Laborers' International Union of North America
Local 199

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CURTIS LINTON
Business Manager/Secretary, Treasurer

ANTHONY HORTON
President

JAPHIS LAMPKINS
Vice President

February 21, 2024

The Honorable Janet Yellen
Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave N.W.
Washington, D.C. 20210

The Honorable Jennifer Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave S.W.
Washington, D.C. 20585

Mr. John Podesta
Senior Advisor to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

RE: Section 45V Proposed Regulations

Dear Secretary Yellen, Secretary Granholm, Acting Secretary Su, and Senior Advisor Podesta:

The Inflation Reduction Act (IRA) has the potential to support unprecedented investment in innovative renewable energy projects across the United States, and we thank the Treasury Department and IRS for their ongoing efforts to implement the tax provisions of the law.

Nonetheless, we encourage you to reconsider several aspects of the proposed Clean Hydrogen Production Credit (45V) regulations, which would materially stifle the creation of thousands of good-paying jobs in Pennsylvania, New York, New Jersey, Delaware, Kentucky, West Virginia, and Ohio. We are concerned that the current narrow guidance imposes unnecessary restrictions on the hydrogen economy that will limit the viability of specific production methods, inhibiting overall greenhouse gas (GHG) reductions and the long-term growth of the sector in the Northeast and Midwest.

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Congress enacted 45V as a flexible incentive for a diverse array of capital-intensive hydrogen projects meant to provide transformative opportunities for critical domestic industries, including construction, manufacturing, and raw-material supply chains. The credit is essential to bolster U.S. energy independence while lowering emissions in hard-to-decarbonize sectors. If implemented correctly, 45V could deliver a generational investment to the burgeoning U.S. clean hydrogen economy that the Department of Energy initially estimated would result in the addition of 220,000 direct jobs (130,000 during construction) at the initial hydrogen hubs alone.

However, the Treasury Department's recent 45V guidance creates sector-wide uncertainty that raises the cost of capital and threatens to undermine the administration's broader employment and climate objectives. If finalized, the proposed restrictions on the 45V credit would undoubtedly render many planned projects across the Northeast and Midwest uneconomic, prompting financers to abandon current hydrogen investment plans in favor of traditional carbon-intensive energy resources. This impairment of crucial private-sector investment would kill tens of thousands of good-paying permanent hydrogen jobs across our region, significantly delaying the transition to cleaner energy sources.

In particular, hydrogen production in the Northeast and Midwest will be disproportionately restrained by the proposed incrementality requirements that restrict using existing carbon-free energy resources. Compared to other parts of the country, the 45V-designated Mid-Atlantic Region (encompassing Pennsylvania, New Jersey, Delaware, Kentucky, West Virginia, and Ohio) has limited capacity for new, inexpensive renewable energy like solar and wind. Our power grid instead possesses significant existing nuclear and hydroelectric facilities, which would not be counted as clean-energy sources under the proposed 45V regulations. We ask that these restrictions be expanded to qualify some or all of the electricity produced from existing renewable sources, maintaining the viability of these clean hydrogen projects in the Northeast and Midwest region.

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We foresee similar potential roadblocks arising from the immediate imposition of unproven accountability metrics like deliverability and temporal-matching that would levy unnecessary limitations on all sizes and types of prospective hydrogen markets. These restrictions would increase costs for producers and consumers, limiting the viability of hydrogen for high-emissions sectors in the Northeast and Midwest, such as steel and cement manufacturing. To further level the playing field, we request that future guidance allows producers to modify the 45V emissions model's default assumptions for natural gas.

Methane reforming and carbon capture can be leveraged throughout the Northeast and Midwest to meet near-term industry demand for low-GHG hydrogen. Additionally, regional producers have announced plans to reduce emissions further by investing in technology that will minimize the environmental impacts of natural gas throughout extraction and distribution. However, the current regulations require that all producers use natural gas's national average carbon intensity, eliminating incentives for investments made to lower upstream emissions through technology like pipeline monitoring systems. Taxpayers who invest in lower GHG natural gas feedstocks should be provided a corresponding benefit under 45V for these verifiable emissions reductions.

We echo the sentiment of numerous stakeholders across the country — including trade unions, state governors, and the legislative authors of the IRA — to request that 45V be implemented in a timely manner, consistent with Congress's intent to limit overburdensome requirements on the hydrogen economy.

Thank you for your ongoing support for the hydrogen sector, and we hope you will consider the material implications of the regulations on economic well-being and job opportunities as you finalize the implementation of 45V.

Respectfully,

Curtis Linton
Business Manager/Secretary-Treasurer

GCC/IBT 473-C