From: Industrial Innovation Initiative, I^3
Contact: David Soll, and Zachary Byrum
Date: February 26, 2024
RE: 26 CFR Part 1, Notice of Proposed Rulemaking, Section 45V Credit for Production of Clean Hydrogen

Background

Clean hydrogen will be critical to decarbonize important industrial processes and achieve our midcentury climate goals. The 45V Hydrogen Production Tax Credit passed in the Inflation Reduction Act is the federal government's most effective tool for stimulating increased production of clean hydrogen required to decarbonize the industrial and manufacturing sectors effectively and efficiently. In response to the Request for Comments regarding the Section 45V Credit for Production of Clean Hydrogen and Section 48 (a) (15) Election to Treat Clean Hydrogen Production Facilities as Energy Property, the Industrial Innovation Initiative (I^3) has prepared the following document.

About I^3

The Industrial Innovation Initiative (I^3) is an ambitious coalition which aims to advance solutions key to decarbonizing the industrial sector through policy development and implementation, technology demonstration and adoption, and demand-side market development. The Initiative builds on years of stakeholder engagement and extensive work by its co-conveners, Great Plains Institute (GPI) and World Resources Institute (WRI), to collaborate with government officials and advance decarbonization solutions important to the industrial sector. I^3 values a stable climate, a safe and healthy environment, thriving livelihoods for American workers, and a strong US economy. Therefore, I^3 supports policies that will put American industry on a path to net-zero emissions, retain and create high-wage jobs, and advance technology leadership and economic competitiveness. The Initiative convenes key industry, environmental, labor, and other stakeholders, to advance cross-cutting strategies, policies, and programs for achieving industrial decarbonization by midcentury.

The information contained within this document represents a small fraction of the collective knowledge and expertise of our participants. Additionally, this document was prepared with the input and feedback of I^3 participants but does not reflect the express opinion of each participating organization. Given I^3's broad representation and the active debate around 45V's implementation, our comments convey where consensus could be found, with many individual organizations planning to submit their own comments containing more detailed information as well. Members of I^3 are ready and willing to connect with the Treasury and IRS to provide key industry, labor, environmental, and business perspectives from our stakeholder group. The Initiative meets bi-monthly and is happy to schedule ad hoc meetings to facilitate vital discussions such as these. If you would like to connect with us directly, please reach out to I^3 Project Manager, David Soll, at dsoll@gpisd.net, and we will gladly arrange a meeting.

General Comments
The Industrial Innovation Initiative has worked to promote clean hydrogen since its inception in 2020. Our 2021 federal and state policy blueprint, *Decarbonizing Industry by 2050*, highlighted the central role of hydrogen in reducing industrial emissions. In May of 2023, I^3 explored hydrogen in more depth in *The Landscape of Clean Hydrogen*, a report that detailed the potential of the industrial hubs, such as those due to receive funding under the Bipartisan Infrastructure Law's Hydrogen Hubs program. DOE's selection of seven hydrogen hubs in October 2023 aligned with much of our analysis. Our recently released federal policy blueprint emphasizes the need to reduce barriers to constructing hydrogen pipelines and other supportive infrastructure. I^3 believes a robust hydrogen production and delivery network will provide industrial firms an affordable and reliable resource they can deploy to reduce emissions and co-pollutants in an economically competitive marketplace.

I^3 recognizes that Congress devised the 45V tax credits to stimulate short- and medium-term production of clean hydrogen, while Treasury's decision to adopt the so-called "Three Pillars" reflects the federal government's desire to prioritize the lowest-carbon hydrogen for the highest credit value. The 45V tax credits, coupled with the Department of Energy's support of regional hydrogen hubs, will undoubtedly spur clean hydrogen production. We urge Treasury and the Department of Energy to prioritize the availability of clean hydrogen supply in multiple regions.

I^3's ultimate goal is to enable the industrial sector to decarbonize by midcentury, which is partially contingent on companies having access to competitively priced, low-carbon hydrogen. The availability of economic, low-carbon hydrogen is critical for meeting midcentury climate goals.

I^3 appreciates the difficulty of drafting regulations that promote the development of a robust domestic hydrogen industry without inadvertently increasing emissions in the short term. As noted in our more specific comments below, we support some aspects of the guidance that provide electricity generators and hydrogen producers additional flexibility.

Specific Comments
Formulaic Approach to Addressing Incrementality From Existing Clean Generators
Treasury requests comments on a formulaic approach for determining allowances for currently existing power plants to comply with the incrementality requirements. We urge Treasury and DOE to develop straightforward rules for low-emitting generators whose output is routinely curtailed, or which are likely to suspend operations if they do not qualify for 45V tax credits. Awarding existing low-emitting generators energy attribution credits if they comply with rules intended to ensure that a fixed share of their current generation is not likely to increase indirect emissions is a prudent financial and environmental approach.

Uprates
Consistent with the desire to promote flexibility in the clean hydrogen marketplace, I^3 supports the uprating provisions outlined in the guidance.

Retrofit of an Existing Facility (80/20 Rule)
I^3 supports the so-called 80/20 rule. This provision encourages production of clean hydrogen from existing facilities. Encouraging expansion of existing facilities is prudent from both a fiscal and environmental perspective.

Request for Provisional Emission Rates
I^3 urges Treasury and DOE to develop a more transparent process for applying for Provisional Emissions Rates (PER). Market participants with innovative production techniques not listed in the most recent GREET need clear expectations about the timelines and procedures for obtaining Provisional Emissions Rates. Front-end engineering studies that estimate which hydrogen production techniques will prove environmentally and economically viable are difficult to finance without assurance that would come with a more transparent PER process.

We encourage Treasury and DOE to specify timelines and other details that will provide innovative clean hydrogen producers confidence that the government will expeditiously evaluate their requests for Provisional Emissions Rates. Creating a clearer PER process will increase the odds that low-cost clean hydrogen will become available in all regions of the country within the next decade.

Final Comments
I^3's members are working diligently to develop and deploy technologies that will meaningfully reduce emissions. I^3 supports bipartisan solutions that will accelerate decarbonization without sacrificing the economic vitality of industrial communities. Hydrogen is an essential resource for reducing emissions in industries ranging from steel to cement to chemicals. We look forward to working with Treasury and the Department of Energy to ensure the development of a vigorous nationwide hydrogen network.