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February 26, 2024

Submission VIA the Federal eRulemaking Portal at www.regulations.gov

Internal Revenue Service
CC:PA:LPD:PR (REG-132569-17)
Room 5203
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: REG-117631-23: Section 45V Credit for Production of Clean Hydrogen; Section 48(a)(15) Election To Treat Clean Hydrogen Production Facilities as Energy Property

Dear Ladies and Gentlemen:

W. L. Gore & Associates (Gore) appreciates the opportunity to submit the following comments in response to the proposed regulations published by the Internal Revenue Service and the U.S. Treasury Department regarding Internal Revenue Code section 45V Credit for Production of Clean Hydrogen (Clean Hydrogen PTC) and the energy credit, as established and amended by the Inflation Reduction Act of 2022, Public Law 117-169, 136 Stat. 1818 (August 16, 2022).

- W. L. Gore & Associates is a global materials science company dedicated to transforming industries and improving lives. Since 1958, Gore has solved complex technical challenges in demanding environments — from outer space to the world’s highest peaks to the inner workings of the human body. With more than 13,000 Associates and a strong, team-oriented culture, Gore generates annual revenues of \$4.8 billion. (www.gore.com)
- W. L. Gore & Associates is committed to clean energy and sustainability. Gore is the global market leader in the manufacture of proton exchange membranes, (“PEMs”). A PEM is an ion-conducting membrane used in fuel cells (“FCs”) to generate electricity and in water electrolyzers to produce “green hydrogen” (the term used for hydrogen produced by splitting water with renewable electricity). Green hydrogen produced utilizing Gore’s PEM offers an opportunity to replace grey hydrogen currently used in oil refining and ammonia production. In addition, green hydrogen produced utilizing Gore’s PEM can decarbonize hard to abate sectors, such as chemicals, transportation, and other heavy industries like steel manufacturing, which generate a significant amount of global greenhouse gases. PEM’s are critical components for hydrogen fuel cells and water electrolysis.
- W. L. Gore & Associates is concerned by the positions outlined within the proposed rulemaking and its potential impact both on our business and the domestic clean hydrogen market. In line with global goals to decarbonize, the industrial need for PEM is growing globally. The market is reaching an inflection point regarding the need to scale up manufacturing of PEM. Incentives such as tax credits for manufacturing are a critical factor for Gore to consider when selecting a location to invest in future manufacturing assets. The proposed rule may redirect investment flows away from the USA to other parts of the World where incentives are more favorable. In addition,



any negative impact on Green Hydrogen market demand in the US may result in decreased demand for Gore's PEM in the region. Regional growth potential for Green Hydrogen will be an important factor for Gore to consider when deciding on where to invest in manufacturing capacity expansion in the future.

If the proposed rule is implemented, there is significant risk that the United States (U.S.) will not achieve its stated goals of clean hydrogen production, preventing significant decarbonization potential and economic growth. In particular, we are alarmed by the onerous restrictions proposed for grid-connected clean hydrogen projects using energy attribute credits (EACs). The so-called three pillar restrictions – incrementality, temporal matching, and regionality – are not enshrined in the Inflation Reduction Act and run counter to legislative intent. Taken together, these pillars would handicap the nascent clean hydrogen sector before it is able to scale through added compliance costs that could make many use cases of hydrogen uneconomical, delay projects for months or possibly years, and would risk U.S. technology leadership, significant decarbonization potential across the economy, and the development of the Biden Administration's announced Regional Clean Hydrogen Hubs.

It is W. L. Gore & Associates position that we continue to raise strong concerns with any implementation of the proposed three pillars. However, should Treasury insist on moving forward with some level of these requirements, we offer the following proposed policy preferences. First, grandfathering provisions should be provided for first mover projects that begin construction before January 1, 2033 that exempts these projects from the three pillars. Second, the implementation of the three pillars should be deferred until at least January 1, 2033. In addition, the hourly matching requirement should not be implemented until after the Department of Energy has verified that an hourly EAC market is commercially available. The regionality requirement should be broadened to the North American Electric Reliability Corporation (NERC) Regions and should incorporate interregional EACs. Finally, for incrementality, Treasury should provide exemptions for incrementality for nuclear and hydropower generators, and if not, support the full suite of options for incrementality compliance for these existing clean power generators.

To the extent that Treasury considers applying the three pillars to renewable natural gas, fugitive methane, and other feedstocks, we ask that grandfathering and deferred implementation of these pillars are similarly applied to this sector if appropriate.

W. L. Gore & Associates supports the broader details and policy preferences outlined by the Fuel Cell and Hydrogen Energy Association (FCHEA). Thank you again for the opportunity to share these critical perspectives with you.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read "Michael Ratchford".

Michael Ratchford
Global Government Relations Leader