

The Honorable Lily L. Batchelder  
Assistant Secretary for Tax Policy  
Department of the Treasury

Mr. Seth Hanlon  
Deputy Assistant Secretary for Tax and Climate Policy  
Department of the Treasury

Mr. William M. Paul  
Principal Deputy Chief Counsel and Deputy Chief Counsel (Technical)  
Internal Revenue Service

Mr. John Podesta  
Senior Advisor to the President for Clean Energy Innovation and Implementation  
White House

Mr. Ali Zaidi  
Assistant to the President and National Climate Advisor  
White House

The Honorable Jennifer Granholm  
Secretary  
U.S. Department of Energy

**Re: Implementation of the IRA 45V clean hydrogen tax credits as it relates to guidelines for emissions accounting of grid-connected electrolyzers**

Dear Assistant Secretary Batchelder, Mr. Hanlon, Mr. Paul, Mr. Podesta, Mr. Zaidi, and Secretary Granholm:

We write regarding the Administration's implementation of the Inflation Reduction Act's (IRA) Section 45V clean hydrogen tax credits, which will have major and long-lasting implications for our states. Specifically, we urge Treasury to issue comprehensive and rigorous guidelines to comport with our states' and national climate goals, honor our environmental justice commitments by protecting the health of our communities, and send the right market signals for a truly clean and durable clean hydrogen industry.

There are a set of criteria that Treasury can and must implement for *all electrolytic hydrogen projects* to safeguard against those known harms and shape a truly clean hydrogen market. The three criteria are 1) Additionality; 2) Hourly Matching and 3) Deliverability. It is now widely [established](#) and demonstrated that the three criteria are:

- Required to guard against the worst climate consequences and enable attainment of our states' climate goals;

- Necessary to prevent increases in fossil fuel electricity and health-harming pollution, which would undermine our environmental justice commitments; and
- Needed to support the growth of a truly clean and durable hydrogen industry.

The three criteria are rapidly becoming part and parcel of the emerging clean hydrogen market. An ever-growing pipeline of projects that adhere to the three criteria are being announced in the U.S. and worldwide. Setting an example to be followed, Colorado recently passed a bill defining “clean hydrogen” eligible for state subsidies as complying with the three criteria by no later than 2028, with backstops that could trigger them earlier to protect against negative consequences. Furthermore, the three criteria are becoming a global norm, set in motion by the European Union’s adoption of the criteria in their Hydrogen Delegated Act.

We therefore urge Treasury, the Department of Energy and the White House to require the three criteria for *all electrolytic hydrogen projects* – with no exceptions—in upcoming guidelines to avoid jeopardizing our states’ hard-fought progress on climate and public health, and ensure that hundreds of billions of our taxpayers dollars are spent on investments that will bolster our climate and environmental justice goals and position the U.S. as a leader in the burgeoning global clean hydrogen market.

**The three criteria are the only system that will safeguard against setting back our hard-fought climate progress and environmental justice goals.**

Abounding [evidence](#) has now confirmed that the three criteria are the only system that will robustly protect against carbon emissions increases from electrolytic hydrogen production and ensure compliance with the IRA-prescribed emissions thresholds:

- *Additionality*: If hydrogen production facilities are powered by *existing* clean energy projects on the grid, fossil fuel electricity will ramp up to meet a portion of the increased demand and drive increased carbon emissions. Treasury must require that hydrogen producers source the electricity used to run their facilities from *new* clean energy sources *not already on the grid*.
- *Deliverability*: When electrolyzers are not co-located with a new clean energy project, clean electricity must be deliverable into the same grid where the electrolyzer is located. This means that there can’t be grid congestion between new clean generation and the electrolyzer.
- *Hourly matching*: To ensure that a hydrogen project is truly clean, it must operate during the same hours in which the new clean energy project operates. A looser correlation (weekly, monthly) would dramatically underestimate the lifecycle emissions of a hydrogen project.

We are deeply concerned about Treasury implementing loose guidelines that may subsidize hydrogen projects with up to **four times worse emissions than today’s business-as-usual hydrogen** and that could drive up carbon emissions in our states by tens of millions of tons.

Both A) grid-connected hydrogen projects and B) behind-the-meter projects must be required to meet the three criteria. If the three criteria are not required for behind-the-meter projects, fossil generation will increase to fill the gap created by clean energy diverted for hydrogen production, in violation of the IRA’s statutorily required emissions limits for subsidized hydrogen production.

**The three criteria will support substantial industry growth and establish a durable and truly clean hydrogen market.**

Owing to the generousness of IRA subsidies for clean hydrogen and renewable energy, the three criteria will support substantial growth of the electrolytic hydrogen market in this decade and beyond. The financial case for the three criteria has been rigorously [established](#). Driven by those facts on the ground,

the Colorado legislature held firm in the face of pressure by industry players who erroneously argued that the three criteria were too costly and prescribed the three criteria in [recent legislation](#). Similarly, we urge Treasury and the Administration to question similar claims by some industry stakeholders, and instead look to leading industry [players](#) who have called for Treasury to implement the three criteria.

Furthermore, the three criteria will enable the durable success of the nascent industry and cultivate public support. Many of our states are bidding to become hydrogen hubs, and we are deeply concerned by the prospects of growing public opposition to those hubs if hydrogen both becomes and is perceived as a highly emitting industry supported by permissive Treasury guidelines at taxpayers' expense.

**We urge Treasury, the White House, and DOE to require the three criteria for all electrolytic hydrogen projects – with no exceptions.**

Sincerely,

Colorado Senator Lisa Cutter  
(CO-20)

Alabama Representative Jeremy Gray  
(AL-83)

Alaska Representative Andy Josephson  
(AK-13)

Arizona Representative Mariana Sandoval  
(AZ-23)

Arizona Senator Juan Mendez  
(AZ-8)

Arkansas Representative David Whitaker  
(AR-22)

California Senator Josh Becker  
(CA-13)

Colorado Representative Judy Amabile  
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Colorado Representative Kyle Brown  
(CO-12)

Colorado Representative Junie Joseph  
(CO-10)

Colorado Representative Cathy Kipp  
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Colorado Representative Karen McCormick  
(CO-11)

Colorado Representative Barbara McLachlan  
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Colorado Representative Emily Sirota  
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Colorado Representative Tammy Story  
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Colorado Representative Brianna Titone  
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Colorado Representative Elizabeth Velasco  
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Colorado Representative Stephanie Vigil  
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Colorado Representative Mike Weissman  
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Colorado Representative Jenny Willford  
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Colorado Senator Chris Kolker  
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Connecticut Representative Kevin Ryan  
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Delaware Representative Eric Morrison  
(DE-27)

Delaware Representative DeShanna Neal  
(DE-13)

Delaware Representative Cyndie Romer  
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Georgia Representative Marvin Lim (GA-98)	Maryland Delegate Anne Healey (MD-22)
Georgia Representative Shea Roberts (GA-52)	Maryland Delegate Jeffrie Long (MD-27)
Georgia Representative Kim Schofield (GA-63)	Maryland Delegate Julie Palakovich Carr (MD-17)
Georgia Senator Nan Orrock (GA-36)	Maryland Delegate Sheila Ruth (MD-44)
Georgia Senator Sheikh Rahman (GA-5)	Maryland Delegate Emily Shetty (MD-18)
Hawaii Representative Nicole Lowen (HI-7)	Maryland Delegate Jen Terrasa (MD-13)
Hawaii Representative Lisa Marten (HI-51)	Maryland Senator Benjamin Brooks (MD-10)
Hawaii Senator Lorraine Inouye (HI-1)	Massachusetts Representative Michelle Ciccolo (MA-73)
Hawaii Senator Chris Lee (HI-25)	Massachusetts Representative Angelo Puppolo (MA-55)
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Illinois Senator Rachel Ventura (IL-43)	Massachusetts Senator Michael Moore (MA-8)
Indiana Representative Pat Boy (IN-9)	Minnesota Representative Larry Kraft (MN-46)
Indiana Representative Chris Campbell (IN-26)	Minnesota Representative Jerry Newton (MN-35)
Indiana Representative Sue Errington (IN-34)	Minnesota Senator Jim Abeler (MN-35)
Indiana Representative Matt Pierce (IN-61)	Mississippi Senator Hillman Frazier (MS-27)
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Iowa Senator Eric Giddens (IA-38)	Nevada Assembly Member Tracy Brown-May (NV-42)
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New Hampshire Representative Tony Caplan (NH-112)	North Dakota Senator Tim Mathern (ND-11)
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New Hampshire Representative Chris Muns (NH-163)	Oklahoma Senator Mary Boren (OK-16)
New Hampshire Representative Henry Noel (NH-39)	Oregon Senator Deb Patterson (OR-10)
New Hampshire Representative Lucius Parshall (NH-24)	Oregon Senator Janeen Sollman (OR-15)
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New Hampshire Representative Ned Raynolds (NH-173)	Pennsylvania Representative Christopher Rabb (PA-200)
New Hampshire Representative Ellen Read (NH-144)	Pennsylvania Representative Greg Vitali (PA-166)
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New Mexico Senator Mimi Stewart (NM-17)	Rhode Island Senator Alana DiMario (RI-36)
New York Assembly Member Jo Anne Simon (NY-52)	Rhode Island Senator Ana Quezada (RI-2)
New York Senator John Mannion (NY-50)	Rhode Island Senator Linda Ujifusa (RI-11)
New York Senator Rachel May (NY-48)	Utah Representative Gay Bennion (UT-41)
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