



December 19, 2023

Mr. John Podesta
Senior Advisor to the President for Clean Energy Innovation and Implementation
White House

The Honorable Wally Adeyemo
Deputy Secretary of the Treasury
Department of the Treasury

The Honorable Lily L. Batchelder
Assistant Secretary for Tax Policy
Department of the Treasury

Mr. Seth Hanlon
Deputy Assistant Secretary for Tax and Climate Policy
Department of the Treasury

Re: Urgency of flexible guidance for 45V Clean Hydrogen Tax Credit

Dear Mr. Podesta, Deputy Secretary Adeyemo, Asst. Secretary Batchelder, and Mr. Hanlon:

On behalf of the American Chemistry Council and its members, I urge the Administration to release the long-awaited draft guidance on eligibility criteria for the Section 45V Clean Hydrogen Production Tax Credit, consistent with the text and intent of Congress and practical realities of early hydrogen production and infrastructure deployment. As critical producers, users, and enablers in this new economy, our members see the 45V tax credit as one of the most important elements of the IRA/BIL lower emissions economy framework. The outcome of this guidance could have a determinative impact on the success of the tax credit in accelerating the nation's development of a clean hydrogen economy.

ACC represents a diverse set of companies engaged in the business of chemistry – a \$639 billion enterprise. ACC members work to solve some of the biggest challenges facing our Nation and our world, driving innovation through investments in research and development (R&D) that exceed \$10 billion annually. The chemical sector is incredibly diverse, touching every sector of the economy throughout the value chain. The chemical sector is also one of the primary sources of hydrogen production today, and one of the most promising sectors for low-carbon hydrogen production in the future. This process expertise, existing assets, sales, and distribution channels linked to hydrogen production, and access to opportunities to build new markets makes the chemical sector a critical stakeholder and future partner in the Administration's efforts to rapidly



build out national supply of clean hydrogen economy. The industry’s strong demand for clean hydrogen as a feedstock and source for lower-emissions energy under its carbon abatement strategy also makes it a critical stakeholder in building demand.

Indeed, the Department of Energy has repeatedly recognized the chemical sector as a priority sector in the clean hydrogen economy. It is one of five industries specifically called out in Industrial Decarbonization Roadmap (2002), which highlights hydrogen as a pathway for hard-to-abate industries;¹ one of three industry sectors identified in DOE’s Hydrogen Roadmap (summary);² and a priority area for DOE’s 2020 Hydrogen Program Plan.³

For these reasons, we want to add the chemical industry’s voice to the calls for care and flexibility in defining the projects and conditions necessary for companies to qualify for the 45V tax credit. We know there have been recent discussions with respect to the “three pillars”, project grandfathering, standards for clean hydrogen production methods, lifecycle, and definitions. We will wait to have a detailed discussion of these specific issues until we see actual guidance proposal (the leaked draft suggests some areas of significant concern) but will emphasize the need to align guidance determinations with Congressional directives and account for the considerable transition challenges likely to shape adoption of clean hydrogen production during the early phase of infrastructure deployment, as noted below.

This flexibility is not only important to our members, it is a necessary consideration in meeting the Administration’s own goals in advancing a clean hydrogen economy, particularly its “Hydrogen Shot™” goal of reducing the cost of clean hydrogen production to \$1 per 1 kilogram in 1 decade (“1 1 1”).⁴ We have a ways to go, as indicated in DOE’s recent hydrogen pathways report, which noted the need to reduce the cost of clean hydrogen electrolysis and address issues of durability, scale of manufacturing capacity, and integration and optimization with thermal sources such as nuclear plants to increase the efficiencies for hydrogen production and electricity generation.⁵

Congress recognized the need for flexibility in the Bipartisan Infrastructure law, directing the Department of Energy to develop a hydrogen strategy that establishes standard of hydrogen production for clean hydrogen production, interim goals towards meeting that standard, focusing on a range of production and use methods including natural gas, coal, renewable energy sources, nuclear energy, and biomass. It also highlighted the need for consideration of a diversity of

¹ DOE, [Industrial Decarbonization Roadmap \(“Hydrogen Roadmap”\)](#), DOE/EE-2635 (September 2022).

² DOE, [U.S. National Clean Hydrogen Strategy and Roadmap at a Glance](#) (2023).

DOE, [Hydrogen Roadmap](#), 2; *id.* at 74 (“Hydrogen as a feedstock is an important option for decarbonizing industry. Clean hydrogen can serve as a precursor to chemicals production, providing a low-carbon route to ... molecules that serve as feedstocks for other chemicals.”); DOE, OFE, Hydrogen Strategy Fact Sheet (“Establish hydrogen’s presence as a critical feedstock for chemicals and liquid fuels.”).

³ DOE, [Hydrogen Program Plan](#), DOE/EE-2128 (2020) ([Hydrogen has the highest energy content by weight of all known fuels—3X higher than gasoline—and is a critical feedstock for the entire chemicals industry, including for liquid fuels](#)”).

⁴ DOE, [Hydrogen Shot: An Introduction](#) (2021).

⁵ DOE, [Energy Earthshots, Hydrogen Shot Technology Assessment Thermal Conversion Approaches](#) (2023).



approaches, including “sub-strategies, that reflect geographic diversity across the country, to advance clean hydrogen based on resources, industry sectors, environmental benefits, and economic impacts in regional economies;” and “identifying geographic zones or regions in which clean hydrogen technologies could efficiently and economically be introduced in order to transition existing infrastructure to rely on clean hydrogen, in support of decarbonizing all relevant sectors of the economy.” Similarly, the IRA’s framework for the 45V Tax Credit itself implicitly incorporated opportunities for flexibility, starting with the graduated Tax Credit values based on different clean hydrogen technologies and supply chains.

These directives speak to the need for regulatory and incentive policies that accommodate the regional diversity with respect to access to critical natural and infrastructure resources across regions, and the need for a range of technologies and feedstocks while investment in renewable electricity generation and transmission is deployed (including the recently approved hydrogen hubs). We hope the Guidance will recognize the need to use 45V and other recent incentives as critical catalysts for a transition, building on existing capacity and moving toward long-term goals.

Thank you again for the opportunity to provide these high-level thoughts as you finalize your thinking. We hope this can become the start of an ongoing dialogue with the Administration and the chemical industry on implementation of these critical industrial emissions reduction incentives. If you have any questions or would like more information on our industry and the role these tax incentives will play in our members’ emissions reduction efforts, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Jahn", written over a light blue horizontal line.

Chris Jahn, President and CEO

