

United States Senate

WASHINGTON, DC 20510

August 3rd, 2020

The Honorable Steven T. Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Re: Credit for Carbon Oxide Sequestration, REG-112339-19

Secretary Mnuchin and Commissioner Rettig:

On May 27, 2020, the Treasury Department granted a one-year extension of the deadline to renewable energy projects beginning construction in 2016 or 2017 under the federal Investment Tax Credit and Production Tax Credit due to issues companies are experiencing because of the impacts of COVID-19.

Like every aspect of the American economy, the COVID-19 pandemic has equally impacted companies investing in carbon capture, utilization and sequestration projects. In a May 18, 2020, letter we urged your department to utilize the same regulatory flexibility for companies seeking to utilize the 45Q Carbon Capture Tax Credit by extending the continued construction by one-year.

As you know, according to the IRS guidance documents released February 19, 2020, companies which have begun construction on a 45Q carbon capture project by starting physical work of a significant nature or by incurring five percent or more of the total cost of the facility or property are considered within the safe harbor. They need to demonstrate continuous efforts to complete construction and are deemed to fulfill this requirement if the facility or property is in service within six years. Extending the safe harbor to qualify for the 45Q tax credit will create and protect thousands of jobs, provide regulatory certainty, and further incentivize carbon capture, utilization and sequestration projects to reduce emissions.

The impact of COVID-19 on the economy, combined with the fact the IRS has not finalized guidelines for using the 45Q tax credit after two years, has deterred many companies from making critical investments and starting construction on carbon capture, utilization and sequestration projects. In fact, the Energy Department's top fossil energy official recently said there were "billions of dollars" of projects stuck waiting.

In light of the wide-ranging impacts COVID-19 continues to have on the American economy, combined with the over two-year delay in final 45Q guidance, it makes sense to provide as much administrative flexibility as possible. These commonsense flexibilities should not be applied to only certain power generators.

The action Treasury has taken on behalf of renewable energy projects should be replicated for carbon sequestration projects seeking to utilize the 45Q credit. An extension, combined with completing the final regulations, will provide much-needed certainty for companies waiting to invest.

The 45Q tax credit passed in 2018 with broad bipartisan support. Across the aisle, we are anxious to see it successfully implemented. As you finalize carbon capture, utilization and sequester regulations, the safe harbor guidance IRS issued in February should be amended to provide carbon capture, utilization and sequester projects an additional year of eligibility.

Sincerely,



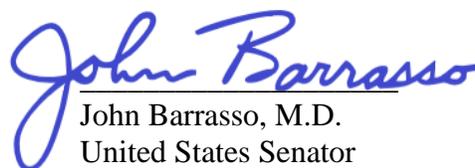
Kevin Cramer
United States Senator



Sheldon Whitehouse
United States Senator



Shelley Moore Capito
United States Senator



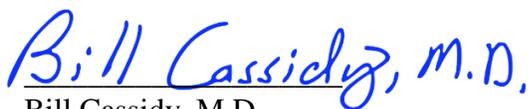
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