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Mr. John Morton
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Department of Treasury
1500 Pennsylvania Ave., NW
Washington, DC, 20220

Ms. Lily Batchelder
Assistant Secretary, Office of Tax Policy
Department of Treasury
1500 Pennsylvania Ave., NW, Room 3120
Washington, DC, 20220

Re: Department of Treasury Seeks Input on Additional Clean Energy and Climate Incentives

Manufacturers have led across all industries in making smart investments to innovate and implement solutions the U.S. and the world need to address climate change. Manufacturers are developing new technologies that make energy cleaner, more affordable and reliable with each passing year. The clean energy, advanced manufacturing and climate incentives in the Inflation Reduction Act invest \$369 billion in addressing climate change, including \$270 billion through tax incentives. These opportunities create the potential to put the nation's climate goals within reach, if they can leverage private sector ingenuity, expertise and capital and be implemented quickly, with transparency and inclusivity.

The NAM has previously communicated that it is essential that Treasury and the IRS coordinate and engage with industries and companies that have already begun clean energy initiatives including the deployment of clean commercial vehicles and the respective refueling sites, carbon capture utilization and sequestration projects, clean hydrogen production projects and clean fuel production efforts. It would be shortsighted to implement guidance and rules that exclude or indirectly penalize manufacturers that are already making significant capital investments in clean energy projects. These manufacturers are not only first-movers that have led by example, but also possess the greatest expertise in moving innovation from the lab to the real world. Projects of the scale, scope and complexity that these provisions envision require highly technical and often specialized permitting, finance, logistics and even workforce expertise.

It is also essential that Treasury provide added clarity and flexibility to ensure full use of these incentives in a way that quickly brings new private capital to bear, while ensuring that the implementation process does not create an artificial pause in the work that is already underway. Manufacturers have been and continue to lead our nation's climate change efforts and as even more clean energy and advanced manufacturing projects are begun in the weeks and months ahead, it is critical to provide additional certainty on credit qualification to projects that break ground before final rules and guidance are issued.

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Transportation modernizations and enhanced infrastructure systems can contribute greatly to national economic growth, competition, emissions reductions and resilient communities. To meet these shared goals, U.S. deployment of a clean commercial vehicle fleet and corresponding refueling infrastructure must be implemented in a wholistic way. In pursuit of decarbonizing commercial vehicles, Treasury and the IRS should ensure that its definitions fully capture the entire universe of commercial vehicles and refueling properties, to include technologies that could make a timely real-world difference in CO₂ emissions. And in considering the extensive variety and complexity of commercial vehicles and the siting challenges required to refuel them, Treasury and IRS should consider flexibility in qualification areas such as identification standards, gross vehicle weight rating and weight classifications. Within the 45W tax credit for qualified commercial clean vehicles, additional consideration is required to ensure mobile machinery have appropriate identifiers and classifications with the understanding that mobile machinery are not motor vehicles and do not utilize or follow gross vehicle weight ratings, vehicle identification numbers or motor vehicle safety standards.

Manufacturers are often the end users of the technology they develop. For example, commercial vehicle manufacturers could use a vehicle in their fleet or for sales and marketing purposes. If the manufacturer is the end user of the covered product, they should be eligible to utilize credits and Treasury and the IRS should consider the manufacturer as having acquired the product.

Bidirectional charging is an example of a technology that accompanies modernizing and transitioning to clean vehicles. Bidirectional charging is a technology that can mitigate risks to vulnerable communities, including rural and low-income areas, by returning time-shifted power in the home at a lower cost and providing backup power during outages. Treasury and the IRS should clearly affirm that both stationary and mobile bidirectional charging equipment capable of AC discharge qualify under the 30C statute. In addition, the agencies should consider a nationally recognized certification for EV charging stations, such as UL, to ensure efficiency, standardization and safety for installation and maintenance of EV charging infrastructure. This will maximize emission reduction as well as develop more resilient communities.

In the ever-growing clean energy vehicle industry, the definition of an electric vehicle should reflect innovation. As a result, the term “vehicle” should meet the realities of today and include electric aircraft, boats, trucks and other forms of transportation, especially as the transportation industry continues to collectively face similar challenges relating to the buildout of a charging network that can power this evolution.

To meet growing energy demands and emission reduction goals, the U.S. must vastly enhance the deployment of carbon capture, use and storage technologies. The U.S. is positioned to be the world leader in this emerging technology, possessing the technical know-how to capture, the ingenuity to maximize the use of carbon and the natural resources to securely sequester carbon. The NAM supports the enhancements to 45Q including the increased credit values, extended commence-construction window and broadening qualifications for the credit. However, further clarification is needed on terms including “qualified facility” and “baseline carbon oxide production.” If manufacturers do not have certainty in their eligibility for the 45Q credit, the positive effort of expanding the existing 45Q credit could disincentivize some from breaking ground on these types of critical projects.

Hydrogen is an important part of a diverse energy portfolio and is a resource that will account for a steadily rising share of U.S. energy supply and development. In implementing the new Clean Hydrogen Production Credit, Treasury and IRS must ensure that hydrogen

standards reflect congressional intent, are consistent with international efforts and does not seek to limit clean hydrogen opportunities based on fuel source. Early opportunities for infrastructure investment, end-use demand and affordable volumes of clean hydrogen could all be lost if fuel sources are excluded from consideration. Additionally, manufacturers need clarity from Treasury and the IRS regarding the coordination of the 45V and 45Q credits, particularly Sec. 45V(d)(2). But manufacturing and manufacturing facilities are complex, multipurpose and multi-capable. Limiting access to clean energy and climate incentives for manufacturers that have been leaders in reducing emissions and generating and utilizing clean energy runs counter to the shared goals of this administration and the NAM. Treasury and IRS should clarify that manufacturers and facilities with multiple hydrogen processes may be eligible for both the 45V and 45Q credits if they account for those separate processes, even if co-located in a single facility or larger complex.

The U.S. is a leader in the production of next-generation, cleaner fuels for both domestic consumers and to export in the global markets. As the Treasury and IRS implements and sets standards for the Sustainable Aviation Fuel credit, further clarity and parity are needed in the methodology it uses to establish emission rates. Treasury and IRS should lean on interagency partners including existing models and methodologies to ensure consistency across all fuels and fuel producers. Similarly in providing guidance on other clean and alternative fuels, Treasury and IRS must provide further clarity on aspects such as the phrase “suitable for use as fuel in highway vehicles,” as well as presenting a clear process for additional public comment and engagement.

The NAM continues to urge Treasury and the IRS to ensure that policy and guidance are written in plain, understandable language, clear definitions and qualifications for credits are provided, robust and broad public engagement are priorities and that effective interagency coordination and cooperation are employed when implementing clean energy and climate incentives. And the NAM appreciates the opportunity to engage with Treasury and the IRS on these three Notices. Manufacturers look forward to continuous engagement through roundtable and community opportunities as well as future Notices to ensure that energy and climate incentives are effectively and efficiently implemented.

Manufacturers embrace our role in helping to protect our planet and to build a sustainable and strong economy, and complicated work awaits policymakers. Manufacturers stand ready to assist Treasury, the IRS and other federal agencies in their implementation of clean energy incentives.

Sincerely,

Chris Morris
Director
Energy & Resources Policy