American Chemistry Council

February 8, 2024

Ms. Vivian Hayes
Internal Revenue Service
1111 Constitution Ave. N.W.
Washington, D.C. 20224

RE: Comment Extension Request of the American Chemistry Council on Section 45V Clean Hydrogen Production Tax Credit, Section 48(a) (15) election to treat Clean Hydrogen Production Facilities as Energy Properties (Docket REG-117631-23).

Submitted electronically via the Federal eRulemaking Portal at https://www.regulations.gov.

Dear Ms. Hayes:

On behalf of the American Chemistry Council (ACC) and its members, we respectfully request an extension to the comment deadline on the Section 45V Clean Hydrogen Production Tax Credit (CHPTC) proposal. As critical producers, users, and enablers in a new hydrogen economy, our members see the 45V tax credit as one of the most important elements of the IRA/BIL lower emissions economy framework. For reasons presented below, ACC respectfully requests a 30-day extension to the comment period for the proposed CHPTC rule to provide ACC and other stakeholders time to complete a review and analysis of the multiple policy and technical documents included with the proposal, and further encourage Treasury to supplement its analysis provided with the proposed rule on several issues.

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 $13.4 billion annually. The chemical sector is incredibly diverse, touching every sector of the economy throughout the value chain.

ACC has a unique interest in the successful and rapid buildout of the clean hydrogen economy as our members contribute at every step of the value chain. ACC is working with members to develop a detailed set of comments and questions addressing many aspects of the rule and its various supporting documents. An extension should not impact the Administration's schedule as it would align the deadline for written comments with the deadline for public testimony, already scheduled March 27, and improve the quality and value of public input thus leading to rule that fosters the most robust hydrogen economy liftoff.

The 45V Tax Credit as intended by Congress would be an essential catalyst for rapid, nationwide investment in clean hydrogen production capacity and supporting infrastructure. While stakeholders diverge on preferred incentive conditions, metrics, and methodologies; ACC urges the Administration to focus on one fundamental objective: incentivize and reward early investment in clean hydrogen production capacity, building the foundation for a clean hydrogen production and utilization market needed for long-term emissions abatement in hard-to-abate industries like industrial manufacturing. Without the benefit of additional technoeconomic and regulatory impact analysis, ACC is concerned that in trying to anticipate potential short-term emissions impacts during early deployment and transition, the proposed policy could undermine the long-term success of the 45V program in building a robust clean hydrogen economy.

Stakeholders need more time and information to fully understand the rationale and impacts of the proposed rule. The proposed rule contains a wide range of conditions, definitions, and design choices not reflected in the authorizing language. The proposal relies on theories, assumptions, claims, and methodologies cross-referenced in multiple documents (*Treasury NPRM, DOE White Paper on Induced Grid Emissions and three pillars, DOE's proposed GREET45V model and technical user manual, EPA memo on Clean Air Act, DOE Transmission Corridor Study*) developed by multiple agencies, each raising separate and distinct implementation issues. Without more background and analysis ACC and our members will not be able to fully assess the impacts of the rule's many design elements in the limited time allotted for public review. This is particularly the case with respect to the proposal's heavy reliance on a novel theory of "Induced Grid Emissions" to expand the scope of covered indirect emissions and restrict the sourcing of clean energy during the CHPTC's limited window. As they have not provided such analyses stakeholders will have to conduct the research and analysis to answer these questions, an undertaking not possible under the existing deadline.

Given the lack of this important analysis in the proposal, we urge Treasury, DOE, and EPA to supplement the record with evidence of the Administration's legal, technology, economic, and market analyses supporting its interpretation of the IRA. We recognize that such supplementation may also necessitate an additional comment period.

For these reasons, ACC requests Treasury extend the rule's comment period deadline for at least 30 days. We hope this can become the start of an ongoing dialogue with the Administration and the chemical industry on implementation and growth of the clean hydrogen economy. If you have any questions or would like more information on our industry and the role the 45V tax credit will play in our members' emissions reduction efforts, please feel free to contact me.

Sincerely,

Robert Flagg
Senior Director, Federal Affairs
American Chemistry Council

Cc:

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

The Honorable Wally Adeyemo, Deputy Secretary of the Treasury
U.S. Department of the Treasury

Mr. Seth Hanlon, Deputy Assistant Secretary for Tax and Climate Policy
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