Navigator CO_2 Driven by innovation. Built from experience.

Navigator CO2 Ventures LLC
13333 California St.,
Suite 202
Omaha, NE 68154

November 3, 2022

Internal Revenue Service
CC:PA:LPD:PR (Notice 2022-51)
Room 5203
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: *Notice 2022-51: Request for Comments on Prevailing Wage and Apprenticeship Requirements Under the Act Commonly Known as the Inflation Reduction Act of 2022*

Dear Ladies and Gentlemen:

Navigator CO2 Ventures LLC ("Navigator CO2") submits the following comments in response to the newly published Internal Revenue Service ("IRS") Notice 2020-51, which requested comments on the prevailing wage and apprenticeship requirements as such requirements impact Internal Revenue Code ("IRC") section 45Q, among others, as amended by the Inflation Reduction Act ("IRA"), Public Law 117-169, 136 Stat. 1818 (August 16, 2022).

Company Background

Navigator CO2 is a company developed and managed by the Navigator Energy Services management team with over 200 years of collective industry experience. The company specializes in carbon capture, utilization, and sequestration ("CCUS"), and the management team has safely constructed and operated over 1,300 miles of new infrastructure since 2012. The company is committed to building and operating its projects to meet and exceed safety requirements while minimizing the collective impact on the environment, landowners, and the public during construction and ongoing operations.

In preparation for construction, Navigator CO2 will soon start negotiating with contractors and subcontractors. To ensure compliance with the prevailing wage and apprenticeship requirements, it is paramount that Navigator CO2 understands the requirements of IRC sections 45Q(h)(3) and (4). Furthermore, understanding the requirements to substantiate compliance with the prevailing wage and apprenticeship requirements is vital for the success of not only Navigator CO2, but others in the industry who may be seeking equity or financing for their projects. Therefore, Navigator CO2 respectfully recommends that any guidance or proposed regulations consider the following items.

Prevailing Wage Requirement Issues Presented for Clarification

I. IRC sections 45(b)(7)(A) [and 45Q(h)(3)] provide that a taxpayer must ensure that any laborers and mechanics employed by the taxpayer, or any contractor or subcontractor, are paid wages at rates not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality in which such facility [and equipment] is located as most recently determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, which is commonly known as the Davis-Bacon Act (DBA). Is guidance necessary to clarify how the DBA prevailing wage requirements apply for purposes of IRC section 45(b)(7)(A)?

Yes, Navigator CO2 believes that guidance is necessary to clarify the application of the DBA prevailing wage requirements for purposes of IRC sections 45(b)(7)(A) and 45Q(h)(3). Specifically, Navigator CO2 proposes the following clarifications for your consideration.

i. Navigator CO2 kindly requests that the government provide definitions of "construction, alteration, or repair" so that a taxpayer may determine which activities constitute the "construction of such facility or equipment" for purposes of IRC section 45Q(h)(3)(A)(i) and which activities constitute the "alteration or repair" of such facility or equipment for purposes of IRC section 45Q(h)(3)(A)(ii). Furthermore, Navigator CO2 recommends that such definitions clarify that the scope of construction, alteration, or repair only applies to the single process train of carbon capture equipment as defined under Treas. Reg. section 1.45Q-2(c)(3), and not inclusive of any other construction, alteration, or repair work performed at the facility or plant.

Specifically, Navigator CO2 asks the government to consider leveraging the existing definition of "construction, alteration, or repair" as provided under 48 CFR section 22.401. "Construction, alteration, or repair means **all types of work done by laborers and mechanics employed by the construction contractor or construction subcontractor** on a particular building or work **at the site thereof**, including without limitations –

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;
(4) Transporting materials and supplies between the site of the work within the meaning of paragraphs (1)(i) and (ii) of the "site of the work" definition of this section, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the "site of work" definition of this section; and
(5) Transporting portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the "site of the work" definition in paragraph (1)(ii) of this section, and the physical place or places where the building or work will remain (paragraph (1)(i) in the "site of the work" definition of this section)" (emphasis added).

ii. Navigator CO2 asks the government to provide definitions of alteration and repair and clarify how such definitions differ from general maintenance. Alteration and repair work should be considered a one-time activity to fix, replace, or modify a component of carbon capture equipment or component thereof so that the carbon capture equipment operates as intended when originally placed in service. Specifically, Navigator CO2 recommends that the definition of repair means a like-in-kind replacement or an identical engineered equipment replacement (e.g., replacement of pipe sections or valve replacement). Similarly, alteration should be considered as an upgrade to the existing carbon capture equipment, which could be due to new flow configurations, capacity increases, replacing obsolete technology, or adapting to improvements made to the existing facilities. Similar to the definition of repair above, the U.S. Department of Labor Wage and Hour Division defines repair for purposes of DBA to mean – "activities such as restoration of a facility or a one-time fix to something that is not functioning; and the restoration, alteration or replacement of fixed components."[1]

Additionally, Navigator CO2 calls on the government to clarify the difference between alteration and repair activities, and

[1] See https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/DavisBaconAct_GroupB_2011b.ppt, U.S. Department of Labor, Wage and Hour Division, (October 20, 2022).

maintenance activities through examples. Specifically, Navigator CO2 recommends that maintenance activities include, but are not limited to, recurring and routinely scheduled activities that allow the carbon capture equipment to continuously operate per its original specifications. Examples include, but are not limited to, janitorial services, calibrating equipment, recurring valve and pump inspections, etc.

iii. Navigator CO2 kindly requests the government to consider adopting a modified form of the existing definition of "the site of work" as provided in 48 CFR section 22.401 and 29 CFR section 5.2(l). "The site of work", as provided in 48 CFR section 22.401 and 29 CFR section 5.2(l), means "the physical place or places where the building or work called for in the contract will remain; and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project." The site of work should not include a contractor's or subcontractor's permanent home office, branch location, fabrication plant, or tool yard.

For purposes of IRC section 45Q(h)(3)(A), a taxpayer must ensure that any laborers and mechanics employed by the taxpayer, or any contractor or subcontractor, are paid wages at rates not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality in which such facility and equipment are located. Therefore, the government should consider defining "the site of work" to mean any construction, alteration, or repair to the single process train of carbon capture equipment as defined under Treas. Reg. section 1.45Q-2(c)(3). Such definition would align with the installation of carbon capture equipment incentivized by the IRC section 45Q tax credit, and it would allow taxpayers to better understand the scope in which the prevailing wage and apprenticeship requirements apply.

By utilizing the recommended definitions above that are largely leveraged from existing DBA rules, developers and investors will have a clear understanding of the scope and timing of when the prevailing wage and apprenticeship requirements apply. This will provide taxpayers with the confidence to move forward with negotiating various agreements (e.g., equipment procurement and service agreements) and an understanding of when IRC section

45Q(h)(3) would apply to such agreements to ensure qualification for the full credit amount as determined under IRC section 45Q(h)(1).

iv. For purposes of IRC section 45Q(h)(3)(A), a taxpayer must ensure that any laborers and mechanics employed by the taxpayer, or any contractor or subcontractor, are paid wages at rates not less than the prevailing wage rates for construction, alteration, or repair of a similar character in the locality in which such facility and equipment are located.

Navigator CO2 respectfully asks that the government clarify whether "the taxpayer" as referenced in IRC section 45Q(h)(3)(A) has the same meaning as a taxpayer eligible for the 45Q tax credit under IRC section 45Q(f)(3)(A)(ii) (i.e., the person that owns the carbon capture equipment and physically or contractually ensures the capture and disposal, utilization, or use as a tertiary injectant of such qualified carbon oxide). Accordingly, is the taxpayer referenced in IRC section 45Q(f)(3)(A)(ii) the responsible person for ensuring compliance with the IRC section 45Q(h)(3) on the component owned by such taxpayer or is such taxpayer responsible for ensuring compliance with IRC section 45Q(h)(3) on the carbon capture equipment or qualified facility (i.e., the single process train of carbon capture equipment) even if such taxpayer only owns a single component and the remaining components are owned by other persons. Alternatively, is IRC section 45Q(h)(3) applicable to all taxpayers who own components of carbon capture equipment even if such taxpayers are not the eligible credit claimant.

v. IRC sections 45(b)(7)(B)(ii) and 45Q(h)(3)(A)(ii) stipulate that the Secretary of Labor will provide the prevailing rates for construction, alteration, or repair of a similar character in the locality in which such facility and equipment are located. Accordingly, Navigator CO2 asks the government to clarify that the prevailing wage rates published by the Secretary of Labor at the time the contract is entered into (or amended) apply for the entire term of the contract. By establishing which prevailing rates apply when a contract is entered into or amended and a period of time in which contracts should comply, developers will be able to budget accordingly, and investors will be able to invest in carbon capture

projects without the concern of construction costs increasing to an unknown amount year-to-year.

Furthermore, Navigator CO2 requests a safe harbor for taxpayers with existing agreements for the construction, alteration, or repair of the carbon capture equipment or qualified facility. Specifically, if a taxpayer entered into an agreement prior to the date that is 60 days after the Secretary publishes guidance, as referenced under IRC section 45Q(h)(5), then the scope of work subject to such agreement shall be protected under a safe harbor and shall not be subject to IRC section 45Q(h)(3) and (4). Alternatively, if the government deems that such existing agreement should be amended in order to comply, then the taxpayer should have a minimum of 365 days from the date such guidance is published to amend the agreement in conformity with IRC section 45Q(h)(3) and (4) and any guidance promulgated thereunder.

By providing a safe harbor for agreements entered into prior to the date that is 60 days after the Secretary publishes guidance with respect to IRC section 45Q(h)(3) and (4), a taxpayer who may not have begun construction on the carbon capture equipment, as defined under 2020-12, 2020-11 IRB 495, but otherwise entered into an agreement for the construction of carbon capture equipment would have relief from terminating its existing agreements. Specifically, it would be an undue burden on taxpayers if existing agreements were subject to amendment as this may require the issuing of new bids, renegotiating terms that are less favorable, and potentially increasing the project's budget. Negotiations and finalization of an agreement may span several months to a year. Therefore, if the government does not provide a safe harbor for existing agreements, then the government should consider providing a reasonable period of time (e.g., 365 days) in which a taxpayer may amend its existing agreements to conform with the current rates.

vi. Navigator CO2 calls on the government to clarify that "wages" as used in IRC sections 45(b)(7)(A) and 45Q(h)(3) has the same meaning as wage provided under 48 CFR section 22.401 and such wage should be computed according to 48 CFR section 22.406-2.

Specifically, 48 CFR section 22.401 defines wage as "the basic hourly rate of pay; any contribution irrevocably made by a

contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Construction Wage Rate Requirements statute under 48 CFR section 22.403-1 include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law."

Furthermore, 48 CFR section 22.406-2 provides the computation of wages paid to a laborer or mechanic, which includes (1) amounts paid in cash to the laborer or mechanic, or deducted from payments (as set forth in 29 CFR section 3.5); (2) contributions (except those required by Federal, State, or local law) the contractor makes irrevocably to a trustee or a third party under any bona fide plan or program to provide for medical or hospital care, pensions, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, or any other bona fide fringe benefit; and (3) other contributions or anticipated costs for bona fide fringe benefits to the extent expressly approved by the Secretary of Labor.

By adopting the above definitions for "wages," the taxpayer, contractor, and subcontractor will have a clear and consistent understanding of the monetary compensation and fringe benefits expected to be paid to mechanics and laborers during the construction, alteration, or repair of the qualified facility and carbon capture equipment.

vii. Pursuant to IRC sections 45(b)(7)(A) and 45Q(h)(3), "a taxpayer must ensure that any laborers and mechanics employed by the taxpayer, or any **contractor or subcontractor**, are paid wages at

rates not less than the prevailing wage rates for construction, alteration, or repair…" (emphasis added). Accordingly, Navigator CO2 requests the government to provide definitions for contractor and subcontractor. An example definition of contractor may include, "the company that enters into a prime contract (e.g., master services agreement) with the taxpayer (e.g., project developer) for the construction, alteration, or repair (as defined above) of the qualified facility or carbon capture equipment." Furthermore, an example of a subcontractor may include, "the person that enters into a contract with the prime contractor for the construction, alteration, or repair (as defined above) of the qualified facility or carbon capture equipment)." The definition of contractors and subcontractors should not include any persons that are not performing construction, alteration, or repair work on the qualified facility or carbon capture equipment (e.g., equipment suppliers, manufacturers, accountants, attorneys, etc.).

viii. Navigator CO2 respectfully requests the government to clarify that "locality" in which a qualified facility or carbon capture equipment is located means the county in which such facility or equipment is located. By defining "locality" to mean the county as the geographical area in which the Secretary of Labor uses for wage determinations for each classification of laborers and mechanics employed to construct, alter, or repair the facility or equipment, the government would provide taxpayers, contractors, and subcontractors with consistency in using the existing wage determination practice implemented by the Secretary of Labor as demonstrated on the System for Award Management website.

II. IRC section 45(b)(7)(B)(i) [and IRC section 45Q(h)(3)(B)] provide a correction and penalty mechanism for failure to satisfy prevailing wage requirements. What should the Treasury Department and the IRS consider in developing rules for taxpayers to correct a deficiency for failure to satisfy prevailing wage requirements?

Navigator CO2 kindly requests the government to consider providing safe harbors for taxpayers that have demonstrated reasonable efforts to comply with IRC section 45Q(h)(3) and (4), and therefore, such taxpayers should not be subject to the correction and penalty mechanism as outlined below.

i. To comply with the rules outlined in IRC sections 45(b)(7)(B)(i) and 45Q(h)(3)(B), taxpayers will need to rely on efforts made by third parties (e.g., contractors and subcontractors). Navigator CO2 kindly asks the

government to consider implementing a safe harbor in which a taxpayer may be protected if such taxpayer contractually ensures, through a binding written contract, that a third party will comply with the rules outlined in IRC sections 45(b)(7)(B)(i) and 45Q(h)(3)(B) and any guidance promulgated thereunder.

In general, the DBA only applied to federal projects prior to the enactment of the IRA. To comply with the DBA, such projects were required to include certain provisions in the federal contract as provided under 40 USC 3142(c). Specifically, such contracts subject to the DBA included, but were not limited to, the following stipulations:

a. "The contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;
b. The contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and
c. There may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents."

Navigator CO2 recommends that the government require taxpayers to enter into a binding written contract with its contractors and subcontractors that incorporate the provisions above and additional provisions, such as enforceable under state law, long-term liability provisions, indemnity provisions, penalties for breach of contract, termination provisions, or liquidated damages provisions associated with a contractor and subcontractor's failure to comply with the prevailing wage and apprenticeship requirements. For example, termination language could include, "if the taxpayer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a

rate of wages less than the rate of wages required by the contract to be paid, the taxpayer by written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The taxpayer may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the taxpayer for any excess costs the taxpayer incurs."

By providing a safe harbor for taxpayers who enter into binding written contracts with contractors and subcontractors, as outlined above, for the compliance with IRC sections 45(b)(7)(B)(i) and 45Q(h)(3)(B), the documentation and reporting burden will be reduced on both taxpayers and the government. Furthermore, such safe harbor would provide taxpayers and future investors with confidence in such taxpayer's qualification for the IRC section 45Q tax credit despite the many unforeseeable actions a contractor or subcontractor could take that would be out of the taxpayer's control.

ii. Alternatively, Navigator CO2 kindly asks the government to consider providing a safe harbor for taxpayers who enter into a binding written contract with a contractor or subcontractor who has a collective bargaining agreement or project labor agreement with labor unions that require the payment of prevailing wages. Specifically, labor unions are well-known for their advocation and history of ensuring the payment of fair wages. Therefore, Navigator CO2 recommends that the government consider not applying the correction and penalty provision to a taxpayer that made a reasonable effort to comply with IRC sections 45(b)(7)(A) and (B), if such taxpayer entered into a binding written contract with a contractor or subcontractor that executed a collective bargaining agreement or project labor agreement with a labor union and at least 75% of the total labor hours performed for the construction, alteration, or repair of the qualified facility or carbon capture equipment were performed by such union laborers.

A. What documentation or substantiation should be required to show compliance with the prevailing wage requirements?

i. A taxpayer should demonstrate compliance with the prevailing wage requirements by meeting the existing substantiation and recordkeeping requirements as provided under IRC section 6001 and Treas. Reg. section 1.6001-1. An example may include but is not limited to, providing the binding written contracts for contractors and subcontractors as such

contracts are related to the construction, alteration or repair of the qualified facility or carbon capture equipment.

B. Please provide comments on any other topics relating to the prevailing wage requirements for purposes of section 45(b)(7)(A) that may require guidance.

i. Navigator CO2 kindly request the government to clarify that "any qualified facility [or carbon capture equipment] the construction of which begins" as found in IRC sections 45Q(h)(2)(A), (B), and (C) has the same meaning as the "beginning of construction" requirement provided in IRS Notice 2020-12, 2020-11 IRB 495, for purposes of IRC section 45Q(d). By using the existing "beginning of construction" definition, the government would provide developers and investors with the confidence to proceed with project development as such definition has well-established guidance and historical application. Furthermore, utilizing the existing "beginning of construction" definition would provide taxpayers with a consistent tax treatment for purposes of determining credit qualification under IRC section 45Q(d) and the applicable credit amount under IRC section 45Q(h)(2).

Apprenticeship Requirement Issues Presented for Clarification

I. Section 45(b)(8)(C) provides that each taxpayer, contractor, or subcontractor who employs four or more individuals to perform construction, alteration, or repair work with respect to a qualified facility must employ one or more qualified apprentices from a registered apprenticeship program to perform that work. What factors should the Treasury Department and the IRS consider regarding the appropriate duration of employment of individuals for construction, alteration, or repair work for purposes of this requirement?

i. Navigator CO2 kindly asks the government to not require a certain duration of employment for purposes of the apprenticeship requirement. As currently defined under IRC section 45(b)(8)(E)(i), labor hours means the total number of hours devoted to the performance of construction work by any individual employed by the taxpayer or by any contractor or subcontractor, and excludes any hours worked by foremen, superintendents, owners, or persons employed in a bona fide executive, administrative, or professional capacity (within the meaning of those terms in 29 CFR section 541). Because the statute does not impose a minimum duration of employment by an apprenticeship, the government should not consider implementing such requirement and should allow every hour worked by an apprentice, no matter how small, to count for

purposes of determining whether the "labor hours" requirement was satisfied. In the construction industry, it is common for an apprentice to move from job-to-job before its completion. Therefore, a taxpayer, who has no control over the apprentice's schedule or reasoning for resigning, should not be penalized if the apprentice did not work a certain quantity of hours before departing a job.

ii. Navigator CO2 requests the government to clarify that "labor hours," as referenced in IRC section 45(b)(8)(E)(i), is computed on a cumulative basis for all work performed by an apprentice employed by the taxpayer or by any contractor or subcontractor for the construction of the qualified facility or carbon capture equipment. Such clarification aligns with IRC section 45(b)(8)(A)(i), which provides "taxpayers shall ensure, with respect to the construction of any qualified facility, not less than the applicable percentage of **the total labor hours**... (including such **work performed by any contractor or subcontractor**) with respect to such facility shall...be performed by qualified apprentices" (emphasis added). Congress's use of "total" labor hours and "work performed by any contractor or subcontractor" implies an intent to compute the labor hours performed by an apprentice hired by taxpayers, contractors, and subcontractors on a cumulative basis. Furthermore, by computing the labor hours on a cumulative basis, it encourages collaboration among the taxpayer, contractor, and subcontractor to determine compliance, ultimately reducing the risk of error.

II. Section 45(b)(8)(D)(ii) provides for a good faith effort exception to the apprenticeship requirement.

a. What, if any, clarification is needed regarding the good faith effort exception?

i. Under IRC section 45(b)(8)(D)(ii), a taxpayer shall be deemed to have satisfied the requirements under this paragraph with respect to a qualified facility if such taxpayer has requested qualified apprentices from a registered apprenticeship program, as defined in IRC section 3131(e)(3)(B), and— (I) such request has been denied, provided that such denial is not the result of a refusal by the taxpayer or any contractors or subcontractors engaged in the performance of construction, alteration, or repair work with respect to such qualified facility to comply with the established standards and requirements of the registered apprenticeship program, or the registered apprenticeship program fails to respond to such request within 5 business days after the date on which such registered apprenticeship program received such request. Navigator CO2

kindly asks for clarity on (i) determining which registered apprenticeship program(s) a taxpayer, contractor, or subcontractor should submit a request for qualified apprentices to be deemed to satisfy the good faith effort exception and (ii) whether multiple requests to various apprenticeship programs must be made by a taxpayer or whether one is sufficient. For example, if a project is located in Nebraska, must the taxpayer, contractor, or subcontractor submit a request to one registered apprenticeship program within the state or should a request be made to each registered apprenticeship program in the state to be determined to have made a good faith effort.

ii. Navigator CO2 respectfully requests the government to provide a good faith effort exception for taxpayers who have entered into binding written contracts with a contractor or subcontractor who have a collective bargaining agreement or project labor agreement with labor unions. Labor unions have a successful history of advocating and implementing skilled craft apprenticeship programs. Therefore, Navigator CO2 recommends that the government consider a good faith effort exception be made for a taxpayer who entered into a binding written contract with a general contractor or subcontractor with a collective bargaining agreement or project labor agreement with a labor union with such apprenticeship program, and such binding written contract ensures that the contractor and subcontractor will comply with the apprenticeship requirements as outlined under IRC section 45(b)(8) [and IRC section 45Q(h)(4)] and any guidance promulgated thereunder.

III. What documentation or substantiation do taxpayers maintain or could they create to demonstrate compliance with the apprenticeship requirements in section 45(b)(8)(A), (B), and (C), or the good faith effort exception?

Similar to the prevailing wage and apprenticeship requirements, a taxpayer should demonstrate compliance by meeting the substantiation and recordkeeping requirements as provided under IRC section 6001 and Treas. Reg. section 1.6001-1. Examples of documentation, include but are not limited to, a binding written contract with the contractor or subcontractor who employ apprentices from a labor union.

IV. Please provide comments on any other topics relating to the apprenticeship requirements in IRC section 45(b)(8)(B) [and IRC section 45Q(h)(4)] that may require guidance.

Navigator CO2 kindly asks the government to clarify that the definition of apprentice has the same meaning as provided in 48 CFR section 22.401. Specifically, 48 CFR section 22.401 states that an "apprentice means a person (1) employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS; or (2) who is in the first 90 days of probationary employment as an apprentice in an apprenticeship program, and is not individually registered in the program, but who has been certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice." By utilizing the existing definition provided under the DBA, the government would provide taxpayers, contractors, and subcontractors with a clear understanding of which persons hired by taxpayers, contractors, or subcontractors for the construction of a qualified facility or carbon capture equipment are subject to the requirements of IRC section 45(b)(8)(B) [and IRC section 45Q(h)(4)].

Thank you for your consideration.

Sincerely,

Jeff Allen
EVP and CFO, Navigator CO2