CARBON CAPTURE COALITION

Legislative Work Group Meeting
Wednesday – July 23, 2025


## Summary:

This meeting of the Legislative Work Group included an overview of several topics by Coalition tax consultants Steptoe, including **(1)** the recent Executive Order on "Beginning of Construction" windows for tax credits 45Y and 48E (most obviously impacting renewables projects), and any potential implications for carbon management projects, as well as **(2)** new Foreign Entity of Concern (FEOC) restrictions for 45Q enacted under the One Big Beautiful Bill Act (OBBBA).

Additionally, we discussed several challenges present in the FY26 appropriations cycle related to funding at the Department of Energy for various programs fundamental to carbon management technologies, in particular cuts at the recently renamed Office of Fossil Energy. We concluded the meeting by reminding committee members about registering for the Coalition's annual meeting in November.


**Important Documents**:

- Meeting Slide Deck (attached)
- Annual Meeting Registration
- FY2025 DOE Spend Plan
- CCC Summary: House FY26 Energy and Water, Interior-Environment Appropriations Bills
- Appropriations Talking Points (attached)
- Fact Sheet: Preserving Critical Programs Funded Under the Bipartisan IIJA
- Steptoe Memo on BOC EO
- Steptoe Memo on OBBBA and FEOC Provisions
- Coalition OBBBA Fact Sheet

## Meeting Notes:

- **Political Landscape**
  - FY2026 Appropriations
    - The House is wrapping up its Appropriations Committee process and leaving for the August recess this week
    - The FY26 Energy & Water and Interior-Environment are the big bills we're following in each chamber
      - House Energy & Water reported their bill out of committee last week
        - Senate Energy and Water Subcommittee bill stalled in Senate; Subcommittee Chair Sen. John Kennedy (R-LA) publicly stated that he intends to produce a bill well below

      - the topline funding level provided by Senate Appropriations Committee Chair Susan Collins (R-ME); consternation between the two over funding levels for the bill
    - Not likely to see this bill move ahead of August recess
  - House Appropriations Committee reported the FY26 Interior-Environment bill out of committee on Tuesday; Senate Appropriations Committee similarly reported their bill out of committee on Thursday
- The two chambers have indicated that they intend to work on a minibus; Democrats' strategy on annual funding still coming together given the issues that have come to light with the FY25 continuing resolution and Republicans One Big Beautiful Bill Act
- At this point, anticipating an on-time departure for Senate for August recess, but potential for Senate to use some of August recess to clear backlog of nominations (over 100 at this point)

- Rescissions Packages
  - First rescissions package was cleared earlier this month – no specific implications on energy technologies or carbon management
  - Likely to see an additional rescissions package come to fruition
    - Rumor that this round may have energy project cuts, but just a rumor at this point
    - Coalition staff will continue to keep an ear to the ground on rescissions conversations for any concerns regarding carbon management project funding

- Permitting Discussions
  - House and Senate Committees that have jurisdiction over energy permitting have restarted conversations on a potential bipartisan permitting reform effort
    - NEPA reform; House Natural Resources Committee held a hearing on NEPA reform this week and Chairman Bruce Westerman (R-AR) and Rep. Jared Golden (D-ME) introduced a NEPA reform bill
  - Senate Energy and Natural Resources (ENR) Committee and House Energy & Commerce Committee reviewing potential reforms to permitting regime
    - ENR looking into NEPA and rescissions
  - Administration has complicated this by interfering with traditionally independent agencies
  - Congressional leadership thinking about creative ways to do more through reconciliation

- **Budget Reconciliation: Aftermath of OBBBA**
  - 45Q Status
    - Core functions/enhancements of the tax credit preserved, including transferability for the lifetime of the credit, no reduction in credit levels, inflation adjustment unaffected (as was previously proposed in the Senate's original reconciliation text)

        - EOR/non-EOR Utilization Parity for equipment placed in service **after** bill enactment ($85 credit level for all point-source projects, regardless of end-use of $CO_2$; $180 for DAC regardless of end-use)
            - CCU parity was a Coalition priority
        - New restrictions on Foreign Entities of Concern (FEOC) for taxpayers beginning in calendar year 2026
            - Though these restrictions specific to 45Q are not as egregious or challenging as the restrictions placed on renewables and other technologies, the landscape for how this will ultimately impact carbon management projects is still a bit hazy

    - Implementation – Coalition Tax Consultants, Steptoe
        - Status of Implementation
        - Foreign Entities of Concern (FEOC)
            - OBBBA added FEOC restrictions to all clean energy credits, except 45V (hydrogen)
            - Concept of FEOC not entirely new, a prior iteration of FEOC tied to electric vehicle credit, which was enacted in IIJA
                - DOE issued regulations to implement FEOC under 30D regulations
            - FEOC restrictions in OBBBA prohibit taxpayers from claiming credits if they fall under one of three categories, ***only the first applies to 45Q***:
                - **1)** Ownership and control by foreign entities (includes significant creditors)
                    - Includes Foreign-Influenced Entities or identified adversaries of the State
                        - Has separate thresholds for what constitutes influence
                    - This is the only category that applies to 45Q
                - **2)** Effective control; ability to exercise control through contractual provisions
                    - Entity made payments to FEOC per contract obligations
                    - Ability to control where output goes; access to production facility; access to IP; long-term license or service agreement
                    - "If a license or related agreement is entered into with FEOC after date of enactment."
                - **3)** NEW in final package: Material Assistance; components sourced from foreign entities that are used in the projects
                    - Covers 48E and 48Y; 45X, ***not 45Q***
                    - If you source materials from an FEOC, the computation is based on a statutory threshold
                    - Treasury and IRS need to provide guidance; can rely on 2025-8 for domestic content in the meantime
                - **45Q got off easier than most**

- **Q&A**
    - Given prior guidance for electric vehicles; do we see DOE having a role here as well?
        - Treasury and IRS will likely coordinate with DOE
    - Threshold for foreign-influenced entity is 5% per stockholder, which all add up to 40% (seems rigorous?), or one stockholder must own less than 25%
        - Rule provides some relief; don't have to look at every shareholder; just ones that have to report beneficial ownership

- Short update on Executive Order on 'Beginning of Construction'
    - Instructs Treasury regarding FEOC to begin drafting guidance within 45 days of enactment
    - Likely a notice with interim guidance and requests for comments
    - Admin wants to make sure clean electricity credits are not claimed by artificially accelerating BOC time
    - Unclear what knock-on ramifications might be for carbon capture projects. Most of the reporting so far has been on other clean energy projects, not 45Q
    - 45V has a test for it but no guidance for hydrogen projects
    - Safe harbor rule of 5% is likely more at risk than BOC
        - However, might run into legal trouble with treatment of other tax credits
    - **Q&A**
        - Should the Coalition put together a letter to Treasury to engage them on this?
            - Yes, possibly. People are focusing only on renewable energy credits, but there may be implications for other technology credits
            - Guidance cannot pick and choose which tax credits this new "commence construction" guidance would apply to
            - Lawyers need to be able to ID what guidance can be relied on; otherwise, we undermine investor certainty

- **Appropriations**
    - FY2025 DOE Spend Plan—released ahead of July 4 holiday
        - Document details how the department intends to spend appropriated FY25 funding; normally this would reflect the report language and funding tables that appropriators built into the fiscal year Energy & Water bill—this spend plan is different from previous years
            - DOE spend plan broadly maintains topline congressionally approved funding levels for each DOE office, but makes significant changes to the already-enacted 2025 budgets for different program areas and various activities within those offices
            - Specific to our priorities**, it repurposes nearly $100M in core funding designated for various 'carbon management**

        **technologies' activities** in the Office of Fossil Energy and Carbon Management toward programs, within the same office, designed to support critical minerals, and other oil and gas development
        - Important to note that FECM and carbon management funding is not only target; this was a broader effort across the entire department to retool funding to be more in line with the administration's goals and priorities
        - Since this has been published, CCC staff have reached out to House/Senate appropriators to better understand if there is a pathway to restoring the FY25 funding levels, as passed by Congress under the FY25 Continuing Resolution, enacted in March
            - Answer is broadly no—however:
                - In talking to appropriations committee staff, we do understand that appropriators have been working with OMB/DOE staff since earlier this spring to reinforce the programmatic funding levels appropriated by Congress
                - It is clear the administration believes that FY25 continuing resolution, specifically, allows them latitude to shuffle funding around, within offices, as they see fit
            - We've seen significant pushback from House/Senate Democratic leaders of the Energy and Water Appropriations Subcommittees, Sen. Patty Murray (D-WA) and Rep. Marcy Kaptur (D-OH), but we just wanted to make you aware of the dynamics at play here and how this FY25 spend plan really **underscores the dangers, particularly moving forward, with a full-year continuing resolution**

- House FY26 Appropriations Committee Markups
    - Last week, House Appropriations Committee marked up its version of the FY26 Energy and Water bill:
        - Renames the Office of Fossil Energy and Carbon Management (FECM) to Office of Fossil Energy (FE), as was named under the first Trump Administration
        - Renames the "Carbon Management Technologies" programmatic funding bucket at FE to "Coal and Carbon Utilization", reflecting the administration's priorities
        - Included a disappointing **$178M decrease** in core carbon management R&D funding and reprogramming of up to $3 billion in unobligated funding for DAC hubs ($1b), carbon capture demos (up to $950M), and CIFIA $CO_2$ transport systems funding ($1.5b)
        - Includes slashed funding for Office of Clean Energy Demonstrations, in an effort to close the office
            - We understand that remaining unobligated funding under OCED's management will be redistributed to other applied technology offices
        - Bill was reported out of committee and sent for floor consideration

        - Tuesday, House Appropriations Committee marked up its version of the FY26 Interior-Environment bill:
            - Includes:
                - **$5 million** in sustained funding for the UIC's Class VI program; and
                - **$1.8 million** for associated regulator education and training – an increase of $600,000
            - Overall the EPA saw a 23% reduction in annual funding, more than $2b in cut funding
        - **Q&A**
            - Understanding carbon management funding did not fare well in this bill, how did FECM/FE compare to other applied offices?
                - Renewables (EERE), electric vehicles, etc. fared much worse than FE.
            - Is carbon management not likely to see funding reissued, given it is not a priority for the secretary?
                - DAC hubs, CIFIA, carbon capture demonstration funding reprogrammed to support nuclear under the House bill; need to focus on preserving the unobligated IIJA funding
                    - Authorizations still remain – silver lining

    - Senate Progress
        - Senate progress has been slow, given the back and forth on the rescissions package
        - There seems to be a holdup on the Senate side regarding the FY26 energy and water bill between Subcommittee Chair John Kennedy (R-LA) and full Committee Chair Susan Collins (R-ME) on the toplines for the committee's bill
            - Sen. Kennedy has indicated his bill will be below the topline level provided by Committee chair Collins which has caused consternation between the two
            - It is possible that the Senate Appropriations Committee will mark up its version of the FY26 Energy and Water bill next week
                - While historically, the Senate bill has been more favorable to carbon management technologies than the House's version given the need to pass the bills with a bipartisan majority on the Senate floor, Sen. Kennedy has noted that he is prioritizing deep funding cuts, indicating that as with everything else, we should not anticipate the Senate will report a more amenable bill
                - Coalition staff and consultants are continuing to weigh in with members of the Senate Appropriations Committee to share the importance of robust funding for carbon management technologies at FECM

- **Appropriations Call-to-Action**
    - Appropriations negotiations are far from over, and it remains important for Coalition members to continue to weigh in with MOCs to try and move the needle on annual funding for carbon management technologies at DOE
    - Staff will share updated appropriations-focused talking points (linked above) with Coalition members, that prioritize preserving funding for carbon management RDD&D programs, and **steering members away from another year-long CR**
    - Potential for a broad letter to protect IIJA funding; Coalition staff will discuss and regroup with the members of the work group

- **Notable Committee Action This Week**
  - House Energy & Commerce – Pipeline Safety Hearing
  - House Natural Resources – NEPA Review Hearing
  - Senate Energy and Natural Resources – Energy Demand Hearing

- **Other Updates / Housekeeping**
  - Legislative Work Group will **not** meet in August; we will reconvene in the first half of September
  - Regulatory & Guidance Work Group – Tuesday, July 29 @ 2pm ET
  - CCC 2025 Annual Meeting Registration
    - November 6 – Lafayette Park, CA
    - November 5 site visit: Calpine capture facility