Congress of the United States

Washington, DC 20515

November 2, 2024

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Yellen,

We write to you today committed to supporting the Biden-Harris Administration's efforts to transition to a clean hydrogen economy while increasing the number of good-paying jobs for our workers. We appreciate your leadership in driving the development of clean fuels. However, after extensive discussions with stakeholders across our regions, we must express our strong concerns regarding the proposed Section 45V Hydrogen Tax Credit guidance. While we are eager to help drive the hydrogen economy forward, the current structure of the tax credit guidelines will stifle low-carbon hydrogen project development, which is critical to job creation and economic growth across the United States.

Hydrogen—whether blue hydrogen (produced from natural gas with carbon capture), green hydrogen (from renewables like wind and solar), or pink hydrogen (from nuclear energy)—presents a unique opportunity for historic energy communities, like those in Appalachia, to lead the energy transition while creating tens of thousands of high-quality jobs. By promoting blue and pink hydrogen, leveraging our natural gas and nuclear resources, and developing green hydrogen from growing renewable energy projects, these communities can lead the nation's efforts to reduce emissions and promote sustainable energy.

We aim to accelerate good-paying hydrogen jobs and to reduce carbon emissions to the maximum extent possible. Encouraging the use of natural gas as a feedstock facilitates both. Natural gas, combined with innovative technologies like carbon capture, allows for significant emissions reductions while supporting the growth of the domestic hydrogen industry. This approach is consistent with the statute, which Congress wrote as technology and feedstock neutral. This approach is also consistent with the Biden Administration's designation of "Regional Clean Hydrogen Hubs," over half of which were awarded to blue hydrogen projects that have already begun to benefit from a historic $7 billion investment.

McKinsey & Company has highlighted that while technologies with lower costs—such as solar, wind, and energy storage systems—are expected to grow, hydrogen's growth projections have been revised downward by 10 to 25 percent due to higher cost estimates and insufficient policy support for hydrogen and carbon capture, utilization, and storage (CCUS). Currently, only 15% of U.S. projects in the hydrogen pipeline have reached final investment decisions (FID). Two years after the passage of the clean hydrogen production tax credit, no major hydrogen projects have been constructed. Without hydrogen projects, there are no new hydrogen jobs for

steelworkers, boilermakers, or electrical workers, nor a resulting economic boom for the surrounding community businesses. This also creates uncertainty about whether the U.S. can meet its clean hydrogen goals by 2030 and whether our constituents will have high-quality, good-paying energy jobs for the rest of this decade.

Principally, the proposed regulations discourage or preclude using natural gas as a feedstock for hydrogen production. While these guidelines technically allow for methane gathered from some landfills, the commercial viability of large-scale landfill gas is questionable, especially without a book-and-claim solution. Congress intended the statute to create blue or green hydrogen derived from natural gas and all forms of renewable natural gas (RNG). In addition, taxpayers who utilize verified natural gas (VNG)—which emits lower amounts of methane than the national average—and capture fugitive methane should be rewarded in their competition for carbon intensity scores. Those who invest in methane leak reduction systems, carbon capture and sequestration, carbon utilization, and carbon valorization should be encouraged through 45VH2 Greenhouse gasses, Regulated Emissions, and Energy use in Technologies (GREET) model adjustments to ensure environmental improvements and economic viability.

The proposed regulations do none of these. Instead, they question whether hydrogen projects using natural gas as feedstock qualify. The entire structure of the credit points to various feedstocks, technology applications, and emissions reduction strategies. That is why there are multiple credit tiers, with projects reducing emissions by the largest amounts qualifying for the highest credit and others for lesser credits.

The current Section 45V guidelines—particularly the requirements around Additionality, Hourly Time-Matching, and Regional Deliverability—also create significant economic barriers that could prevent hydrogen projects from advancing, stalling job creation and emissions reductions. The statute mandates none of these requirements, so it is essential to allow flexibility in developing a hydrogen market while supporting the IRA's emission-reduction goals. We also support clear provisions for construction date flexibility to ensure projects are not unduly penalized by delays outside their control. Supporting solutions that incorporate the needs of today's developers will enable the industry to attract billions of dollars of capital to build low-carbon solutions. It is a win-win for both industry and the environment.

As the American Council on Renewable Energy (ACORE) and Energy and Environmental Economics (E3) analysis indicates, the cost of hydrogen production could rise between 14% and 108% depending on the region due to the requirement for hourly time-matching. For instance, in the Pennsylvania-New Jersey-Maryland Interconnection (PJM), costs could increase by 61%. This represents a major risk to project developers and could prevent critical hydrogen infrastructure from advancing in time to meet emissions targets.

Adopting annual time-matching instead of hourly requirements will provide a more practical solution, allowing hydrogen projects to move forward while keeping costs manageable. Furthermore, introducing a "safe harbor" provision based on the facility's beginning-of-construction will allow taxpayers to "lock in" the most recently released 45VH2-GREET model applied to a clean hydrogen production when it reaches FID.

Communities that have relied on fossil fuels have historically been left behind during energy transitions. A shared concern of ours is the frustration with developing energies that could result from failed attempts and empty promises of good-paying jobs and a more sustainable economy continuing this pattern of neglect. This sentiment resonates deeply in places like Appalachia, where workers need flexible, inclusive policies to maximize economic opportunities. With the proper support, regions like ours can benefit from hydrogen and other clean energy transitions.

These feedstock and environmental provisions in the proposed language should be changed to align with the congressional intent of the clean hydrogen production tax credit. Moreover, they must be changed to secure the stability of the final regulations. The Supreme Court recently narrowed federal agencies' ability to sustain regulations beyond the best reading of a statute. Final regulations that do not allow natural gas as a feedstock and impose requirements not referenced in the statute risk forcing Treasury to begin the process again, further delaying investments that can put our constituents to work in the energy transition.

Thank you for your attention to these critical issues.

Very respectfully,

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Member of Congress

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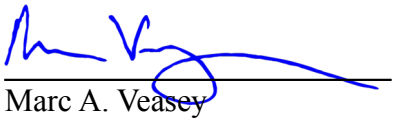

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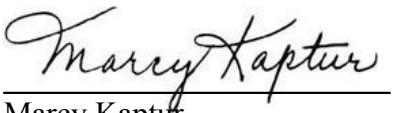

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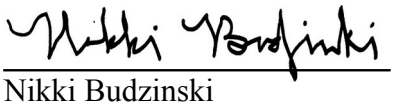

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Cc: John Podesta, Senior Advisor to the President for International Climate Policy
Honorable Shalanda Young, Director, Office of Management and Budget
Honorable Jennifer Granholm, Secretary of Energy
Honorable Michael Regan, Administrator, Environmental Protection Agency