

## Comments of the Business Council for Sustainable Energy

RE: Department of Treasury and Internal Revenue Service Notice 2022-49, Clean Energy Generation Incentives in the Inflation Reduction Act

November 4, 2022

The Business Council for Sustainable Energy (BCSE) appreciates the opportunity to respond to the notice from the Internal Revenue Service and Treasury Department which requests comments on Notice 2022-49 in advance of upcoming guidance regarding the implementation of the clean energy generation incentives authorized under the Inflation Reduction Act (117-169).

In this notice the Treasury Department seeks general as well as specific comments on issues arising from the amendments to the tax code related to the renewable electricity production credit §45, the energy investment credit §48, and other clean electricity credits.

The IRA made amendments to § 45, which include changing the credit rate (and associated rounding convention) for electricity produced by certain facilities; extending the beginning of construction and placed in service deadlines for certain facilities; adding a special rule for electricity used at a clean hydrogen facility; amending the definition of marine and hydrokinetic renewable energy; and providing the Secretary of the Treasury or her delegate (Secretary) with the authority to issue regulations or other guidance as necessary to carry out the purposes of § 45(b), including regulations or other guidance which provides requirements for recordkeeping or information reporting for purposes of administering the requirements of § 45(b).

These amendments include, but are not limited to: changing the energy percentage used to calculate the credit; amending the definitions of certain types of property; adding an election to treat clean hydrogen production facilities as energy property; expanding the definition of “energy property” to include certain electrochromic glass, energy storage technology, qualified biogas property, and microgrid controllers; modifying eligibility dates regarding the election to treat as energy property certain types of qualified facilities, establishing a special program to encourage the placement of certain facilities in connection with low income communities, authority to issue regulations or other guidance as necessary to carry out the purposes of § 48, including regulations or other guidance providing for recapture of the credit in certain situations and the recordkeeping or information reporting for purposes of administering the requirements of § 48(a).

### About the BCSE

The BCSE, founded in 1992, is a broad-based clean energy trade association. Its members span many industry sectors, including energy efficiency, energy storage, natural gas, renewable energy, sustainable transportation and emerging decarbonization technologies. BCSE also has an independent small- and medium-size businesses initiative under its banner, the Clean Energy Business Network (CEBN). Together, the BCSE and CEBN represent a broad range of the clean energy economy, from Fortune 100 companies to small businesses working in all 50 states supporting over 3 million U.S. jobs.

## BCSE General Comments

BCSE believes the clean energy incentives under the Inflation Reduction Act represent an historic milestone, which was decades in the making and will put the U.S. on a path to meet its greenhouse gas emission reduction goals with strong and long-term federal policy support. By deploying a broad portfolio of clean, homegrown energy technologies we can increase and strengthen U.S. energy security, create millions of U.S. jobs, and cut greenhouse gas emissions. Congress recognized this by extending existing and establishing new, expanded, and modernized tax credits for a broad range of technologies, including renewable energy, energy efficiency, energy storage, sustainable transportation, hydrogen production and carbon capture and storage, among other areas.

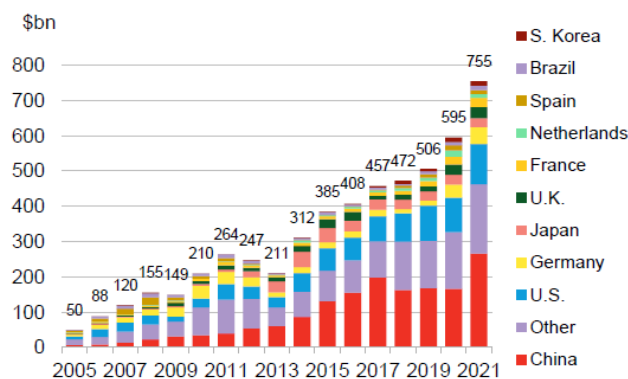
The long-term and predictable credits will have great impact and will provide the public policy certainty business urgently needs, leading to steady economic growth and new job creation.

The BCSE-BNEF 2022 [Sustainable Energy in America Factbook](#) highlights just how significant the clean energy economy has become in the U.S, with a record \$105 billion invested into clean energy sectors in 2021. The expanded clean energy credits in the Inflation Reduction Act will lead to further deployment and investment.

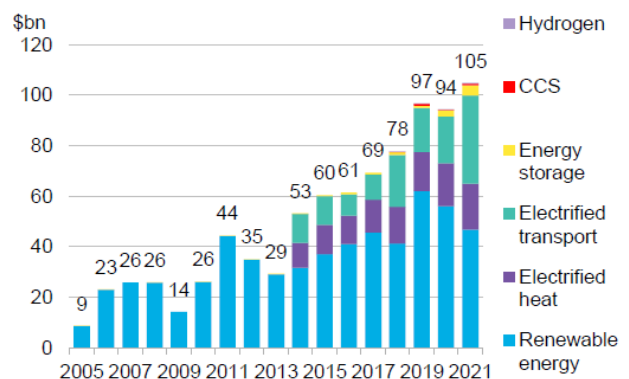
Figure 1: From the 2022 Sustainable Energy in America Factbook, published March 3, 2022

## Finance: Energy transition investment

Energy transition investment, by country



U.S. energy transition investment, by sector



In this submission, BCSE offers the following perspectives. Of note, as a diverse coalition, not all members take a position or endorse the recommendations included in this submission. BCSE encourages thoughtful consideration of the issues and recommendations included in the submissions of individual BCSE members. Information about BCSE and its members can be found [here](#).

### Clarity of the Guidance and a Set Duration Will Help to Attract Financing for Clean Energy Projects

BCSE appreciates the Treasury Department's effort to work expeditiously to develop guidance to provide clarity and certainty to taxpayers and other stakeholders so the climate and economic benefits of this historic legislation can be felt as quickly as possible while following the statutorily required administrative steps and

being responsive to public input. The clarity and set duration of the guidance will be critical to help attract financing for clean energy projects.

BCSE recommends that guidance for those areas of the Inflation Reduction Act that are new be among the first to be developed. For example, guidance related to energy storage, sustainable transportation, hydrogen production, along with guidance referred to in other Treasury notices implementing the Inflation Reduction Act, including prevailing wages, apprenticeships, domestic content, transferability, direct pay, and manufacturing. BCSE also requests the issuance of draft guidance for public comment to allow for stakeholder input and to avoid misunderstandings and complications in the long run.

### **Conclusion**

Thank you for the opportunity to share the Council's views on this notice. Should you wish to discuss these comments further, please contact BCSE President Lisa Jacobson via email at [ljacobson@bcse.org](mailto:ljacobson@bcse.org).