June 2023

Dear Secretary Yellen,

Thank you for your leadership in implementing key provisions of the historic Inflation Reduction Act (IRA), including § 30C, which extended and modified the Alternative Fuel Vehicle Refueling Property tax credit. **We urge the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) to define eligible census tracts under § 30C in an inclusive manner.**

As noted in the response submitted by the Natural Resources Defense Council (NRDC) in RFI Docket No. IRS-2022-56, in numerous aligned responses submitted by other stakeholders, and in NRDC's analysis updated to reflect 2020 census block designations (see below), the range of permissible outcomes is wide. We recommend Treasury and IRS define "urban area" in a way that ensure tens of millions more people, including millions more residents living in poverty and in rural areas, are able to access the IRA's § 30C tax credits that are critical to accelerate the deployment of charging infrastructure for electric vehicles needed to meet President Biden's climate, air quality, and equity goals. Increasing access to this credit is especially important in light of the vehicle standards recently proposed by the Environmental Protection Agency (EPA). This recommendation also aligns with the IRA's goal of ensuring more low-income and rural communities can access the tax credit.

Thank you for your leadership in implementing key provisions of the historic IRA. In line with the momentous nature of the law and spirit of the statute, we urge Treasury to implement § 30C as recommended.

Sincerely,

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Inflation Reduction Act Section 30C
Updated Census Tract Recommendation based on 2020 Census Data

Summary

In response to Treasury RFI Notice 2022-56, NRDC, along with a diverse group of industry associations, individual companies, environmental, consumer, and environmental justice groups, and other stakeholders,[1] recommended a similar definition of "urban area," needed to determine what areas of the country would be eligible for the Alternative Fuel Vehicle Refueling Property tax credits pursuant to § 30C of the Inflation Reduction Act (IRA). As explained in our comments, the analysis underpinning that recommendation was based on 2010 Census Bureau census block designations and would need to be updated based on the 2020 Census. **NRDC has updated its analysis using the 2020 classifications. To achieve similar levels of inclusivity, NRDC recommends Department of the Treasury (Treasury) and IRS define "urban area" under § 30C as "a census tract in which no more than 10 percent of census blocks are classified as rural by the Census Bureau."**

Consistent with our original recommendation, this approach would ensure tens of millions more Americans, including millions more Americans living in poverty and in rural areas, are able to access the IRA's § 30C tax credits that are critical to accelerate the deployment of charging infrastructure for electric vehicles needed to meet President Biden's climate, air quality, and equity goals.

Context

Section 30C of the IRA defines "eligible census tracts" for the Alternative Fuel Vehicle Refueling Property credit "as any census tract which (I) is described in § 45D(e), or (II) is not an urban area." § 45D(e) references an established definition of low-income communities. However, to identify what is "not an urban area," § 30C defines the inverse — defining an "urban area" as follows:

> "For purposes of clause (i)(II), the term "urban area" means a census tract (as defined by the Bureau of the Census) which, according to the most recent decennial census, has been designated as an urban area by the Secretary of Commerce."

However, the Secretary of Commerce (who oversees the Census Bureau) does <u>not</u> designate census *tracts* as urban. Rather, the Census Bureau classifies census *blocks* as urban or rural. There are typically 100 or more blocks in any given census tract. Accordingly, Treasury and the IRS will need to adopt a methodology for determining which census tracts should be classified as "urban" based on census block data so it can determine what census tracts are "not urban" and

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[1] An incomplete review of the RFI docket reveals at least the following organizations submitted responses that either replicate or are aligned with NRDC's recommendation: *ABB, Ample, BP Pulse, CalSTART, CHARGE, ChargePoint, EarthJustice, Electrify America, Environmental Defense Fund, EVConnect, Evergreen Action, EVGo, Flo EV Charging, Forth, Green Latinos, League of Conservation Voters, National Consumer Law Center, Plug In America, Reno + Sparks Chamber of Commerce, Rocky Mountain Institute, Sierra Club Switch, TeraWatt, Union of Concerned Scientists, Volta, Wallbox, ZETA.*

therefore eligible for the tax credits. How the agency does this will significantly impact how many taxpayers can access the tax credit.

The range of legally permissible outcomes is wide; Treasury and the IRS has the discretion to adopt a definition that maximizes access. Our recommendation and analysis summarized below is meant to inform that determination.

Updated Recommendation

In 2020, the Census Bureau updated its urban area criteria. In addition to key changes to the urban area concept, including the use of housing unit density as the primarily threshold for qualification of census blocks rather than population density, the number of census blocks decreased nearly 30 percent from 2010. These changes mean significantly less Americans would have access to the § 30C tax credit than would have under NRDC's previous recommendation based on 2010 census block designations. Accordingly, consistent with the overarching purpose of the Inflation Reduction Act, NRDC is updating its recommendation to ensure a similar number of Americans have access to these critical alternative fuel tax credits that provide consumers relief from inflationary and volatile gasoline and diesel prices.

We reanalyzed the impact on tax credit availability of four potential definitions of "urban area" across the United States, based on the Census Bureau's updated 2020 urban-rural area classifications.[2] The potential definitions that were analyzed were: A census tract is an "urban area" (and therefore ineligible for the § 30C tax credit since our analysis already accounts for qualification under Section 45D(e)) if:

    (1) < 50 percent of the tract's blocks are rural
    (2) < 25 percent of the tract's blocks are rural
    (3) < 10 percent of the tract's blocks are rural
    (4) None or one block in the tract is rural

To achieve similar levels of inclusivity as our previous recommendation, the agency should <u>not</u> adopt a definition of "urban area" as a census tract in which more than half the blocks have been designated as "urban" by the Census Bureau. That may seem logical at first glance, but it would unjustifiably deny access to § 30C tax credits to the millions of individuals who live in rural census blocks that happen to be located in census tracts in which more than half the blocks are urban. Denying access to those people who live in rural census blocks would almost certainly undermine Congress' goal of encouraging investments in rural communities. In fact, the only way to ensure no rural communities are left out would be define "urban area" as a census tract in which zero census blocks are rural (Definition 4). However, such a definition could arguably contradict Congressional intent to constrain eligibility.

Accordingly, we recommend Definition 3, based on a 10 percent census block threshold. If more than 10 percent of blocks in a census tract are rural, it cannot be accurately categorized as urban. This definition would ensure 206 million people across the United States can access the tax credit. Such a definition is within the intent of the law to help low-income and rural communities, as it would **<u>prevent</u>**:

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[2] Our analysis accounts for census tract qualification under Section 45D(e)'s low-income qualifications and focuses on changes in eligibility with the remaining census tracts.

- 32 million people, including
- 4.7 million rural residents,
- 2.1 million people in poverty
- 2.2 million Black people, and
- 3.6 million Hispanic/Latino people

from being unduly denied access to the § 30C credit relative to a 50 percent block threshold. In the Appendix, see Figure 1, which compares the impacts to those populations under definitions 1, 3, and 4 and Table 1, which has state specific results under the four definitions analyzed.

While the percentage threshold is lower than previously recommended (10 percent vs. 25 percent), NRDC's recommendation is grounded in the same spirit of the statute as before—to ensure low-income and rural communities can access the tax credit. We believe this threshold strikes a reasonable balance, giving meaning to the law's assumed goal of constraining eligibility, while preventing the majority of taxpayers who live in rural blocks from being denied access to the tax credits.

Our recommended definition is also consistent with the agency's guiding principles of "ensuring that as many eligible taxpayers as possible benefit from the incentives provided by the law while protecting against fraud and abuse."

Conclusion

The passage of the IRA was historic. Proper implementation of § 30C and the other clean vehicles provisions can provide significant benefits to taxpayers. In line with the momentous nature of the law, and in spirit with its intent, we recommend the IRS and the Treasury adopt a common-sense definition of "urban area" under § 30C as "a census tract in which no more than 10 percent of census blocks are classified as rural by the Census Bureau."

See Appendix for the supporting analysis.

Appendix

Figure 1. Number of rural residents, people in poverty, Black people, and Hispanic/Latino people that can access the tax credit under various definitions of "urban area."

Table 1. Number of Census Blocks and Total Population that would qualify under various definitions of "urban area."

Least Inclusive										Most Inclusive	

	Definition (1)			Definition (2)			**Definition (3)**			Definition (4)		
	# Blocks	Pop.	% of Pop	# Blocks	Pop.	% of Pop	# Blocks	Pop.	% of Pop	# Blocks	Pop.	% of Pop
AL	1,085	3,533,503	70%	1,162	3,887,608	77%	1,214	4,112,617	82%	1,278	4,393,796	87%
AK	102	367,500	50%	119	454,237	62%	126	481,531	66%	145	581,687	79%
AZ	866	3,273,275	46%	929	3,562,873	50%	1,018	3,982,493	56%	1,116	4,431,108	62%
AR	618	2,108,173	70%	671	2,347,562	78%	718	2,570,401	85%	757	2,742,310	91%
CA	4,299	18,014,239	46%	4,558	19,186,559	49%	4,846	20,572,031	52%	5,398	23,193,979	59%
CO	766	2,817,581	49%	832	3,113,744	54%	905	3,455,560	60%	999	3,957,069	69%
CT	428	1,676,495	46%	474	1,893,033	52%	539	2,196,379	61%	636	2,600,545	72%
DE	128	490,721	50%	145	553,897	56%	167	644,917	65%	187	713,723	72%
DC	85	287,602	42%	85	287,602	42%	85	287,602	42%	85	287,602	42%
FL	2,334	9,036,391	42%	2,497	9,755,404	45%	2,759	11,020,335	51%	3,230	13,289,580	62%
GA	1,732	6,252,403	58%	1,850	6,802,159	64%	1,948	7,264,178	68%	2,023	7,629,268	71%
HI	208	555,236	38%	241	680,641	47%	274	804,793	55%	314	978,383	67%
ID	269	1,017,892	55%	298	1,151,240	63%	326	1,285,797	70%	364	1,470,645	80%
IL	1,706	5,933,003	46%	1,820	6,481,242	51%	1,944	7,087,769	55%	2,126	7,959,410	62%
IN	1,134	4,145,458	61%	1,199	4,506,871	66%	1,292	4,951,792	73%	1,393	5,465,928	81%
IA	613	1,967,614	62%	646	2,118,995	66%	723	2,456,857	77%	782	2,742,731	86%
KS	523	1,676,043	57%	553	1,811,499	62%	596	2,015,919	69%	636	2,202,145	75%
KY	953	3,004,937	67%	1,017	3,293,605	73%	1,070	3,525,445	78%	1,105	3,694,261	82%
LA	945	2,969,836	64%	995	3,193,921	69%	1,045	3,425,910	74%	1,118	3,729,189	80%
ME	318	1,025,849	75%	344	1,133,347	83%	361	1,202,294	88%	381	1,274,480	94%
MD	772	2,964,309	48%	828	3,248,983	53%	909	3,635,545	59%	995	4,077,575	66%
MA	716	2,941,108	42%	790	3,308,941	47%	888	3,794,810	54%	1,044	4,555,663	65%
MI	1,812	5,661,650	56%	1,930	6,157,870	61%	2,039	6,569,995	65%	2,193	7,167,646	71%
MN	890	3,087,835	54%	946	3,364,601	59%	1,003	3,623,298	63%	1,102	4,101,202	72%
MS	705	2,308,450	78%	740	2,470,700	83%	764	2,564,383	87%	816	2,758,793	93%
MO	1,055	3,620,578	59%	1,127	3,926,155	64%	1,205	4,256,101	69%	1,301	4,709,802	77%
MT	238	734,669	68%	253	804,500	74%	273	904,265	83%	295	997,404	92%
NE	333	1,060,659	54%	353	1,138,798	58%	386	1,295,396	66%	418	1,443,093	74%
NV	330	1,218,677	39%	355	1,331,841	43%	386	1,477,198	48%	407	1,558,527	50%
NH	228	850,962	62%	245	929,662	67%	273	1,058,939	77%	299	1,165,756	85%
NJ	895	3,555,148	38%	965	3,886,142	42%	1,053	4,293,229	46%	1,202	4,906,846	53%
NM	398	1,263,641	60%	420	1,350,129	64%	456	1,505,151	71%	500	1,688,893	80%

NY	2,782	10,012,344	50%	2,932	10,574,681	52%	3,061	11,065,482	55%	3,330	12,209,218	60%
NC	1,720	6,297,042	60%	1,870	6,987,902	67%	2,018	7,683,399	74%	2,146	8,306,042	80%
ND	158	454,705	58%	164	484,375	62%	173	535,331	69%	194	635,514	82%
OH	1,881	6,418,734	54%	2,011	6,988,897	59%	2,170	7,731,318	66%	2,341	8,533,906	72%
OK	811	2,535,909	64%	850	2,673,955	68%	908	2,917,278	74%	968	3,175,917	80%
OR	544	2,165,913	51%	595	2,425,067	57%	642	2,657,157	63%	713	3,004,578	71%
PA	1,913	6,834,424	53%	2,074	7,596,032	58%	2,228	8,343,201	64%	2,434	9,196,106	71%
RI	109	470,991	43%	114	496,441	45%	135	603,903	55%	167	735,585	67%
SC	830	2,825,260	55%	906	3,192,929	62%	993	3,599,967	70%	1,093	4,103,845	80%
SD	172	541,389	61%	192	651,195	73%	202	707,559	80%	220	798,302	90%
TN	1,135	4,268,700	62%	1,230	4,732,908	68%	1,311	5,144,139	74%	1,411	5,674,056	82%
TX	4,020	15,566,793	53%	4,230	16,674,669	57%	4,475	17,950,669	62%	4,803	19,813,367	68%
UT	292	1,205,416	37%	319	1,323,509	40%	381	1,649,466	50%	450	2,044,286	62%
VT	158	498,000	77%	168	542,966	84%	174	573,868	89%	182	606,361	94%
VA	1,276	4,664,338	54%	1,341	4,966,729	58%	1,394	5,246,871	61%	1,494	5,754,471	67%
WA	946	3,832,812	50%	1,029	4,197,157	54%	1,117	4,624,305	60%	1,239	5,194,899	67%
WV	430	1,370,040	76%	453	1,463,158	82%	484	1,584,409	88%	509	1,670,785	93%
WI	948	3,360,272	57%	1,025	3,735,060	63%	1,140	4,278,592	73%	1,259	4,812,276	82%
WY	97	322,187	56%	102	343,466	60%	123	433,330	75%	144	526,245	91%
	47,706	173,066,706	53%	50,992	188,185,457	57%	54,720	205,653,174	62%	59,742	229,264,798	69%

Data Sources

- **Urban/Rural** data from the 2020 Decennial Census (P2: Urban and Rural)
- **Race and Ethnicity** data from 2020 Decennial Census (P2: Hispanic or Latino, and not Hispanic or Latino by Race).
- **Poverty** data from the 2021 American Communities Survey 1-Year Estimates (S1701: Poverty Status in the Past 12 Months).
- **Median Family Income** for census tracts from the 2021 American Communities Survey 5-Year Estimates (B19113: Median Family Income in the Past 12 Months).
- **Median Family Income** for states from the 2021 American Communities 1-Year Estimates (B19113: Median Family Income in the Past 12 Months).
- **Median Family Income** for metropolitan statistical areas from the 2021 American Communities Survey 5-Year Estimates (B19113: Median Family Income in the Past 12 Months).