December 3, 2022

Submitted electronically via Regulations.gov
Docket No. IRS-2022-0029-0001

Honorable Janet L. Yellen
Secretary
U.S. Department of Treasury
Room 5203, P.O. Box 7604
Washington DC 20044

RE: Notice 2022-58 Request for Comments on Credits for Clean Hydrogen and Clean Fuel Production

Dear Secretary Yellen:

The American Gas Association (AGA) appreciates the opportunity to provide comments on new section 45V and 45Z clean fuels tax incentives included in the Inflation Reduction Act. AGA believes that policies that advance the production and deployment of clean, renewable fuels in America's existing natural gas distribution infrastructure are key to meeting the Administration's climate goals while ensuring a just energy transition. Large amounts of renewable and low-carbon electricity and gases, and negative emissions technologies, will be required to meet an economy-wide 2050 net-zero target.[1] AGA is pleased that the IRA includes incentives that provide a good first step to help advance the production of low carbon gas resources which could enable the greater use of these resources as part of AGA member company's supply portfolios. This type of policy support will be needed to enable AGA members to significantly scale up the use of low-carbon gas resources, including effective implementation of the IRA.

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 77 million residential, commercial, and industrial natural gas customers in the U.S., of which 96 percent — more than 73 million customers — receive their gas from AGA members. Today, natural gas meets more than one-third of the United States' energy needs.

AGA is committed to reducing greenhouse gas emissions through smart innovation, new and modernized infrastructure, and advanced technologies that maintain reliable, resilient, and affordable energy service choices for consumers.[2] The use of natural gas, in combination with renewable energy and efficiency, has contributed to US energy-related carbon dioxide emissions

[1] https://www.aga.org/globalassets/research--insights/reports/aga-net-zero-emissions-opportunities-for-gas-utilities.pdf Page 18
[2] AGA Climate Change Position Statement, https://www.aga.org/globalassets/aga_climate-change-document_final.pdf

declining to the lowest levels in nearly 25 years.[3] As our member companies continue to modernize our nation's natural gas infrastructure and connect homes and businesses to the system, new opportunities arise to achieve low-cost greenhouse gas emissions reductions by leveraging new and existing natural gas infrastructure, advanced technologies, and the nation's abundant natural gas resources. Additionally, natural gas infrastructure can be used for renewable energy storage and the delivery of renewable gases derived from biogenic sources and zero-carbon electricity. The gas system's ability to integrate high-value sources of energy like renewable natural gas and hydrogen is a critical component of our nation's ability to reach ambitious greenhouse gas reductions goals.[4]

AGA has been and remains a leader in the development of effective national policies to reduce greenhouse gas emissions to address climate change, including policies that enable the expansion of renewable technologies utilizing existing natural gas infrastructure, which is safe, reliable, and climate resilient. As in the power sector, rapid and widespread adoption of renewable, low-carbon, and negative emissions resources will be essential to the gas sector achieving net-zero emissions.[5] As such, AGA further supports climate change policies that promote greater development and use of renewable natural gas, and recognize and incentivize the ability of the gas system to provide substantial renewable energy seasonal storage and delivery through power-to-gas technology. In order to achieve net zero GHG emissions goals, the federal government should expand investment into research, development, deployment, and commercialization of advanced gas technologies, mitigation technologies, natural gas distributed generation, renewable natural gas sources, renewable hydrogen or methanated renewable hydrogen for use in the gas system, carbon capture utilization and sequestration, and other technologies.[6]

Gas utilities recognize the integral role that hydrogen can play in reducing the carbon footprint of their operations and their customers.[7] AGA strongly supports policy aimed at expanding hydrogen production to accelerate widespread applicability and adoption of this clean energy source. Many AGA members have already begun demonstrating their commitment to integrating hydrogen into their existing gas networks. For example, AGA members have:

- Initiated hydrogen production pilot programs,[8]
- Researched hydrogen blending into the utility pipeline system,[9] and

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[3] https://www.aga.org/globalassets/aga_climate-change-document_final.pdf
[4] _https://www.aga.org/globalassets/aga_climate-change-document_final.pdf
[5] https://www.aga.org/globalassets/research--insights/reports/aga-net-zero-emissions-opportunities-for-gas-utilities.pdf Page 18
[6] *Id.*
[7] *See* "Utility executives plot renewable hydrogen's future in US decarbonization," S&P Global, August 25, 2020, available at https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/utility-executives-plot-renewable-hydrogen-s-future-in-us-decarbonization-60070401.
[8] *See* History of Hawaii Gas' Hydrogen Activities, available at https://www.hawaiigas.com/clean-energy/hydrogen/; Southern California Gas, "Power-To-Gas Technology," available at https://www.socalgas.com/smart-energy/renewable-gas/power-to-gas.
[9] *See,* PG&E Gas R&D and Innovation Whitepaper Pipeline Hydrogen, available at https://www.pge.com/pge_global/common/pdfs/for-our-business-partners/interconnection-renewables/interconnections-renewables/Whitepaper_PipelineHydrogen.pdf; Southern California Gas 2019 Annual

- Researched the impact of hydrogen on end use appliances.[10]

AGA applauds work of the Inflation Reduction Act to increase federal incentives for renewable fuel production and deployment, including for hydrogen and renewable natural gas. In support of effective implementation of these key incentives, AGA respectfully submits the following comments in response to *Notice 2022-58, Request for Comments on Credits for Clean Hydrogen and Clean Fuel Production*.

45V, Credit for Production of Clean Hydrogen

Section 45V provides a definition of the term "qualified clean hydrogen." What, if any, guidance is needed to clarify the definition of qualified clean hydrogen?

AGA appreciates the issuance of guidance from the IRS clarifying that all production pathways achieving the carbon intensity requirements laid out in the Inflation Reduction Act are eligible for the clean hydrogen production credit. Diversity of hydrogen feedstocks is crucial to ensuring increased domestic hydrogen production, reduction of costs for both hydrogen production technologies and end-use fuel development, and expedient deployment of hydrogen in existing natural gas distribution infrastructure for those utilities wishing to do so.

Coordination with § 45Q

AGA believes there should be allowances for coordination between 45V and 45Q credits and supports the ability of a project to claim both credits on one project. Specifically, a project may produce green hydrogen and later, at a separate point in the facility, use carbon capture for CO2 emissions related to natural gas heating of the facility, making them eligible for the 45Q credit. Enabling a project to utilize both increase**s** the likelihood of zero or negative carbon emissions and provide**s** needed flexibility for facilities.

Further, multiple types of hydrogen production operating independently but at the same geographic location as CCS is a possibility in some decarbonization scenarios. Preventing the qualification of incentives for CCS at a common location that also produces hydrogen, or vice versa, would run contrary to the intent of the credits. Additionally, precluding a hydrogen producer from claiming 45Q credits generated from unrelated processes will have a chilling effect on the carbon capture industry and will likely result in significant uncaptured carbon emissions that would have otherwise been captured and sequestered. To ensure that viable projects are not otherwise precluded from qualifying for the incentive, define a "facility" for purposes of Section 45V(d)(2) as related process trains necessary for the production of qualified clean hydrogen. For example, with this definition the components of these process trains dedicated to hydrogen production could be used to generate credits under 45V but not under 45Q. A separate process train for CCS at the same location would be defined as a separate facility and not precluded from qualifying for 45Q credits under that program.

Report Research, Development and Demonstration Program, available at https://www.socalgas.com/sites/default/files/2020-04/2019%20SoCalGas%20RDD%20Annual%20Report.pdf.

[10] *Id.*

45Z, Clean Fuel Production Credit

(a) What factors should the Treasury Department and the IRS consider in determining whether an unrelated person purchases transportation fuel for use in a trade or business for purposes of § 45Z(a)(4)(B)?

§ 45Z(a)(4)(B) defines sale purposes as including "such fuel is sold by the taxpayer to an unrelated person— *(A) for use by such person in the production of a fuel mixture, (B) for use by such person in a trade or business, or (C) who sells such fuel at retail to another person and places such fuel in the fuel tank of such other person.*

AGA asks that the IRS provide clarification that *(B) for use by such person in a trade or business* include end-use renewable natural gas in off-road applications as eligible for the 45Z Clean Fuel Production Credit.

There is sufficient evidence demonstrating congressional intent was for the credit to be applicable to clean fuels used in non-transportation applications, including a colloquy on the Senate floor in which Finance Committee Chairman Ron Wyden (D-OR) clarified intent of the legislation[11]. Specifically, Senator Maggie Hassan (D-NH) asked Chairman Wyden:

Senator Wyden, as chair of the Finance Committee, is it his understanding that, although a fuel must be suitable for use as a fuel in a highway vehicle or aircraft to qualify for this biofuel production credit, it may still actually be used for any business purpose, including as transportation fuel, industrial fuel, or for residential or commercial heat?

Senator Wyden responded *[…] That is correct. The credit is intended to incentivize production of biofuels of a certain quality, usable as fuel for highway vehicles or aircrafts,* ***but not limited only to fuels which are actually used in highway vehicles or aircrafts****.*

Incentivizing production of 45Z-eligible fuels for non-transportation end use will be critical to drive up supply and thus drive down the cost of these fuels, *while also incentivizing the expanded use of clean fuels in additional sectors of the economy beyond simply transportation.*

[11] CREC 2022-08-06 Part 1, p. S4165 3.pdf (copy of congressional record with colloquy).

Conclusion

The American Gas Association thanks the Treasury for an opportunity to weigh in on implementation of clean fuel credits such as those for Clean Hydrogen and Clean Fuel Production. RNG has a clear role in helping different sectors to decarbonize. […] Given its large potential to significantly reduce emissions, efforts should be taken to support the development and deployment of RNG and hydrogen projects as these issues are being studied and addressed.[12] AGA is glad to provide additional information related to the best use of these credits to increase production and reduce the cost of hydrogen and renewable fuels to meet shared climate goals.

With questions or further input, please contact Allison Cunningham, Senior Director, Governmental Affairs and Public Policy, at ACunningham@aga.org

[12] https://www.aga.org/globalassets/research--insights/reports/aga-net-zero-emissions-opportunities-for-gas-utilities.pdf Page 18