***On behalf of 35 organizations and individuals representing hundreds of thousands of people in the Pacific Northwest***

January 22, 2024

VIA ELECTRONIC FILING (https://www.regulations.gov/commenton/IRS-2023-0054-0001) (REG-132569-17)

Douglas W. O'Donnell
Deputy Commissioner for Service and Enforcement
CC:PA: LPD:PR (REG-132569-17)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Definition of Energy Property and Rules Applicable to the Energy Credit, Notice of Proposed Rulemaking, Public Hearing, and Partial Withdrawal of Notice of Proposed Rulemaking, 88 Fed. Reg. 82,188 (Nov. 22, 2023)

Dear Mr. O'Donnell:

**We, the undersigned – elected officials, business and community leaders in the Pacific Northwest** – ask the U.S. Treasury Department ("Treasury") and the Internal Revenue Service to review and change the Proposed Regulations for the Energy Investment Tax Credit (ITC) as they relate to "qualified biogas property." The current proposed regulations are not consistent with Congressional and policy intent of the Inflation Reduction Act (IRA), which expressly extended the ITC to promote the productive use of biogas that is cleaned and conditioned for sale or productive use (i.e., renewable natural gas (RNG)).

Biogas is derived from organic wastes and is comprised of methane that otherwise may be flared or released into the atmosphere. Changes are needed to comply with this intent, as well as the Biden Administration's policies that encourage and incentivize biogas-derived RNG development, deployment, and utilization. Moreover, Treasury's Proposed Rules run counter to the President's 2030 GHG reduction goals. The Proposed Rules will make it harder for critical industries like wastewater treatment and municipal solid waste management to capture and utilize their waste methane. Further, the Proposed Rules will make it more expensive for natural gas utilities and its customers to decarbonize and will limit access to the renewable natural gas customers want.

The RNG industry has multi-billion-dollar investments planned for 2024 which will offer significant benefits to diverse U.S. constituencies, including rural and urban communities across the country. Those investments – and the associated climate and community benefits – are at significant risk if the proposed regulations are not revised. RNG development increases domestic energy production, offers local economic and air quality benefits, and immediately reduces methane emissions.

- As a functionally equivalent molecule to fossil-based natural gas, biogas-derived RNG can be deployed through the U.S. natural gas pipeline system – and replace fossil-based fuels for homes, businesses, vehicles and industrial uses. RNG can also be used or as a feedstock for other energy carriers, such as low-GHG hydrogen and sustainable aviation fuel.

- In the IRA, Congress specified that ITCs for biogas would incentivize its "sale or productive use." RNG, as a biogas-derived, energy-dense and high-BTU gas, offers the greatest opportunity to maximize biogas sale and/or productive use. Biogas in its "raw" state – prior to being upgraded via "cleaning and conditioning equipment" – is far less valuable than RNG, as the raw biogas cannot be used in most of the applications and for customers tied to the existing natural gas system.
- The IRA explicitly stated that the ITC should apply to cleaning and conditioning equipment to produce a biogas that is at least 52% methane. Biogas requires this “Cleaning and conditioning equipment” in order to be upgraded into a product that can be used in a wide variety of industries and use cases. The biogas and RNG industries typically use “cleaning and conditioning” and “gas upgrading equipment” interchangeably. They functionally mean the same thing and denote all of the equipment necessary to take raw biogas and turn it into a gas that can displace geologic gas in a wide variety of uses. Treasury’s recent Proposed Rules are completely counter to the IRA statutory language, by explicitly stating that “gas upgrading equipment necessary to concentrate the gas into the appropriate mixture into a pipeline…” is NOT included in eligible biogas property. This upgrading equipment *is* the “cleaning and conditioning equipment” necessary to produce a usable gas that is at least 52% methane.
- Gas upgrading equipment needs to be included in the Treasury Department’s definition of qualified biogas property. Without this change to the Proposed Rule, RNG upgrading equipment will be disqualified from the ITC and in practical terms, therefore, will greatly reduce potential domestic RNG investments and projects and/or make decarbonization of the entire gas system more expensive for customers and communities. This will impact the speed with which the gas system can decarbonize both for direct-use gas customers as well as users of natural gas in power generation.

**We urge the Treasury Department to revise the Proposed Rule by recognizing that "gas upgrading equipment" is "cleaning and conditioning equipment," and therefore is eligible for the ITC as qualified biogas property or as a "functionally interdependent" component thereof.**

We believe in a circular economy where our community’s waste is put to work as energy. We believe in supporting the decarbonization of both the electric and gas systems so that they can work together in a more efficient, reliable, and affordable way for our constituents and local businesses. We believe in the American innovation that can make all of this possible — both technological innovation as well as innovative and supportive policy like the IRA. **Please review the technical recommendations from policy and industry experts in RNG like the Coalition for Renewable Natural Gas (RNG Coalition)[1] and engage in conversation with these groups as well as energy developers to ensure necessary changes.**

Thank you in advance for your consideration. Please see attached organizational and individual list.

[1] Regulations.gov: https://www.regulations.gov/comment/IRS-2023-0054-0007

**Lori Arce-Torres**
Executive Director, Lincoln City Chamber of Commerce, representing 310 members

**Henry Balensifer III**
Mayor, City of Warrenton

**Dwight Brashear**
Transit Director, South Metro Area Regional Transit (SMART)

**Corky Collier**
Executive Director, Columbia Corridor Association

**Alex Cuyler**
Intergovernmental Relations Manager, Lane County, OR

**Bart Hansen**
Council Member, City of Vancouver, WA, representing 200,000 citizens

**Bart Hansen**
Executive Director, 700 Businesses

**Alexander Hanson**, Individual

**Tanya Hartnett**
Executive Director, Working Waterfront Coalition, representing 20 members

**Tim Herbert**
Executive Secretary Treasurer, Washington State Association of the UA Plumbers & Pipefitters

**Eric Herbert**
President, Bulk Handling Systems

**Tom Hoffert**
CEO, Salem Area Chamber of Commerce

**Brian KillKelley**
Director of Business Development and Sustainability, Chomp, Inc.

**Dan Kirschner**
Executive Director, Northwest Gas Association

**Robin Krause**
Principal Engineer Transmission & Treatment, Clark Regional Wastewater District

**Mark Kujala**
Clatsop County Commissioner / Chair, Clatsop County, representing 42,000 residents

**Kevin Leahy**
Executive Director, CEDR (Clatsop Economic Development Resources)

**David Loveall**
Lane County Commissioner, Springfield District 2

**John McDonagh**
President & CEO, Greater Vancouver Chamber

**Vonnie Mikkelsen**
President and CEO, Springfield Area Chamber of Commerce

**John Pascone**
President, Linn Economic Development Group, representing 25 community and industry board members

**Allan Pollock**
General Manager, Salem Area Mass Transit District

**Zachary Poole**
President, Pig 'N Pancake, INC

**Karen Ramus**
President, Berg Productions

**David Reid**
Executive Director, Astoria-Warrenton Area Chamber of Commerce, representing 584 Businesses & Organizations

**Connor Reiten**
Vice President, Government Affairs, PNGC Power

**Alex Schay**
Director,
Membership Services,
NW Alliance for Clean Transportation

**Janet Steele**
President, Albany Area Chamber (OR), representing 500 business members representing over 25,000 employees

**John Sweet**
County Commissioner, Coos County, OR

**Paul Vogel**
Executive Director, Columbia Economic Team

**Susan Wahlke**
Mayor, Lincoln City, OR

**J.L. Wilson**
Executive Director, Oregon State Chamber of Commerce (OSCC)

**Christine Wood**
CEO / President, Corvallis Area Chamber of Commerce

**Kathryn Williams**
VP, Chief Public Affairs & Sustainability Officer, NW Natural

**Lexie Woodward**
Executive Director, South Coast Development Council