordable supplies necessary to pursue their own ambitious emissions goals. The Chamber therefore urges the Administration to pursue a pragmatic and clear implementation path, not unlike the European Union's phased-in approach that balances near- and long-term emissions goals.

The Chamber appreciates the opportunity to comment on this guidance and believes properly addressing these three factors will maximize the IRA's clear objective of mobilizing private sector clean energy investment on an historic scale commensurate with the climate challenge. We would be happy to arrange a meeting to further discuss the detrimental impact that rigorous guidance concerning the credit's implementation would have on the economy and in meeting emissions reductions goals.

Thank you for the opportunity to share the Chamber's views on this critical issue. We look forward to partnering with you on this to ensure successful implementation of IRA.

Sincerely,

A handwritten signature in black ink, appearing to read "Marty Durbin". The signature is fluid and cursive, with a large initial "M" and a distinct "D".

Marty Durbin
President, Global Energy Institute
And Senior Vice President, Policy
U.S. Chamber of Commerce

Cc: The Honorable Lily Batchelder, Assistant Secretary for Tax Policy, U.S. Department of Treasury
The Honorable Ali Zaidi, Assistant to the President, and National Climate Advisor, The White House