



# CARBON CAPTURE COALITION

March 5, 2020

The Honorable Steven T. Mnuchin  
Secretary of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, DC 20220

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, DC 20224

Dear Secretary Mnuchin and Commissioner Rettig:

On behalf of the Carbon Capture Coalition, we write to thank IRS and Treasury officials and to recognize the quality of the work accomplished in preparing the 45Q guidance and revenue procedure released on February 19, 2020. We also write to reaffirm the Coalition's June 28, 2019 consensus recommendations to Treasury and IRS regarding the demonstration of secure geologic storage of carbon dioxide (CO<sub>2</sub>) in the context of enhanced oil recovery (CO<sub>2</sub>-EOR) to claim the 45Q tax credit.

The Carbon Capture Coalition's 75 energy, industrial and technology companies, environmental and clean energy organizations, and labor unions represent a partnership of unprecedented diversity that is dedicated to economywide deployment of carbon capture. Beginning in 2011, the Coalition and its partners led efforts over seven years to develop consensus legislative recommendations for reforming and expanding the federal Section 45Q tax credit and ultimately to help secure their bipartisan enactment by Congress.

We appreciate the thoughtful consideration by IRS and Treasury officials of extensive input from the Carbon Capture Coalition and many others in preparing both the beginning construction guidance for carbon capture and utilization projects in [Notice 2020-12](#), and the [Revenue Procedure 2020-12](#) establishing rules governing carbon capture partnerships claiming the 45Q tax credit. Both the guidance and revenue procedure are well-crafted, helpfully adhere to established precedents where relevant, and beneficially accommodate unique aspects of carbon capture and utilization projects where appropriate. We believe that these work products will help provide needed clarity and financial certainty to project developers and investors seeking to claim the 45Q tax credit.

As you prepare to publish a notice of proposed rulemaking, the Coalition urges Treasury and the IRS to promulgate requirements for demonstrating secure geologic storage that safeguard the integrity of the 45Q tax credit and maintain public support for this important bipartisan tax policy.

Toward that end, the Coalition recommends that any system of demonstrating secure geological storage associated with CO<sub>2</sub>-EOR adhere to the following principles articulated in our June 28, 2019 comments:

- Storage of CO<sub>2</sub> should be quantified using a mass-balance approach, such as the approaches provided for in the U.S. Environmental Protection Agency's (EPA) Greenhouse Gas Reporting Program (GHGRP)

Subpart RR and the International Organization for Standardization (ISO) standard 27916 entitled *Carbon dioxide capture, transportation and geological storage — Carbon dioxide storage using enhanced oil recovery*.

- A governmental entity, approved by IRS in consultation with the US EPA, Department of Energy, and Department of Interior, should implement oversight of the monitoring, reporting, and verification (MRV) of secure geologic storage of CO<sub>2</sub> associated with CO<sub>2</sub>-EOR.
- Public transparency should be provided that is balanced with protection of confidential business information.
- Credits should not be recaptured for which the established requirements have been met.
- The IRS, in consultation with the Administrator of the EPA, Secretary of Energy, and Secretary of Interior, should establish criteria based on these principles for the purposes of determining adequate security measures for the geological storage of carbon oxide.
- Beyond those already established pathways through subpart RR and ISO, IRS should develop a framework for considering additional pathways, which could be proposed to IRS and certified through a public process to determine that the secure geologic storage criteria are satisfied, including sufficient oversight, transparency and a meaningful opportunity for public input.”

Further, the Coalition recommends that, in addition to affirming that Subpart RR remains a valid method of secure geologic storage to claim the 45Q tax credit for those taxpayers wishing to use it, the IRS should also establish an additional and equivalent pathway based on ISO Standard 27916, supplemented by MRV requirements recommended in the Coalition’s attached model guidance. In recommending this model guidance, the Coalition emphasizes that “any ISO-based demonstration must have sufficient oversight by competent governmental authorities, transparency and a meaningful opportunity for public input. These attributes are imperative for maintaining public confidence in the 45Q tax credit.”

The Carbon Capture Coalition’s model guidance on the demonstration of secure geologic storage in the context of CO<sub>2</sub>-EOR can be found in Attachment 6 of the consensus comments submitted by the Coalition to Treasury and the IRS in response to IRS Notice 2019-32 requesting public comment (see <https://carboncapturecoalition.org/wp-content/uploads/2019/06/Final-CCC-submission-to-Treasury-6-28-19.pdf>).

In closing, recent congressional inquiry into the MRV basis for credits previously claimed under the pre-2018 45Q program and growing media attention to this topic underscore how vitally important it is that pending IRS requirements for the demonstration of secure geologic storage serve to ensure the integrity, public trust and support for the new 45Q program going forward. That the Coalition’s highly diverse membership reached consensus on recommended methods for demonstrating secure geologic storage provides a broadly supported path forward for Treasury and the IRS to accomplish this.

Thank you in advance for your consideration of the Carbon Capture Coalition’s recommendations. We stand ready to provide additional information you might request.

Sincerely,



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