

**Congress of the United States**  
**Washington, DC 20515**

May 4, 2020

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
United States Capitol  
Washington, D.C. 20515

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
United States Capitol  
Washington, D.C. 20515

The Honorable Chuck Schumer  
Minority Leader  
United States Senate  
United States Capitol  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Republican Leader  
U.S. House of Representatives  
United States Capitol  
Washington, D.C. 20515

Dear Majority Leader McConnell, Speaker Pelosi, Minority Leader Schumer, and Republican Leader McCarthy,

We appreciate the swift action you have taken thus far to address the devastating effects that coronavirus disease 2019 (“COVID-19”) has had on our nation. COVID-19 has resulted in global economic activity rapidly grinding to a halt. This has led to a significant drop in energy demand across the United States, as well as a decline in energy prices. It is incumbent upon Congress to consider potential options to further stimulate the U.S. economy while our nation recovers from this epidemic. We therefore urge you to consider the following measures that would help reinvigorate our nation’s economy and ensure that the U.S. remains a key voice in the global energy conversation.

**1. Extend the “Commence Construction” Date for the 45Q Tax Credit by Ten Years**

We encourage Congress to extend the “commence construction” date for the 45Q tax credit by ten years until December 31, 2033. In 2018, Congress passed the FUTURE Act, which reformed and expanded the 45Q program and provided a six-year window for carbon capture, utilization, and storage (“CCUS”) projects to begin construction to qualify for this credit. After more than two years of delay, project developers and investors are still eagerly awaiting final regulations for implementation and guidance of the 45Q tax credits.

Low and zero-carbon technologies have benefitted from substantial federal support for decades. The production tax credit (“PTC”) for wind energy was first enacted nearly 30 years ago in the Energy Policy Act (“EPACT”) of 1992, and the investment tax credit (“ITC”) for solar energy became law 15 years ago as part of EPACT 2005. The successful commercialization of renewable energy technologies offers powerful evidence for the critical role that government

incentives play in scaling up needed technology deployment when given sufficient time to leverage private capital in the marketplace.

Given the fact that the window for projects to begin construction and qualify for the 45Q tax credit has now shrunk to less than four years, it is important that the “commence construction” date be extended in order to provide certainty to project developers and investors and ensure greater deployment of carbon capture over all sectors in the years to come. A 10-year extension would allow these large, capital-intensive projects ample time to plan, design, permit, and begin construction.

## **2. Enact the “Carbon Capture Modernization Act”**

We also encourage Congress to include S. 407 and H.R. 1796, the “Carbon Capture Modernization Act,” in any forthcoming relief package. Congress authorized \$1.3 billion in ITCs in 2005 which were designed to significantly improve coal generation efficiency and reduce emissions. Congress authorized an additional \$1.25 billion in ITCs in 2008, on the basis, however, that a project installs CCUS in order to qualify. Unfortunately, Congress did not remove the 2005 efficiency requirements when it added the CCUS requirement in 2008, thus rendering the ITCs ineffective for retrofit projects.

By enacting the “Carbon Capture Modernization Act,” Congress would remove the 2005 energy efficiency requirements and make additional technical changes to the qualifying ITC criteria. These changes, coupled with direct pay or an offset of the 48A ITC from the Base Erosion and Anti-Abuse Tax (“BEAT”) would unlock nearly \$2 billion in ITCs and support the application of carbon capture retrofits at existing coal plants and help offset the upfront capital investment that is needed to secure financing for projects. This will be necessary as private firms will not be able to take financial risk in large infrastructure projects as our economy recovers.

## **3. Implement Direct Pay or an Offset from the BEAT for the 45Q and 48A Tax Credits**

Many project developers do not have tax liability to fully monetize tax credits. Direct pay is one mechanism that can help to fully monetize tax credits by avoiding the need for tax equity partnerships. Implementing direct pay would enable 48A or 45Q tax credit recipients to receive a direct cash payment from the Treasury instead of resorting to the tax equity market to provide a discounted tax credit. This would provide substantial benefit to project developers, particularly as CCUS projects remain more challenging to finance than wind or solar projects.

The BEAT established a new minimum tax designed to prevent U.S. companies with at least \$500 million in gross receipts from eliminating or significantly reducing their U.S. tax base, and under current law, the 45Q and 48A tax credits are not allowed as an offset to the BEAT. This deters financial institutions that have potential exposure under the BEAT from investing in CCUS projects, as many owners of energy development projects do not have tax liability, so investors that do are needed in order to monetize the tax credits in a CCUS project. Therefore, amending the BEAT to offset 100% of 48A and 45Q tax credits and allow this treatment to extend beyond 2025 would be another mechanism to draw investment in projects.

Many rural electric cooperatives and public power entities, who do not pay taxes and cannot benefit from the tax credit themselves, are leading in the development of carbon capture projects, so it is incredibly important that we ensure that tax credits can be fully monetized for the development of a CCUS project either through direct pay or an offset from BEAT.

#### **4. Funding for Commercial Demonstration Grants**

Congress should consider providing \$8 billion that would allow the U.S. Department of Energy (“DOE”) to fund a minimum of 15 CCUS projects. There are at least fifteen projects across our nation that are currently developing Front-End Engineering and Design (“FEED”) studies or pre-FEED studies. These FEED studies provide the techno-economic basis for developing each project’s design and cost and will enable project developers to move forward with their efforts. Further, each project would be subject to the statutory 50/50 cost share and be eligible to receive 45Q tax credits.

It is important to note that the American Recovery and Investment Act of 2009 (“Recovery Act”) provided roughly \$2.3 billion for DOE to undertake large-scale CCUS projects, on top of the original \$700 million for these projects. This total fell far short of the \$13.3 billion and \$19 billion that the Recovery Act provided for renewable energy and energy efficiency programs, respectively.

Similar to an ITC, this funding would offset the upfront capital requirements and incentivize private investment in projects. Without such funds, projects like PetraNova, Port Arthur, and Archer Daniels Midland would not be successful. Additional CCUS projects are now readying to deploy, and an investment of \$8 billion would incentivize this critically necessary industry. When combined with the 45Q tax credit, these CCUS projects would undoubtedly jumpstart the CCUS industry nationwide, assist the U.S. as it seeks to meet its decarbonization objects, and position the United States as a world leader in the CCUS industry.

#### **5. Increase Funding for CarbonSAFE Projects**

Congress should also consider providing an additional \$540 million for projects that are part of DOE’s Carbon Storage Assurance Facility Enterprise (“CarbonSAFE”) initiative, which focuses on the development of geologic storage sites for the storage of over 50 million metric tons of carbon dioxide (“CO<sub>2</sub>”) from industrial sources.

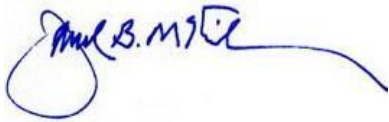
CarbonSAFE projects will improve the understanding of project screening, site selection, characterization, and baseline monitoring, verification, accounting and assessment procedures, as well as the information necessary to submit appropriate permits and design injection and monitoring strategies for commercial-scale projects, and will integrate carbon capture projects and sources of CO<sub>2</sub> with the CarbonSAFE storage projects. Several of the CCUS projects that are in the FEED study phase would act as the sources of the CO<sub>2</sub> for the active CarbonSAFE projects.

There are currently six active projects in Phase II of the CarbonSAFE program. Late last year, DOE solicited proposals for combined Phase II and III projects. Due to limited funding, DOE

intends to select only 2-4 projects to move into Phase II and III. The additional \$540 million would allow DOE to expedite awards on Phase III applications that promise near term execution of 1MM tons/year CO2 storage and simultaneously fund Phase IV for those projects. Funding would also allow an additional four projects to be funded to accelerate the combined Phase II and III efforts and invite applications to fully fund projects also through Phase IV.

Thank you for your attention to this important issue and look forward to working with you to strengthen America's energy independence.


Sincerely,



David B. McKinley, P.E.  
Member of Congress



Marc Veasey  
Member of Congress



Cheri Bustos  
Member of Congress



Kelly Armstrong  
Member of Congress



Henry Cuellar  
Member of Congress



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