Congress of the United States
Washington, DC 20515

March 20, 2020

The Honorable Betty McCollum
Chair
House Appropriations Subcommittee on
Interior, Environment, & Related Agencies
Washington, DC 20515

The Honorable David Joyce
Ranking Member
House Appropriations Subcommittee on
Interior, Environment, & Related Agencies
Washington, DC 20515

Chair McCollum and Ranking Member Joyce,

We are writing to express our strong support for increased funding for the Environmental Protection Agency's (EPA) Underground Injection Control (UIC) program, specifically to help administer the Class VI Well program. Carbon capture projects that seek to inject carbon dioxide into deep rock formations for the sole purpose of long-term geologic storage are subject to the Environmental Protection Agency's Class VI rule, which is part of EPA's Underground Injection Control (UIC) Program.

The United States leads the world in the commercialization of carbon capture, and there is bipartisan support for capturing and utilizing carbon dioxide (CO2) and its precursor carbon monoxide. Carbon oxides may be captured from diverse sources, including industrial facilities, power plants and ambient air through direct air capture. Sustained investment in these technologies represents a genuine win-win for our nation's economy and environment, greatly reducing our nation's emissions, while benefitting energy-producing and industrial regions with the creation of high-paying jobs and a greater tax base. The FUTURE Act (S. 1535), passed in early 2018, reformed the 45Q tax credit for geologic storage and beneficial use of captured carbon, increasing the value of the credit and expanding eligible technologies. Currently, 45Q is authorized only until the end of 2023, and projects must commence construction by then to qualify for the credit.

While the IRS has finally released two long-anticipated pieces of draft guidance related to the implementation of the 45Q tax credit in February of this year, two years of the six-year commence construction window under 45Q have been lost to these delays. Development of carbon capture projects can take as long as five years before construction can begin, so the window for project development is already rapidly closing.

The time required to prepare a Class VI well permit application, submit it to EPA for review, and receive approval already puts potential carbon capture projects that seek to do saline geologic storage, but which are not well into initial stages of development, outside the remaining four year commence construction window for 45Q. While 45Q was meant to spur the development of carbon capture projects by making them more economically attractive, the chances of meeting the commence construction deadline are already low. Additionally, the timeframes for application and approval of Class VI well permits and state Class VI primacy present a significant constraint on the 45Q tax credit achieving its full deployment potential.

A key determinant of project success is the ability for companies to have a concise and predictable timeline for securing Class VI injection permits, particularly given the commence construction deadline. However, the process for application and approval of Class VI well permits and of state Class VI primacy applications is currently too long and uncertain, presenting a significant obstacle to future development of the carbon capture industry in the United States, and to its ability to scale up geologic storage sufficient to meet midcentury emissions reduction goals.

This situation risks being exacerbated by limited EPA and state resources and staffing to manage an anticipated significant increase in Class VI well permit and state primacy applications in response to 45Q, creating the prospect of policy failure with respect to commercial development of saline storage projects. Therefore, it is crucial that Fiscal Year 2021 appropriations for these critically important programs at EPA increase to meet the anticipated influx of Class VI well applications, as well help the growing number of states seeking Class VI primacy administer these programs.

Sincerely,

Marc A. Veasey
Member of Congress

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