

Congress of the United States

Washington, DC 20515

September 13, 2024

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

Dear Secretary Yellen:

Thank you for your dedicated service for the past three years. Under your leadership, the Inflation Reduction Act is already making historic gains to boost the renewable energy sector in the U.S. and help combat climate change.

We write today regarding the Department of Treasury's notice of proposed rulemaking (NPRM) to implement REG-119283-23, the clean electricity production (45Y) and investment (48E) tax credits and the categorization of waste energy recovery property (WERP). Under the Inflation Reduction Act, Congress authorized the 45Y and 48E tax credits as part of a larger and historic investment to build out America's clean energy economy and strengthen our energy security. The 45Y and 48E credits are intended to spur widespread adoption and development of zero-emission energy technologies that will help the U.S. to meet its climate goals and mitigate the damaging effects of climate change. WERP is one of those essential technologies that will help us transition to a net-zero future. We appreciate the Department's efforts to recognize the potential of WERP as a critical clean energy technology and respectfully urge you to implement WERP with parity alongside other zero-emission technologies.

In the NPRM, WERP is treated as categorically non-combustion and gasification (non-C&G) when the underlying process generating waste heat is powered by other renewables such as solar, wind, hydro, and geothermal. However, all WERP applications are effectively zero-emission and should be recognized accordingly, consistent with existing publications and analyses by the Department of Energy (DOE) and Oak Ridge National Laboratory.

WERP recovers and converts waste energy into useful carbon-free electricity. All WERP facilities are inherently zero-emission, generating electricity solely from waste energy through the use of a heat engine or equivalent technology, and without the use of fuel or combustion. The DOE's own WHP Fact Sheet recognizes that "WHP is a clean energy technology; it produces no new emissions from the use of waste heat and often displaces electricity produced from carbon-based fuels."¹ A joint technical report from the Oak Ridge National Laboratory and the DOE found that "WHP represents a significant emissions benefit as a clean energy technology with zero new emissions from the use of waste heat instead of carbon-based fuels."² We respectfully request that all WERP facilities be recognized as categorically non-C&G in a final rulemaking to avoid unnecessary burden of proof.

WERP is an essential decarbonization tool for the industrial sector, which is traditionally one of the hardest to decarbonize. In addition to improving efficiency and reducing emissions, WERP also reduces grid reliance and demand while decreasing energy costs. The technologies are capable of producing 24/7 baseload clean

¹ Department of Energy Waste Heat to Power Fact Sheet https://betterbuildingssolutioncenter.energy.gov/sites/default/files/attachments/Waste_Heat_to_Power_Fact_Sheet.pdf

² Elson, Amelia, Tidball, Rick, & Hampson, Anne. Waste Heat to Power Market Assessment. <https://www.osti.gov/biblio/1185773>

electricity, which enhances grid stability and can replace baseload without carbon emissions. Further, the WHP industry is active in energy communities, bringing clean energy jobs to small communities, and onshoring manufacturing of key equipment. Its growth is poised to be a key economic driver for the country and in the communities they operate.

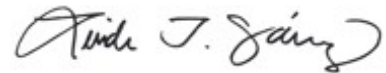
We request that the IRS update the proposal to avoid duplicative analysis for WERP which has already been undertaken and accepted by DOE and a national laboratory. To that end, we specifically request that the IRS revise proposed §1.45Y-5(c)(2)(viii) by striking “that derives energy from a source described in paragraphs (c) (2)(i) through (vii) of this section.” Incentivizing the deployment of all WERP help the U.S. meet its climate goals, and help mitigate the anticipated rise in emissions projected to occur in the industrial sector.

Thank you again for your leadership on this effort to ensure we meet our climate goals.

Sincerely,



Bradley Scott Schneider
Member of Congress



Linda T. Sánchez
Member of Congress



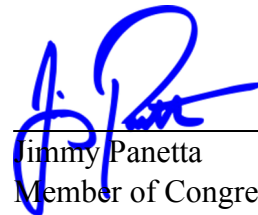
Danny K. Davis
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Chellie Pingree
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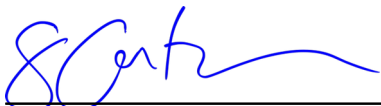
Jimmy Panetta
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Thomas R. Suozzi
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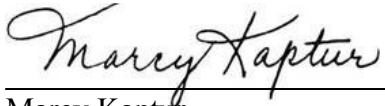
Earl Blumenauer
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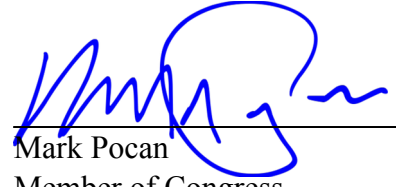
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