



Shaping Tomorrow's
Built Environment Today

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November 4, 2022

Ms. Janet L. Yellen
Secretary, U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

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

Re: Response to Internal Revenue Service Notice 2022-48, “Request for Comments on Incentive Provisions for Improving the Energy Efficiency of Residential and Commercial Buildings”

Dear Secretary Yellen and Commissioner Rettig:

The changes made by the Inflation Reduction Act expanded eligibility for certain tax incentives that address climate change issues through energy efficiency. Specifically, the *179D Commercial Buildings Energy-Efficiency Tax Deduction* incentivizes building owners and designers to opt for building designs at least 25 percent more energy efficient than a reference building from ASHRAE Standard 90.1, *Energy Standard for Buildings Except Low-Rise Residential Buildings*. Presently, the 179D tax deduction relies on ASHRAE Standard 90.1-2007 as the reference building standard. To meaningfully contribute to meeting the Administration’s goal of achieving a 50-52 percent reduction from 2005 greenhouse gas emission levels by 2030, and a net zero emissions economy by 2050, the Department of the Treasury should align with the Department of Energy and affirm the most recent version of the standard, ASHRAE Standard 90.1-2019, as the reference building standard.

In the Consolidated Appropriations Act of 2021, Congress made permanent the 179D tax deduction, and updated it so that it uses the most recent ASHRAE Standard 90.1 which has been affirmed by the Treasury Secretary after consultation with the Energy Secretary. The Inflation Reduction Act generally kept this same provision – identifying “Reference Standard 90.1” as the most recent version of the standard affirmed by both the Treasury Secretary and the Energy Secretary “not later than the date that is 4 years before the date such property is placed in service” **or** Standard 90.1-2007. While the Department of Energy has affirmed Standard 90.1-2019, the Department of the Treasury last affirmed Standard 90.1-2007.

ASHRAE Standard 90.1 has been the basis for energy-efficiency design of buildings for over 45 years, and its status on “continuous maintenance” means the standard is continuously reviewed for updates, with a revised and improved standard published every three years. The most recent Standard 90.1-2019 was found to be 5% more efficient than the previous version, Standard 90.1-2016¹. Buildings constructed today that adhere to the 2019 standard are 50% more efficient than those constructed using the standard from 1985. Because Standard 90.1 has made such remarkable improvements over the years, using Standard 90.1-2019 as the reference standard will be inherently more challenging for projects to meet the 179D tax deduction eligibility requirements. While it will be more challenging, this is what tax incentives aim to do: to spur investments that would not otherwise be made by market forces alone. This tax incentive should spur buildings to be more energy efficient than would otherwise be made, saving energy, operating costs, improving building resilience, and reducing greenhouse gas emissions.

Further, if the Department of the Treasury affirmed Standard 90.1-2019 today there would still be a four-year period for architects, designers and building engineers to accept and adapt to the improvement in the standard. The Inflation Reduction Act and Infrastructure Investment and Jobs Act both provide ample opportunity for the research and development of new technologies and best practices capable of becoming market-ready before Standard 90.1-2019 would take effect. It is expected there will also be a market response to the increase demand for energy efficient buildings that will make it more affordable for building owners and designers to elect to use energy efficient products and practices.

By the time the new reference standard would take effect in 2026-2027 (if affirmed), many states will already be requiring the most recent version of Standard 90.1 at that time, which may be Standard 90.1-2025. Standard 90.1-2025 will have two code cycles where technological advancements and improved design techniques will result in additional improvements beyond Standard 90.1-2019.

We are happy to provide any additional technical assistance to the Internal Revenue Service and Department of the Treasury for implementing energy efficiency policies and practices in the built environment that will contribute to meeting our nation’s climate goals. For more information, or to schedule a briefing, please contact GovAffairs@ashrae.org,

Sincerely,



Jeff Littleton
ASHRAE Executive Vice President

¹ These percentages represent national weighted averages and are from Pacific Northwest National Laboratory, “Energy Savings Analysis of ANSI/ASHRAE/IES Standards 90.1-2019 Final Progress Indicator,” 02 February 2020, PNNL-SA150731.