

July 29, 2024

**RE: IRS REG 117631–23, Comments on Credits for Production of Clean Hydrogen**

**Dear Mr. Podesta, Mr. Zaidi, Deputy Director Aron-Dine, Deputy Secretary Adeyemo, Mr. Hanlon, Sec. Granholm, Minority Leader Jeffries, Majority Leader Schumer,**

We urge you to finalize the Treasury's strong proposed rules for the 45V clean hydrogen production tax credit to ensure that hydrogen supports our nation's transition to a truly clean economy. We have serious concerns with recent calls to modify the proposed rules in ways that would ultimately prioritize the profits of a few companies at significant cost to the climate, clean air, environmental justice, electricity consumers, and the ability of the nascent clean hydrogen industry to actually meet the needs of the clean energy transition.

Hydrogen has the potential to play a key role in the U.S. clean energy transition by decarbonizing-hard-to-electrify processes. However, without proper safeguards like those outlined in the Climate Action Campaign's [Policy Principles](#), hydrogen instead risks compromising the achievement of our climate goals and serving as a greenwashing tool. The 45V clean hydrogen production tax credit will significantly influence which direction the hydrogen market takes.

We urge the administration to: (1) finalize rules for electrolytic hydrogen production based on Treasury's proposed three-pillars framework and (2) not allow misguided loopholes for fossil-based hydrogen production.

**1. The three-pillars framework protects against climate backsliding and incentivizes climate-aligned industry growth as intended by 45V:**

The three pillars requirements of incrementality, temporal matching, and deliverability will build a [robust](#) hydrogen industry that is [truly clean](#) and [lasts beyond](#) the expiration of 45V. These requirements will ensure the buildout of a durable hydrogen industry that fulfills 45V's goal of reducing carbon emissions and accelerating the clean energy transition.

However, the integrity of the three-pillars framework is contingent on rigorous implementation of each of the three requirements. Recent calls for broad exemptions would effectively gut the utility of the framework as a whole, driving substantial climate pollution and power price increases, flouting the IRA's requirements, and undermining the administration's climate and environmental justice goals. These loopholes include a 10% exemption for existing clean energy, broad exemptions for nuclear and hydroelectric power plants and states with non-binding climate targets, and the elimination of hourly matching and regional bounds.

To provide context, allowing even just a 5% exemption for existing clean energy to support 45V hydrogen production could drive up to 1.5 billion metric tons of net cumulative climate emissions through 2035, per an [analysis](#) by the Rhodium Group. This is the equivalent to nearly a third of U.S. total economy-wide annual carbon dioxide emissions and would take us more than 2% percentage points off our path to our 2030 climate goal. Recent calls for even more radical exemptions would lead to higher emissions increases through 2035 and a far worse trajectory for achieving our near and long-term climate goals.

Furthermore, the proposed carveouts risk having substantial impacts on average consumers by driving double digit percentage increases in electricity prices. Relying on existing clean power generation to run electrolyzers, which would happen with calls for broad exemptions, risks significantly [increasing](#) wholesale electricity prices on the order of 10 percent – which could mean an added and preventable cost burden for working American families. This would be particularly troubling at a time where large power demand sources such as AI and data centers are already poised to drive power price increases.

Climate, environmental justice, and consumer advocate groups [across the country](#) have understandably [warned](#) that they will provide “stiff opposition” to projects - including the Department of Energy’s Hydrogen Hub projects - that either don’t abide by the three pillars, increase carbon emissions and other pollutants, or spike power prices. The administration must stay the course, reject calls for ungrounded exemptions, and uphold a strong three-pillars framework.

## **2. Misguided accounting loopholes for fossil-based hydrogen can result in detrimental outcomes:**

Fossil fuel-based hydrogen companies are trying to exploit pollution loopholes and devise clever accounting tricks to mask their true climate impact. Loopholes, such as carbon negative emission values, offsetting, and manipulating upstream methane leakage rates, create a pathway for industry to produce clean hydrogen on paper and dirty hydrogen in practice. For example, [under one such loophole](#), a fossil hydrogen producer could appear to produce “net zero” hydrogen, eligible for the top tier of the tax credit, by purchasing only a small number of biomethane or coal mine methane offsets – without ever reducing on-site or upstream emissions, or local air pollution.

The impact of these potential accounting tricks is dire. Beyond rewarding still-polluting facilities, making fossil hydrogen facilities inadvertently eligible for the \$3/kg tax credit would bring production costs [below zero](#), shifting investment dollars from renewable to fossil-based pathways. For every fossil hydrogen facility built instead of a three pillars-compliant renewable hydrogen one, GHG emissions would be expected to [increase 7-fold](#) – equivalent to emissions from 2-3 natural gas fired power plants each year.

Full transparency of producer emissions, including accurate methane estimates and a prohibition on offsets, must be a cornerstone of the final rules.

### **Finalize strong rules to protect people and the planet**

Weakening the proposed rules will risk the achievement of U.S. climate goals and will significantly compromise the positive impact that 45V was designed to have when legislated. Many of the carveouts that have been proposed come from a desire to maximize individual company profits or justify prior investments in older technologies; neither of these should be the primary driver for an extremely lucrative nationwide tax credit with billions of taxpayer dollars on the line. Treasury’s rules must stay strong and close off accounting tricks to ensure that the Administration is able to deliver on promises of truly clean hydrogen production as made possible by the ground-breaking legislation.

We remain committed to working constructively with the administration and congressional leaders to finalize strong 45V credit rules that will ensure the robust growth of a truly clean hydrogen industry.

Sincerely,

198 methods  
350 Bay Area Action  
350 Humboldt  
350 Seattle  
350Hawaii  
A Just Harvest  
Acadia Center  
Appalachian Voices  
Asian Pacific Environmental Network  
Berks Gas Truth (PA)  
Better Path Coalition  
Breathe Project  
California Environmental Justice Alliance  
Campaign for Renewable Energy  
CASA  
Center for Biological Diversity  
Center for Coalfield Justice  
Center for Community Action and Environmental Justice (CCA EJ)  
Center for Earth Energy & Democracy (CEED)  
Center for International Environmental Law (CIEL)  
Center on Race, Poverty & the Environment  
Central Illinois Healthy Community Alliance  
Chesapeake Climate Action Network  
Chispa TX  
Citizens Action Coalition of IN  
Clean Air Council  
Clean Energy Action  
Clean Power Lake County  
Clean Water Action  
Climate Action California  
Climate Action Campaign  
Climate Conversation Brazoria County  
Climate Generation  
Climate Justice Alliance  
Climate Reality Chicago Metro  
Climate Reality Project - Portland Chapter  
Climate Reality Project: Memphis and Mid-South Regional Chapter  
Climate Reality Project: Nashville Chapter  
Climate Reality Project: Susquehanna Valley PA Chapter  
ClimateVoice, a project of Tides Center  
Community Energy reSource  
Compressor Free Franklin  
Concerned Health Professionals of Pennsylvania

Consolidated Oregon Indivisible Network (COIN)  
Delaware Riverkeeper Network  
Des Moines County Farmers and Neighbors for Optima  
DivestNJ  
Don't Gas the Meadowlands Coalition  
Earthjustice  
Earthworks  
Eco-Justice Collaborative  
Ecumenical Ministries of Oregon  
Elders Climate Action  
Environment America  
Environment California  
Environmental Defense Fund  
Evergreen Action  
Faith in Place  
Family Farm Defenders  
Food & Water Watch  
Fox Valley Citizens for Peace & Justice, (Illinois)  
FrackBustersNY  
FracTracker Alliance  
Friends of the Earth  
Gardens for Humanity  
Great Plains Action Society  
Greenfirecoalition Writers' Forum  
Health Care Without Harm  
Illinois Clean Jobs Coalition  
Illinois Environmental Council  
Imagine Water Works  
Independent Power and Renewable Energy LLC (IPRE)  
Indiana Conservation Voters  
Ingleside On the Bay Coastal Watch Association  
Leadership Counsel for Justice and Accountability  
League of Conservation Voters  
Lebanon Pipeline Awareness  
Long Island Progressive Coalition  
Los Jardines Institute  
Metro East Green Alliance  
Mi Familia Vota  
Mid-Ohio Valley Climate Action  
Mile High Youth Corps  
Mississippi Rising Coalition  
Mobilizing Climate Action Together (MCAT)  
Mountain Watershed Association  
MoveOn.org HobokenRESIST  
Natural Resources Council of Maine  
Natural Resources Defense Council  
NC League of Conservation Voters  
NEPA Green Coalition

New Energy Economy  
New Jersey Environmental Justice Alliance  
Nicaragua Center for community Action  
No False Solutions  
Nuclear Information and Resource Service  
Occupy Bergen County (New Jersey)  
Ohio Valley Environmental Advocates Inc.  
Oregon Interfaith Power & Light  
Pacific Environment  
Partnership for Southern Equity  
Peace Action WI  
PennFuture  
People's Collective for Environmental Justice  
Physicians for Social Responsibility  
Physicians for Social Responsibility Pennsylvania  
Plastic Pollution Coalition  
Project CoffeeHouse  
Public Citizen, Inc.  
Responsible Decarbonization Alliance (RDA)  
San Francisco Bay Physicians for Social Responsibility  
Santa Cruz climate action network  
Save Ohio Parks  
Save Our Illinois Land  
Save our Susquehanna  
Science and Environmental Health Network  
Sierra Club  
South Ward Environmental Alliance  
Sunrise Movement  
Terra Advocati  
Texas Campaign for the Environment  
The Climate Center  
The Enviro Show  
The Greenlining Institute  
The Last Plastic Straw  
The Quantum Institute  
The Wei LLC  
Three Rivers Waterkeeper  
Turtle Island Restoration Network  
Union of Concerned Scientists  
Unitarian Universalists for a Just Economic Community  
Vote Solar  
Waterspirit  
WE ACT for Environmental Justice  
Western Environmental Law Center