RENEWABLE FUELS ASSOCIATION

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Internal Revenue Service
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Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Submitted Electronically via regulations.gov

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

The Renewable Fuels Association (RFA) appreciates the opportunity to provide these comments to the Office of Associate Chief Counsel (Passthroughs & Special Industries) as well as the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) regarding the anticipated guidance for implementation of the Clean Fuel Production Credit under section 45Z of Public Law 117-169, 136 Stat. 2003 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA).

RFA is the leading trade association for America's ethanol industry. Its mission is to advance the development, production, and use of low-carbon fuel ethanol and co-products by strengthening America's renewable fuels industry and raising awareness about the benefits of renewable energy. Founded in 1981, RFA serves as the premier meeting ground for industry leaders and supporters. RFA's 300-plus members are working to help America become cleaner, safer, more energy secure, and economically vibrant.

Of particular relevance to the goals of the IRA, RFA's producer members have committed to bold carbon intensity reduction targets. These include ensuring that by 2030 ethanol reduces greenhouse gas (GHG) emissions by at least 70 percent, on average, when compared directly to gasoline and that by 2050, ethanol achieves net-zero lifecycle GHG emissions.[1] Our comments will focus on the interpretation of tax measures which will empower and accelerate the carbon reduction potential which is central to the spirit of the IRA. RFA's comments are informed by input from our members companies, as well as RFA's collaboration with related industry groups and coalitions.

I. General Ethanol Industry Priorities and Principles for IRA Provisions

The IRA represents the most significant federal commitment to low-carbon biofuels since the Renewable Fuel Standard was expanded by Congress in 2007. The IRA recognizes the important role renewable fuels like ethanol can play in a lower-carbon future for this nation. Specifically, the legislation includes provisions that provide funding for clean fuel production,

[1] RFA Net Zero Pledge President: Ethanol to Achieve Net Zero Emissions by 2050 or sooner, July 2021, https://ethanolrfa.org/pledge

higher biofuel blend infrastructure, enhanced opportunities for ethanol to play a greater role in sustainable aviation fuel, and carbon capture, utilization, and storage (CCUS).

However, the IRA's tax provisions will need to be interpreted and implemented correctly for the legislation to achieve its goals. In particular, lifecycle analysis (LCA) methods, flexibility for individual producers in the calculation of carbon intensity in order to encourage GHG reduction, and timely guidance on regulations for tax incentives to meet the timeframes of the IRA's programs for clean fuel production (45Z) and carbon capture, utilization, and storage (45Q) will be essential to the legislation's success.

The credits available to fuel producers under the Clean Fuel Production Credit (45Z) are dependent on a calculation of the full lifecycle carbon emissions of the production and use of a particular fuel. As fuel producers invest in technology and process improvements to lower their individual carbon intensity, the LCA modeling will need to offer flexibility and granularity so producers can benefit from their investments in a timely manner. Furthermore, these improvements will be made on different timeframes by different producers and individual pathways for individual ethanol plants (i.e., in addition to "default" values) will be needed to provide the incentive for investment intended in the legislation. Different technologies in different combinations will allow ethanol producers to make improvements to their carbon intensity.

The goal of net-zero, or even carbon-negative, ethanol is within sight.[2] But to accomplish this goal, individual ethanol producers will need to have the ability to conduct LCA calculations that are specific to their unique operations and processes. For all LCA matters, RFA encourages collaboration with the Department of Energy, particularly Argonne National Laboratory's Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model. The IRA specifies the use of Argonne GREET for non-aviation fuels, which we strongly support. However, because the Argonne GREET model offers the most thorough approach and is based on the most current data and science (including emissions from direct and indirect land use change), we believe it should be used for LCA calculations for sustainable aviation fuels as well.

Finally, time is of the essence. With the credit provided under 45Z set to expire at the end of 2027, ethanol producers need to begin investing in low-carbon technologies and process improvements immediately. As business decisions are being made, the ethanol industry will need to be confident that credits will be based on reliable science and that credits will retain the value Congress intended in the law. This means clear rules are needed for LCA, reasonable reporting requirements and flexibility for prevailing wage and apprenticeship requirements, and provisions that ensure transferrable credits retain their value to transferees.

II. Clean Fuel Production Credit Guiding Principles

The Clean Fuel Production Credit has tremendous potential to reduce carbon emissions from transportation by incentivizing investments in low-carbon ethanol production technologies. To date, state fuel regulations have driven investment by ethanol producers and brought down carbon emissions considerably. Bringing a set of tax incentives to a national level could lead to

[2] For more information on net-zero ethanol, see *Pathways to Net-Zero Ethanol: Scenarios for Ethanol Producers to Achieve Carbon Neutrality by 2050,* Isaac Emery, Ph.D., of Informed Sustainability Consulting LLC, February 14, 2022, https://d35t1syewk4d42.cloudfront.net/file/2146/Pathways%20to%20Net%20Zero%20Ethanol%20Feb%202022.pdf

revolutionary and rapid reductions in the carbon footprint of renewable fuels. RFA believes that, if properly implemented, the tax credits under section 45Z will lead to transformative investments in carbon reduction.

Although many powerful new carbon reduction technologies for use in ethanol production are emerging or under development, many of the tools the industry will need to reach net zero are already commercially available, proven, and ready to deploy. Whether by re-powering production facilities with biogas and/or renewable electricity, utilizing carbon capture, utilization, and sequestration (CCUS), deploying precision agriculture technologies, or taking advantage or numerous process and efficiency improvements, the ethanol industry is ready and able to accelerate carbon reduction on our path to net-zero.

However, as with any major investment, timeframes will be critical, and the tools used to evaluate low-carbon technologies must be fair and transparent. The Clean Fuel Production Credit is set to run through the end of calendar year 2027. Although RFA believes the program will be successful and there will be an appetite to extend it into future years, business decisions require certainty and investments in ethanol production will be based on payback schedules that can be relied upon. As such, ethanol producers will need to know, as soon as possible, the process for generating credits, the likely value of the credits generated, and the procedures for validating and claiming credits. Ethanol producers also need to know that sound science and modeling tools will be used, and that review or processing of applications or data submittals will not unduly delay eligibility.

As such, RFA calls on the IRS to ensure that the Clean Fuel Production Credit's intended impact is not diminished by a lack of flexibility, certainty, or fairness. Definitions which impact producers' ability to claim or transfer credits, quickly demonstrate their carbon reductions, or benefit from different credits as technology investments are installed should be viewed as critical to the law's success and written to provide flexibility, promptness, and predictability.

In separate comments, RFA discussed our priorities regarding direct pay, transferability, and prevailing wage/apprenticeship requirements under the IRA. The following comments will address issues unique to the Clean Fuel Production Credit (the "45Z credit") including LCA modeling methods, definitions of sale/retail, provisional emissions rates, certification rules for Sustainable Aviation Fuel (SAF), and other potential issues related to the implementation of certain low-carbon technologies. These comments will follow the questions provided by IRS in Notice 2022-58. Our intent is to provide context and industry perspective related to the implementation questions at hand. As always, we would be happy to engage in further discussions as Treasury/IRS continue this process.

III. Answers to Questions from IRS

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)?
What factors should the Treasury Department and the IRS consider in determining whether fuel is sold at retail for purposes of § 45Z(a)(4)(C)?

Fuel distribution and marketing involves a variety of different paths any given gallon of fuel may take on its way from production to use. In the case of ethanol, the overwhelming majority is

blended (typically at 10%) with gasoline at wholesale terminals or blending facilities adjacent to petroleum refineries. However, the use of gasoline blends containing higher levels of ethanol (e.g., 15%) continues to expand, as does the use of "flex fuels" containing 51-83% ethanol (for use in flex fuel vehicles). E15 and flex fuels are sometimes blended at the retail site. Because blends from 10 percent to 85 percent are commonly used, there are often multiple points at which fuel mixtures are created. Additionally, wholesale, retail, and final use can in some cases be under the same ownership. It is RFA's interpretation that the language in § 45Z(a)(4) is included to ensure that different business models and points of blending do not prevent a fuel producer from receiving credit.

§ 45Z(a)(4)(A) describes sale for use in a fuel mixture, as in the case of a wholesaler who will blend the fuel; § 45Z(a)(4)(B) describes sale for use in a trade or business, such as an integrated fleet who manages their own fuel supply without buying at retail; and § 45Z(a)(4)(C) describes a scenario where a retailer buys directly from a producer. RFA believes that these options are enumerated with the intent to include, not exclude, different business scenarios. RFA encourages IRS to interpret these express inclusions as indicating congressional intent that all sales should be eligible regardless of pathway from producer to use.

Regardless of how low-carbon fuel is blended and distributed downstream, it is critically important that the *producer* of the low-carbon fuel is the primary entity eligible for the 45Z tax credit.

> ***What methodologies should the Treasury Department and IRS consider for the lifecycle greenhouse gas emissions of sustainable aviation fuel for the purposes of § 45Z(b)(1)(B)(iii)(II)?***

The Treasury Department and IRS should use the Department of Energy (DOE) Argonne National Laboratory's Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model for pathway LCA for Sustainable Aviation Fuel (SAF) as well as non-aviation fuel. Although lawmakers opted to allow the use of the International Civil Aviation Organization (ICAO) Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) for LCA of SAF pathways, they also left the door open for the use of an "other similar methodology." Argonne GREET clearly meets the intent of Congress with respect to "other similar methodology[ies]" that are as at least as robust as the SAF methodology used by ICAO for CORSIA. RFA believes the best choice for LCA of SAF pathways is the Argonne GREET model. Using Argonne GREET for SAF would ensure that the same, consistent methodology is used for both aviation and non-aviation fuels. Using two different models for the purposes of tax credit generation under 45Z (i.e., one model for SAF, and a separate model for non-aviation fuels) could create administrative challenges for both industry and regulators, and it could also create perverse incentives or disincentives for the production of certain low-carbon fuels in the marketplace.

Argonne GREET is widely considered the most complete and sophisticated transportation fuel LCA modeling tool in the world, and it is particularly well suited to this application for several reasons. First, Argonne GREET does in fact include a robust, peer-reviewed methodology for estimating both direct and indirect land use change (LUC/ILUC) emissions potentially associated with certain low-carbon fuels. Next, Argonne GREET updates its data regularly (at least annually), keeping track of the impact of changes in production practices and technology. Finally, Argonne GREET offers the detail and transparency needed for pathways to be "scored" (i.e., assigned a carbon intensity value) quickly and thoroughly. This allows for individual

pathway scoring instead of overbroad categories consisting of default values, which may not accurately represent the wide range of technologies and practices used in the industry.

Argonne GREET is considered the gold standard for estimating the GHG emissions from transportation fuels, including both direct and indirect emissions. Argonne GREET has been utilized extensively by federal, state, and international agencies. Most notably, the model has been used (with only minor adaptations) by the California Air Resources Board for the state's Low Carbon Fuel Standard (CA-GREET) and by the Oregon Department of Environmental Quality for its Clean Fuels Program (OR-GREET). Further, U.S. EPA used the GREET model for key elements of the LCA conducted in 2009-2010 in conjunction with promulgation of the RFS2 regulations.

Contrary to some uninformed criticisms of the model, the Argonne GREET tool does indeed include a comprehensive module for estimating indirect land use change emissions. Within the GREET modeling array, the Carbon Calculator for Land Use Change from Biofuels Production (CCLUB) is used in conjunction with Purdue University's Global Trade Analysis Project (GTAP) general equilibrium economic model. The use of CCLUB within this array has advantages over other approaches since CCLUB's LUC estimates are taken from the latest version of Purdue University's GTAP model and its emission factors are based on actual field measurements incorporated into the CENTURY/DAYCENT tools for measuring site-level carbon (C) fluxes. As described in the next section, the GREET model also allows for low-carbon fuel producers to submit unique, differentiated data on the emissions related to feedstock production, rather than treating farm-level feedstock production in an overly generalized "one size fits all" manner.

Another important feature of GREET is the periodic updating of key input data. One of the problems with some LCA models is that they use outdated data and lack the mechanisms necessary to adjust for changing circumstances and improving technology. Keeping the data current is both an accountability measure and an incentive to deploy and maintain the best technology and practices.

Finally, RFA supports the option to use individual pathway analysis for purposes of determining carbon intensity, and in turn, credit values under 45Z. GREET offers the granular approach that will enable reliable and thorough results without unnecessary delay. By specifying the use of GREET, Department of Treasury/IRS can streamline this process and give ethanol producers the confidence needed to make investments in carbon reduction. This is made all the more important by the relatively short timeframe of the Clean Fuel Production Credit. DOE has made considerable investment in this tool which can play an important role in achieving the goals of the IRA.

Although no two low-carbon fuel production facilities are the same, Treasury/IRS could consider publishing "default" carbon intensity values for the most common low-carbon transportation fuel pathways; however, as described above, individual producers should be given the option to conduct individual, facility-specific analysis using the Argonne GREET model.

> ***At what stage in the production process should a taxpayer be able to file a petition for a provisional emissions rate?***
> ***What criteria should be considered by the Secretary to determine the provisional emissions rate?***

For new low-carbon fuel projects, producers should be allowed to submit a petition for a provisional emissions rate ("carbon intensity score") based on approved plans from a

professional engineer and carbon intensity modeling results from a qualified LCA practitioner. Once operations have begun at the facility and physical volumes of low-carbon fuel are being produced, the producer should validate with IRS/Treasury that actual operations result in an actual emissions rate that closely matches the provisional emissions rate based on the initial engineering work and modeling.

Further, RFA encourages Treasury/IRS to allow for submission of unique data for all stages of the renewable fuels production and use lifecycle. In the case of ethanol, this means producers should be allowed to submit a emissions rate petition that includes upstream emissions reductions resulting from the use of more efficient agricultural practices and technologies. The intent of the law is to reduce carbon emissions from transportation fuels and many carbon-saving technologies are being deployed at the farm level, with more expected as a result of the IRA's climate-smart agriculture provisions. Treating feedstock production as "one size fits all" from a carbon scoring standpoint would remove an otherwise powerful incentive for our nation's farmers to more rapidly adopt climate-smart farming practices and technologies.

By including upstream agricultural practices that can be accurately documented in the GREET model, Treasury/IRS can unlock considerable potential for carbon reduction.

With respect to this certification requirement for sustainable aviation fuel, what certification options and parties should be considered to support supply chain traceability and information transmission requirements?

Regarding certification and verification of fuel production pathways, RFA points out that there are already a number of third-party organizations and systems in place. These existing systems could be used to inform the certification requirements for application of 45Z. Under state programs, such as California's Low Carbon Fuel Standard (LCFS) and Oregon's Clean Fuels Program, third-party schemes have been developed to provide certification, verification and quality assurance related to credit generation. For certain international low-carbon fuel programs, other certification bodies, such as the International Sustainability and Carbon Certification (ISCC) scheme have been used successfully. Furthermore, under the Renewable Fuel Standard (RFS), EPA has implemented a Quality Assurance Plan (QAP) to assure valid RIN generation for various low-carbon fuels. Under the QAP program, not only are there a number of approved third-party verification and certification providers, but there is a system for the addition of new providers. There is a similar process for adding new verifiers for California's LCFS. RFA urges Treasury/IRS to learn from existing programs, or even leverage those programs where appropriate, to conduct certification, verification, and quality assurance for tax credit generation under 45Z.

In terms of the nature of the certification process, RFA supports the adoption of rules aimed at striking a balance between rigor, assurance, and practicality. As certification practices that are aimed at timeliness and efficiency will encourage the investment intended by the law. Thorough review is necessary for any certification process and RFA supports meaningful verification throughout SAF pathways. However, a balanced approach that provides a necessary level of assurance to regulators while also minimizing administrative burden for industry is necessary.

Finally, as certification focuses on LCA and carbon scoring data, it is worth noting that most third-party certifiers and verifiers in the low-carbon fuels area have a great deal of experience working within the framework of the GREET model. For example, the carbon intensity values used to generate credits under California's LCFS are based on GREET, and the certification

systems in place there are generally working well today. Bringing GREET-based certification for SAF to scale for a federal program is entirely possible utilizing existing industry practices.

Section 45Z(f)(7) states that rules similar to the rules of § 45(b)(8) apply for the apprenticeship requirement. Is the application of the cross-referenced rules for purposes of the § 45Z credit adequately clear? What aspects of the cross-referenced rules should apply to the § 45Z credit without modification and what aspects should be modified?

While creating rules similar to § 45(b)(8) as called for by 45Z(f)(7), RFA would point IRS to the same guiding principles suggested in our earlier comments on apprenticeship requirements. A number of interpretations relating to apprenticeship requirements will have significant impacts on the outcomes of the legislation regardless of the source of the text. The ethanol industry is ready to work with the IRS and other agencies to formulate reasonable timeframes and definitions for the implementation of the apprenticeship requirements. The ethanol industry creates over 400,000 direct and indirect jobs with a higher-than-average union density and very competitive compensation within the markets they serve. We also see great urgency in starting construction projects to deploy new technologies in order to qualify for tax benefits under the IRA. As a result, we ask that the compliance measures are streamlined to allow rapid investment and avoid the potential of administrative delay regarding classification of jobs or unclear reporting requirements.

Regarding the registered apprentice requirement, RFA asks IRS to consider that certain projects in certain areas will likely not have access to apprentices from registered apprentice programs and should develop reasonable options for those project developers. This may be especially important for ethanol producers in rural/remote areas that may not have reasonable access to apprentices from registered programs. The provisions allow exceptions for "good faith efforts" to secure registered apprentices, but further guidance would be helpful. For example, IRS could allow developers to apply for a waiver if they can show they made a reasonable attempt to secure registered/qualified apprentices but could not do so in a reasonable timeframe or at a reasonable cost.

§ 45(b)(8)(D)(ii) calls for "good faith effort" on the part of taxpayers attempting to satisfy apprenticeship requirements. Beyond what was included in Notice 2022-61, RFA calls for reasonableness in interpreting the rules for application to ethanol production facilities that may be remote or in need of new practices or labor partners. A few of RFA's suggested considerations include:

- Availability of registered apprentice within desired project timeframe;
- Cost of travel and time needed to get qualified apprentices to work site;
- Department of Labor and IRS involvement in connecting workers with qualifying apprenticeships would also be helpful;

Overall, the ethanol industry encourages IRS to make sure requirements related to apprenticeships are clear and workable given the realities of the industry and do not create undue delay in investment.

How should production from a qualifying facility with more than one person having an ownership interest in such facility be allocated to such persons for purposes of § 45Z(f)(2)? Should rules similar to the rules under § 45(e)(3) apply for

this purpose? If so, which aspects of § 45(e)(3) should apply without modification for this purpose and which aspects should be modified?

Ethanol plants have a number of different ownership models throughout the industry, and RFA understands the importance of equity and clarity in the rights to tax credits among different owners. RFA strongly supports rules that are flexible enough to accommodate various ownership structures, and we believe that the language in § 45(e)(3) generally provides adequate clarity to provide equitable benefit to owners in different corporate or cooperative business structures.

Please provide comments on any other topics related to § 45Z credit that may require guidance.

(1) Flexibility Among Different Tax Incentives in Different Years (45Q and 45Z)

Pursuant to § 45Z(d)(4)(B)(iii), a qualified facility for purposes of 45Z does not include any facility for which a credit for carbon oxide sequestration under 45Q is allowed under section 38 for the taxable year. As we have discussed, ethanol producer members will be making carbon reduction improvements to their individual processes during the years of the currently enacted tax credits under both 45Q and 45Z. However, there is no particular sequence by which a given ethanol plant will implement particular technologies. In order for these two incentives to produce the best outcomes, ethanol producers should be confident that they will be able to switch between different credits in different tax years depending on their business situation.

For example, if an ethanol plant were to begin improvements with carbon capture and sequestration, depending on their carbon score, it may well be most advantageous to claim 45Q and not 45Z for that year. However, if they are not allowed to switch to potentially higher credits under 45Z in future years, they would lose the incentive to continue installing low-carbon technology. The reverse of this could also be true, and 45Z may present a more attractive opportunity for producers in the near-term, followed by a switch to 45Q in later years (or following expiration of 45Z). In either case, such an outcome would be inconsistent with the IRA's intent to drive down carbon emissions from transportation fuels. RFA encourages Treasury and IRS to create rules that not only leave open the possibility of claiming different credits in different years but create certainty that this will be allowed in the future. This will instill confidence in ethanol producers that the business case for their investments on the path to net-zero can be relied upon.

(2) Flexibility in Definition of "Facility" to Encourage Investment

Conceptually similar to the need for flexibility in which type of credit a producer may receive in any given year is the need for an inclusive and flexible definition of "facility." Production of ethanol, especially as low-carbon technology is adopted, often involves either overlap or distance in physical location. This could be especially true in the case of ethanol-based SAF, where ethanol could be produced by one facility and shipped to a separate facility for conversion to SAF. This is also true with ownership as partnerships and different business arrangements support ongoing investment. Flexibility in the rules for what constitutes a "facility" will encourage the greatest adoption of new technology.

This is related to the similar need for reasonableness and flexibility in section 45Q's treatment of "facility." Rules for both credits should work in harmony and strive to be inclusive. IRS should

draw definitions that recognize that physical boundaries or single ownership do not cover the realities of a sophisticated industry working to rapidly adopt low-carbon technology.

(3) Treasury Should Consult with Department of Energy to Establish Default Values for Common Production Pathways, but Create a Mechanism Enabling Producers to Apply for Individual Pathways

In section 45Z(b)(1)(B), the IRA calls for the Secretary of the Treasury to establish values for fuel pathways. First, RFA recommends that the Secretary consult with the Department of Energy in this process. DOE has the wealth of experience and scientific staff to be of the most assistance in calculating pathways using their GREET model including the most robust and current scientific methods. Consulting with DOE will also streamline the pathway approval process throughout scenarios that do not fit into common pathways/default values.

A table of "default" emissions rates, as called for in the IRA, will be helpful for producers who either operate facilities that are characterized well by the default value or lack the resources to conduct facility-specific LCA. However, a table of default values will be far from adequate to deal with the many production pathways and technologies in the marketplace today and in the future. With the myriad different combinations of technologies that can be deployed in different arrangements throughout the entire lifecycle of a fuel, IRS will need to create a meaningful and efficient petition process by which a producer can have an individual pathway scored and approved. Ethanol producers will not follow one single path to net-zero emissions. This diversity will only increase with the inclusion of more upstream agricultural practices in emissions scoring. Default values for common pathways may serve some producers well and will provide useful guidance for business decisions, but an individual pathway petition process is essential to making the most of the IRA.

(4) Provide Clarity and Reasonable Guidance on Rounding of Carbon Intensity Scoring and Credit Value

Section 45Z(a)(5) calls for rounding of credits to the nearest one cent and section 45Z(b)(1)(C) calls for rounding of emissions rates to the nearest credit values to the nearest multiple of 5 kilograms of CO2e per mmBTU or to zero in the case of an emissions rate that is between 2.5 kilograms of CO2e per mmBTU and -2.5 kilograms of CO2e per mmBTU. Although simple enough on its face, in practice, these rounding rules will have a considerable impact on the value of credits and the impact of the law. RFA encourages IRS to make rules that further define exactly how rounding should be conducted and provide certainty with regard to how precise carbon intensity scores need to be.

(5) Treasury Should Not Impose "Additionality" Requirement for Renewable Electricity for Clean Fuel Production

As ethanol production facilities continue to transition to lower-carbon sources of process energy, the use of renewable electricity and biogas will be a key part of the industry's path to net-zero. This will require construction of new renewable electricity generation capacity in some cases and many such projects are under construction or already in use. However, the geographical footprint of ethanol production in the US overlaps with considerable underutilized existing wind and solar generation. Utilizing such existing renewable electricity should be an option and Treasury should reject any calls for an "additionality" rule that would exclude energy produced by existing generators from qualifying as a source of energy under section 45Z.

The IRA includes no such requirement and imposing it at this level would contradict congressional intent and diminish the carbon reduction impact of the Act. The IRA includes other credits and investment mechanisms to promote new renewable electricity generation. Section 45Z, however, is intended specifically to promote innovation and production of fuels. Imposing an "additionality" requirement would take substantial existing resources off the table – many of which otherwise require costly or impractical transmission lines to utilize their capacity in markets far away from production. RFA respectfully requests that Treasury reject calls for an "additionality" rule under 45Z.

(6) Treasury/IRS Should be Cognizant of Realities of Adoption of Technology and Create Flexibility While Working with Other Agencies to Address Sources of Delay

The foregoing comments have highlighted a number of justifications for flexibility in the rules that will empower ethanol producers to make the most of the Clean Fuel Production Credit moving forward. However, regulatory realities, as well as market realities, already provide meaningful insight into the relationship between tax regulation and clean fuel innovation. A prime example of this is the Class VI well application process with EPA.

Class VI well permits are required for geological carbon sequestration practices which could play a big role in improving the carbon intensity scores for many ethanol producers. However, at this point, EPA has only granted two such permits and the timing of the approval process remains unclear. With a short window before sunsetting for 45Z, and recognizing that construction of major projects can take several years, inclusivity and promptness in approvals will be needed from the IRS. Class VI well permits is just one example. Other causes for delay may include design hurdles, labor availability, or other permitting requirements. In general, RFA hopes that Treasury/IRS will adopt efficient practices that do not add to these potential delays or keep producers from fully participating in the Clean Fuel Production Credit.

RFA looks forward to working with IRS, Treasury, and other agencies on the implementation of the IRA. We thank you again for the opportunity to provide comments. If you have any questions, or need any additional information, please feel free to contact Jared Mullendore at jmullendore@ethanolrfa.org or Edward Hubbard, Jr., Esq., at ehubbard@ethanolrfa.org or (202) 289-3835.

Sincerely,
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