Congress of the United States

Washington, DC 20515

November 12, 2024

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

The Honorable Jennifer Granholm
Secretary
U.S. Department of Energy
1000 Independence Ave SW
Washington, DC 20585

John Podesta
Senior Advisor to the President
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

The Honorable Shalanda Young
Director
Office of Management and Budget
725 17th St NW
Washington, DC 20503

Ali Zaidi
National Climate Advisor
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Secretaries Yellen and Granholm, Administrator Regan, Director Young, Mr. Podesta, and Mr. Zaidi:

We were proud to help craft and pass the *Inflation Reduction Act (IRA)*—the most significant national investment in clean energy in American history. We write to express concerns about the Department of Treasury's proposed rules for the Section 45V Tax Credit for Production of Clean Hydrogen (45V), a critical business incentive intended to drive electrolytic hydrogen production and the adoption of the technology for hardest-to-abate sectors. We are concerned that the proposed rules will:

1. Exclude Gulf Coast electrolytic hydrogen producers from accessing a clean hydrogen market;

2. Undercut the Gulf Coasts's trajectory toward clean energy and the more than $1.47 billion in federal investments awarded to support the transition; and,

3. Undermine the opportunity for electrolytic hydrogen production to use planned offshore wind and solar projects that will support state, local, and business emission reduction goals.

To summarize, **this letter recommends the following in relation to the 45V Clean Hydrogen Production Tax Credit:**

1. *Interregional Transmission Delivery:* 45V final rules should allow interregional transmission delivery of renewable resources – such as between the Delta, Plains, and Texas regions defined by the DOE Transmission Needs Study – rather than enforcing strict deliverability requirements;
2. *Phased-in Hourly Matching:* 45V final rules should include a phased-in adoption of hourly temporal matching and project-specific extension policy for hourly temporal matching;

3. *Lower Emission Gas Feedstock:* 45V final rules should include a mechanism that provides credit for a lower emissions gas feedstock as part of an applicant facility's emissions value determination and should acknowledge and reward projects that accelerate industrial decarbonization by producing and then using hydrogen in a looped manufacturing or production cycle; and,
4. *Midterm Review:* 45V final rules should require the U.S. Treasury Department to establish a midterm review procedure to determine the readiness of each region.

At its core, 45V would award up to $3 per kilogram of hydrogen produced to projects with a lifecycle greenhouse gas emissions intensity of less than 0.45 kilograms per kilogram of hydrogen. We support the Administration's commitment to ensuring a clean hydrogen tax credit to decrease net emissions and its use of the three pillars: additionality, hourly time-matching, and deliverability.

However, an overly stringent final rule will drive first-mover electrolytic hydrogen producers to places with ample existing renewable power rather than locations with high decarbonization potential and hydrogen demand, like the Gulf Coast. This disincentive for production in the Gulf Coast would undermine the purpose of the credit and the Inflation Reduction Act to decarbonize industrial sectors with high hydrogen demand. Stringent 45V rules could also hinder significant federal regional investments, including the HyVelocity Hydrogen Hub award for the Gulf Coast from the Department of Energy and the $50M Build Back Better award for the H2theFuture project spearheaded by Greater New Orleans Inc.

According to a recent McKinsey analysis, Louisiana alone consumes 30% of the U.S. hydrogen market. In Texas, clean hydrogen demand could reach 21 million tons annually, potentially reducing global CO2 by 220 million tons. End-use hydrogen demand underpins the economic bottom line for companies seeking to produce low—or no-emission hydrogen. The advancement of electrolytic hydrogen production could reduce total emissions of the hardest-to-abate sectors in South Louisiana by as much as 68%.

The oil and gas sector has historically dominated the Gulf Coast economy. Due to significant federal investments from programs created by the *Bipartisan Infrastructure Law* and *IRA*, the Gulf Coast has begun diversifying its energy production and economy, successfully pursuing an all-of-the-above energy strategy, and adopting more renewable energy sources. Solar and offshore wind energy development in the Gulf of Mexico is pivotal for supporting large-scale electrolytic hydrogen. However, with our sizeable industrial footprint, decarbonization in the Gulf Coast cannot be achieved through electrification alone. Electrolytic hydrogen allows solar and offshore wind energy to support hard-to-abate sectors by serving as an emission-free feedstock. The absence of reliable solar and offshore wind growth – catalyzed by both a strong market case for electricity offload to electrolysis technology and the workability of the 45V credit – means that electrolytic hydrogen in the Gulf Coast is not a certain pathway for adequate decarbonization.

Incentives like 45V should encourage the adoption of clean hydrogen and allow a cost-effective level of flexibility. According to this Administration's Office of Management and Budget's Circular A-4, benefits and costs associated with a regulation will increase with the level of stringency. Overly stringent guidelines will also undermine the DOE's Hydrogen Shot initiative, which seeks to reduce the cost of clean hydrogen by 80% to $1 per 1 kg in a single decade. 45V will be one of the most significant drivers in meeting the cost target of the initiative. Additionally, if producers are required to source clean energy from their local operating region, local grids already hamstrung with high energy demand will turn to additional fossil fuel generation to meet the

growing demand. Rather than decarbonizing the grid, the increased demand for clean energy will have a cascading effect on energy demand.

Flexibility with 45V rules will allow the clean hydrogen industry to flourish in the industrial Gulf Coast. We encourage flexibility within regions to align clean hydrogen production viability with energy market transactions. For instance, interregional transmission delivery of renewable energy should be allowed between the Delta, Texas, and Plains regions. Existing renewable energy in Oklahoma, mainly through existing wind projects, can provide sufficient power to electrolyzer technology adopted in the Texas and Delta region's high concentration of hydrogen-utilizing industries. Interregional transmission delivery would support commercialization and create price parity as offshore wind and solar resources on the Gulf Coast come online.

The largest network of hydrogen delivery pipelines in the United States currently exists between Texas and Louisiana, and the first federal offshore wind leases are strategically postured between the two states. Planning for transmission expansion from Texas to deliver electricity to other Gulf states in the Delta region is already underway. Adopting the defined regions for 45V deliverability requirement contradicts the Needs Study's recommendations, undercuts national clean energy development, and potentially increases the cost of electrolytic hydrogen production.

Additionally, we encourage Treasury to establish a phased-in adoption of hourly temporal matching and project-specific extension policy for hourly temporal matching. The commercial viability of electrolyzer technology depends on scalability, generation capacity, and the price of renewable energy. The hourly temporal matching requirement by 2028 disincentivizes interest in the Gulf Coast due to limited current renewable energy capacity levels, despite a proven viable market and the growth and development of renewable electricity generation in the region. Stringent temporal matching and deliverability will not align with economic decisions based on marginal cost and benefit. Economic development projects monitored by public utilities and economic development organizations across the area are already expressing investment hesitation due to 45V current proposed parameters.

The U.S. is unprepared to adopt hourly temporal matching requirements for renewable electricity usage at this time. According to DOE, hourly tracking systems for Energy Attribute Certificates (EACs) are not universally available nationwide and are largely absent from energy markets, particularly in the Gulf South. While they are in effect or under development in some regions, widespread adoption will take some time. This abrupt transition would lead to higher capital, operations, and management costs for producers, impacting early projects as they continue to invest in more clean power to meet the matching requirements. Hourly time matching would waste clean energy that could instead be implemented to decarbonize the grid.

In order to ensure that 45V can achieve what Congress intended—incentivizing projects that limit carbon emissions—it is vitally important that the final guidance recognizes those projects that purposefully locate themselves near natural gas basins that allow for cleaner production and transportation of the gas resource for utilization in the hydrogen production process. Including a mechanism that provides credit for a lower emissions gas feedstock should be part of an applicant facility's emissions value determination since not all inputs are created equally. Furthermore, the final guidance should also acknowledge and reward projects that accelerate industrial decarbonization by producing and then using hydrogen in a looped manufacturing or production cycle. Requiring a manufacturer to produce, sell, and then reacquire hydrogen resources for its

manufacturing process, rather than producing and consuming at a single site, does not meet congressional intent.

Finally, we ask that Treasury establish a midterm review procedure to determine the readiness of each region established by the final rule. Given the sizable subsidy represented by the 45V credit, the three pillar requirements should have flexibility that achieves cost-effective emission abatement. Project delivery timeline for offshore wind farms and the expansion of major solar projects may not come online by the 2028 requirement. The full magnitude of offshore wind developments in the Gulf of Mexico may materialize as late as 2034. The Delta and Texas regions should not be penalized when measurable progress is being made. A midterm review will ensure the accountability of these region's commitment to renewable energy deployment.

Thank you for considering this request. We urge the U.S. Treasury Department to integrate industry input, as vocalized by the recent public comment period, and to adopt the recommendations provided. The Gulf Coast continues to demonstrate leadership in clean energy progress and possesses an optimal opportunity for electrolytic hydrogen to decarbonize the hardest-to-abate sectors.

Sincerely,

Troy A. Carter, Sr.
Member of Congress

Sylvia R. Garcia
Member of Congress

Lizzie Fletcher
Member of Congress

Marc A. Veasey
Member of Congress

Erica Lee Carter
Member of Congress