February 26, 2024

Internal Revenue Service
U.S. Department of Treasury
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

RE: Section 45V Credit for Production of Clean Hydrogen; Section 48(a)(15) Election to Treat Clean Hydrogen Production Facilities as Energy Property, REG–117631–23, 88 Fed. Reg. 89220 (Dec. 26, 2023)

**COMMENTS OF THE NORTHEAST GAS ASSOCIATION**

The Northeast Gas Association (NGA[1]) is appreciative of the opportunity to comment on the Department of Treasury ("Treasury") and Internal Revenue Service's ("IRS") notice of proposed rulemaking regarding the Section 45V Credit for Production of Clean Hydrogen.

NGA and our members are committed to being a part of the clean energy future and are working diligently in these efforts. This is exemplified by the longstanding leadership of Northeast gas distribution companies in reducing greenhouse gas emissions, including through the use of hydrogen, renewable natural gas ("RNG"), energy efficiency and other emerging fuels and technologies. Indeed, NGA and our members are at the forefront of researching and designing programs to facilitate the integration of environmentally friendly gaseous fuels into gas networks, including through our Infrastructure Optimization Committee, and through our RD&D Division, NYSEARCH[2]. These efforts led us to publish our "Interconnect Guide for Emerging Fuels into Energy Delivery Networks"[3] in December 2022.

As Treasury and IRS work toward finalizing regulations to implement the clean hydrogen tax provisions of the Inflation Reduction Act of 2022 ("IRA"), NGA respectfully urges them to consider the following comments:

[1] NGA is a regional trade association that focuses on education and training, technology research and development, operations, planning, and increasing public awareness of natural gas in the Northeast U.S. NGA represents natural gas distribution companies, transmission companies, liquefied natural gas suppliers and associate member companies. Its operating member companies provide natural gas service to over 13 million customers in 9 states (CT, ME, MA, NH, NJ, NY, PA, RI, VT).
[2] NYSEARCH is NGA's RD&D Division, and for more than 30 years has worked as a consortium of natural gas Local Distribution Companies (LDCs) who have a common interest and need for research and technology development and demonstration. NYSEARCH has spent over 30 years researching and designing projects to support LDCs as they seek to better understand opportunities associated with green gaseous fuels, including Hydrogen.
[3] Publications, Northeast Gas Association

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1) Increased production and use of hydrogen can help ensure clean, reliable energy for the United States and specifically for the Northeast region, while utilizing existing infrastructure.
2) To unlock these benefits, Treasury should abandon or postpone the hourly temporal matching requirement set to begin in 2028, as it could dramatically diminish investment in hydrogen projects.
3) Furthermore, with respect to the incrementality and deliverability requirements for qualifying energy attribute certificates ("EAC"), Treasury should prioritize flexibility in compliance.
4) Finally, Treasury should provide additional clarity and support for the use of RNG as a feedstock for hydrogen production.

## Hydrogen's Role in Securing Clean, Reliable Energy

NGA believes that increased production and use of hydrogen can be a catalyst for emissions reductions while ensuring reliable, affordable energy.

### A. Reducing Emissions While Utilizing Existing Gas Infrastructure

Across the northeast, Hydrogen is already being used to reduce emissions, including by gas utilities across the region. For example, National Grid is a supporter of the U.S. Department of Energy (DOE) HyBlend Hydrogen Blending Cooperative Research and Development Agreement (CRADA) and the Clean Hydrogen Technology Alignment Cooperative (CHyTAC) led by the National Renewable Energy Laboratory (NREL), and is currently implementing their HyGrid hydrogen production and utilization demonstrations in New York to decarbonize networks by blending green hydrogen into existing distribution systems.[4]

HyGrid Projects will highlight how increased production and use of hydrogen can create immediate environmental benefits while utilizing existing natural gas infrastructure. NGA believes these types of opportunities must be pursued, and our members continue to take an energy-inclusive *good science / common sense approach* to developing and deploying similar emissions reductions projects. Indeed, as the northeast decarbonizes its electrical generation, in the future, with the use of clean hydrogen, the existing pipeline network could even serve as a storage and transmission vehicle for excess renewable generation, increasing grid resiliency. As referenced above, it is for this reason that we developed the Interconnect Guide for Emerging Fuels into Energy Delivery Networks[5] which can be used to support efforts to efficiently integrate emerging fuels like Hydrogen into existing energy systems.

### B. Affordable Energy Security – Including for Hard to Decarbonize Sectors

[4] "One of the US' first green hydrogen blending projects launches on Long Island," National Grid
[5] Publications, Northeast Gas Association


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The New England region faces natural gas supply constraints largely due to limited pipeline infrastructure. In the winter, these constraints create significant risk to the region, both in regard to the electric grid and to heating[6]. Without expanded pipeline capacity, the development and use of emerging fuels like hydrogen offer an opportunity to diversify and increase the energy supply for the region. The region will further benefit as the price of hydrogen comes down.[7]

Hydrogen also offers an opportunity to decarbonize hard-to-electrify industries. Indeed, in the Northeast Regional Clean Hydrogen Hub[8] proposal, the Northeast states noted the proposal would support more than "one dozen projects across seven Northeast states that advance clean electrolytic hydrogen production, consumption, and infrastructure projects, for hard to decarbonize sectors, including transportation and heavy industry." Indeed, officials from across the Biden Administration, including Secretary of the Treasury Janet L. Yellen and Senior Advisor to the President John Podesta have praised hydrogen for its ability to support energy security and cut emissions from harder-to-decarbonize sectors, such as heavy industry and heavy transportation. Secretary of Energy Granholm even noted "Hydrogen has the potential to clean up America's manufacturing industry, power the transportation sector and shore up our energy security all while delivering good-paying jobs and new economic opportunity to communities in every pocket of America."[9]

**Treasury Should Abandon or Postpone the Transition from Annual to Hourly Matching When Determining EACs**

The proposed regulations rely on EACs to document and account for the energy attributes of electricity used for hydrogen production, requiring adherence to the "three pillars" standards, including *incrementality*, *temporal matching*, and *deliverability*. While NGA acknowledges Treasury's efforts to ensure the production of hydrogen aligns with new clean energy generation, we strongly oppose the proposed rule mandating hourly temporal matching from 2028 onwards.

Treasury's own recognition that hourly tracking systems for EACs are not widely available underscores the impracticality of implementing hourly matching requirements in the near future. NGA contends that such a requirement could severely hinder market development and investment in hydrogen facilities post-2028, directly contradicting the intent of Congress in establishing the 45V Credit.

Notably, industry voices, including American Clean Power ("ACP"), echo NGA's concerns, labeling the proposal as a 'fatal flaw' that could discourage investment in green hydrogen

[6] FERC, Chairman Phillips Announces June 2023 New England Winter Gas-Electric Forum
[7] Biden-Harris Administration Announces $47 Million to Develop Affordable Clean Hydrogen Technologies, Department of Energy
[8] Seven States in NE Regional Clean Hydrogen Hub Announce DOE Proposal for Funding and Designation as a National Hub, NSYERDA
[9] U.S. Department of the Treasury, IRS Release Guidance on Hydrogen Production Credit to Drive American Innovation and Strengthen Energy Security, U.S. Department of the Treasury

manufacturing, claiming "imposing an hourly matching provision too early for first-wave green hydrogen projects will discourage a significant majority of clean power companies from investing in green hydrogen manufacturing and facilities."[10] This sentiment reflects broader industry apprehension about the feasibility and impact of premature hourly matching provisions.

By maintaining the policy of annual matching, Treasury can sustain investor confidence, promote continued growth in the hydrogen sector, and ensure the effectiveness of the 45V Credit in driving emissions reductions and advancing clean energy goals.

**Treasury Should Prioritize Flexibility with Respect to the Incrementality and Deliverability Requirements for Qualifying EACs**

As the nascent hydrogen industry begins to develop, allowing flexibility in meeting the regulatory requirements of incrementality and deliverability for EACs is paramount. Overly prescriptive or cumbersome requirements risk stifling innovation and impeding the development of new hydrogen facilities. Therefore, as Treasury establishes final rules to determine adherence to these requirements, we strongly urge Treasury to prioritize flexibility in compliance.

Flexibility in regulatory compliance will enable industry stakeholders to navigate evolving market dynamics and technological advancements effectively. By allowing for adaptable approaches to meeting Incrementality and Deliverability requirements, Treasury can foster a supportive regulatory environment conducive to industry growth and innovation.

**Treasury Should Encourage the Use of RNG for the production of Hydrogen**

With technologies like Hydrogen in their infancy, to fully unlock the potential of the Section 45V Credit, Treasury must promptly and clearly outline guidelines that encourage, without being overly restrictive, the utilization of RNG or other fugitive sources of methane as feedstocks for hydrogen production. For example, the proposed rule appears to narrowly define RNG for purposes of the 45V credit and instead should recognize the multitude of feedstocks and production technologies that can be used currently and in the future to produce RNG. The broad inclusion of RNG in the 45V Credit framework is paramount to aligning with Congress's goals in the IRA. This is especially true as major new wind projects continue to face significant hurdles, including cancellations, delays and increasing costs.[11]

RNG presents a compelling opportunity to achieve significant environmental, economic, and energy security objectives. By integrating RNG into hydrogen production processes, both the United States and the Northeast region can make substantial strides in reducing greenhouse gas emissions and fostering a more resilient energy landscape. However, the absence of clear guidance from Treasury regarding qualifying RNG production pathways introduces uncertainty,

[10] ACP Statement on Administration Guidance for Green Hydrogen Tax Credits, American Clean Power
[11] Offshore wind projects face economic storm. Cancellations jeopardize Biden clean energy goals, AP News


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hindering investment and impeding project development. This delay risks deterring developers from pursuing RNG-based hydrogen projects, thereby jeopardizing crucial advancements in clean energy infrastructure.

Therefore, Treasury's swift action is imperative to provide regulatory clarity and facilitate the seamless integration of RNG into hydrogen production processes. By doing so, Treasury can catalyze innovation, drive sustainable economic growth, and reinforce America's position as a global leader in clean energy technology.[12]

**Conclusion**

NGA applauds Treasury and IRS's efforts to craft regulations pertaining to the 45V Credit. NGA believes Hydrogen can play an important role in supporting America's clean, affordable, reliable energy future. In order for Treasury and IRS to meet the intent of Congress and ensure a robust hydrogen market going forward, we respectfully encourage your consideration of our comments, including specifically, more clearly encouraging the use of RNG as a feedstock for hydrogen production, and abandoning the transition to hourly temporal matching in 2028 and beyond.

Thank you for the opportunity to submit these comments,

Alana Daly

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[12] There are a number of additional hydrogen production technologies that Treasury should consider as well, as articulated in the comments offered on behalf of the Open Hydrogen Initiative in this matter. A copy of the Open Hydrogen Initiative's comments is included herewith.