



# CARBON CAPTURE COALITION

## Regulatory and Guidance Work Group Meeting Notes July 29, 2025

### Meeting Summary

On July 29, Regulatory and Guidance Work Group (RGWG) members met to discuss several relevant regulatory topics:

- PHMSA's proposed CO<sub>2</sub> pipeline safety rule changes. The Coalition plans to submit high-level comments supporting performance-based approaches and modernized repair timelines for CO<sub>2</sub> pipelines.
- Coalition staff updated members on relevant Coalition actions on EPA's potential repeal of the Greenhouse Gas Reporting Program (GHGRP), emphasizing the importance of Subpart RR for 45Q integrity and continuing the Coalition's advocacy.
- Hunter Johnston of Steptoe briefed members about the recent Executive Order that directs Treasury to alter the beginning of construction rules for clean energy tax credits. The group discussed how altering BOC could impact 45Q. Coalition staff plan to submit a letter urging Treasury to preserve existing safe harbors critical to CCS investment certainty.
- Additional updates included the release of an EPA Inspector General report on Class VI wells and the proposed rescission of EPA's endangerment finding.

Members were reminded of the upcoming Annual Meeting in November and the likelihood of more frequent meetings as regulatory activity accelerates.

### Key-Takeaways

- **PHMSA ANPRMs:** The Coalition is preparing high-level comments on proposed CO<sub>2</sub> pipeline safety rule updates, focusing on modernizing repair criteria and supporting performance-based standards, and will share with this group for review and sign-off
- **GHGRP Advocacy:** The Coalition continues to make the case to the administration and congressional offices to preserve Subpart RR, citing its critical role in underpinning the integrity of the 45Q tax credit. With the rule now at OMB for review, Coalition staff have continued their advocacy with congressional staff and have provided several pieces of collateral for the Legislative Work Group, including fact sheets and talking points.
- **45Q Implementation Risks:** A recent [Executive Order](#) directs Treasury to issue guidance on the beginning of construction (BOC) to "restrict the broad use of safe harbors" to meet BOC for 45Y and 48E. Changes to BOC guidance may impact 45Q's long-standing BOC guidance, and work group members discussed submitting a letter to Treasury urging them to maintain legal certainty for CCS investments through BOC guidance.
- **Housekeeping:**
  - **Class VI Wells Report:** EPA's Office of Inspector General released a new [evaluation on EPA's Class VI well program](#), finding that while the agency has increased staffing levels from congressional appropriations through the IIJA and

base appropriations, the agency has not been able to meet its own 24-month review timeline in most cases.

- **Endangerment Finding:** The Coalition issued a [statement](#) on the administration's proposal to rescind the endangerment finding but does not take a position.

## Next Steps

- **Circulate Draft PHMSA Comments:** Coalition staff will share a draft response to the PHMSA repair criteria ANPRM for member input and sign off.
- **Monitor and Respond to GHGRP Rulemaking:** Please continue your outreach to OMB, EPA, and congressional allies; we will prepare to comment if Subpart RR or other aspects related to carbon management are affected. We anticipate seeing the proposed rule before Labor Day.
- **Submit Treasury Letter on Beginning of Construction:** Draft and share with this group a letter urging Treasury to preserve beginning of construction guidance for 45Q which was established in 2020.
- **Review EPA Class VI Report:** Analyze the newly released OIG report on Class VI wells and determine appropriate Coalition response, if any.

## Links & Attachments

- [Coalition's Fact Sheet on GHGRP](#)
- [Coalition's FAQ Document on GHGRP](#)
- [EPA's Office of Inspector General's report on Class VI Wells Program](#)
- PHMSA ANPRMs
  - [Repair Criteria](#)
  - [General Updates](#)
- Attached: Memo on Comparing the 2023 API Safety Standards for CO<sub>2</sub> Pipelines with PHMSA's Proposed Rule from January 2025
- Attached: DRAFT Letter, Beginning of Construction EO
- Attached: Meeting Slides

## Meeting Notes

- **Welcome / Agenda**
  - Meeting frequency is anticipated to increase over the next several months given the amount of regulatory issues facing carbon management following OBBBA.
  - Today's agenda includes:
    - Discussion on two recent PHMSA Advanced Notice of Proposed Rulemakings (ANPRMs) and the Coalition's potential engagement.
    - A brief update on advocacy around the Greenhouse Gas Reporting Program (GHGRP) and its potential repeal.
    - Discussion on the implementation of 45Q, especially regarding the recent executive order on "beginning of construction" and its potential impact on 45Q.
- **Coalition next steps on regulatory front**
  - Much was "left on the cutting room floor" from the previous administration regarding regulatory efforts.
  - These items were touched upon in prior Coalition Policy Blueprints and include:

- **PHMSA safety standards** that the Biden administration was set to issue.
  - **Guidance for recent changes to 45Q**, including those from OBBBA and the 2022 IRA, for which guidance is still pending.
  - **Rulemaking for CO<sub>2</sub> storage in the Outer Continental Shelf**, which was being worked on in the prior administration.
- Coalition is engaging on all these fronts, with the **first two items (PHMSA safety standards and 45Q guidance) being higher in prioritization** due to current administration activities.
  - The legislative work group spent a significant part of 2023 developing high-level permitting principles, which has facilitated deeper engagement with congressional staff on permitting conversations.
  - There's an overlap between unfolding permitting conversations and these regulatory pieces.
- In the second half of the year, Coalition plans to further refining positions on:
  - **Additional CO<sub>2</sub> pipeline safety standards.**
    - Building on prior high-level recommendations to allow more refined engagement in ongoing discussions within the administration or related to PHMSA reauthorization.
  - **Class VI regulations.**
    - Potential modifications to Class VI regulations are being discussed with member offices, either through guidance or legislative efforts.
    - Industry members are also collecting their thoughts on this topic.
- **PHMSA ANPRMs**
  - **Context:**
    - The Coalition began engaging in conversations around pipeline safety in 2023, recognizing its link to CO<sub>2</sub> pipeline system expansion.
    - At the end of the Biden administration, the **PHMSA CO<sub>2</sub> pipeline rule** (which updated safety regimes for CO<sub>2</sub> pipelines) was pre-published but did not appear in the Federal Register, and was subsequently rescinded by the Trump administration.
    - The current administration does **not plan to reissue these rules**, though they may still impact decision-making in state-specific contexts (e.g., California is considering adopting them due to a statewide CO<sub>2</sub> pipeline moratorium until federal rules are finalized).
    - The Trump administration recently issued **two ANPRMs pertinent to this group:**
      - One specific to **repair criteria for hazardous liquid and gas transmission pipelines.**
      - A more general ANPRM reviewing the **existing safety regime for CO<sub>2</sub> pipelines.**
    - Today's discussion focuses on the **ANPRM (repair criteria)** providing an overview of industry comments.
      - General ANPRM is saved for a future dedicated conversation.
      - A table comparing Biden-era regulations, Coalition positions, and industry recommendations (specifically from API) is being developed.
  - **Discussion on Repair Criteria ANPRM**
    - **Objective:**

- Gauge potential Coalition comment contents and identify overarching positions and industry consensus (*NB: the comments submitted to the docket represent a majority of industry or industry associations, but do not reflect the views of other stakeholders, namely labor or civil society/NGOs*).
  - Coalition plans to submit a higher-level comment supporting updating PHMSA safety criteria while proposing effective specific solutions, where warranted.
- **Key Questions Posed by PHMSA and Industry Comments:**
    - **Question 1: Do current criteria strike an appropriate balance between safety benefits and compliance costs?**
      - **General Commenters' View:** Current criteria **do not strike an appropriate balance**.
      - **Context:** The last safety rules were promulgated in 2000, and there have been significant advancements in pipeline repair and anomaly detection technology since then. PHMSA aims to cut costs and update criteria based on technological advances.
      - **API's joint industry comments:**
        - API advocates allowing operators to adopt **performance-based integrity standards**.
          - This would enable the use of advanced technology to assess anomalies along pipelines.
          - It would modernize metal loss, crack, and deformation repair criteria.
        - Request a **new one-year anomaly repair condition**.
          - **Current regulations:** Any discovered anomaly must be addressed immediately.
          - **API's proposal:** Allow a **one-year threshold for minor anomalies** or those addressable remotely with new technology (without needing to excavate the pipeline).
          - **Comment from Coalition member:** This condition applies if an anomaly is found after an In-Line Inspection (ILI) tool run, requiring further investigation (e.g., integrity dig for external corrosion or insufficient Cathodic Protection (CP)).
          - The repair condition would be associated with a **condition-based analysis**.
            - Operators would conduct an integrity dig, gather information about wall loss, and determine if the pipeline can operate at a reduced pressure or if the anomaly was caused by a line strike.
            - The timeline would be set based on the magnitude of the issue and the

ability to operate the pipeline under mitigated risk conditions.

- Operators seek an **extended repair timeline** to balance operational and repair requirements.
  - **Rationale for one year:** Improved ability to determine wall loss and its impact on maximum allowable operating pressure, and how it could lead to failure or not, capitalizing on current technology.
- **Question 2: Do current criteria accommodate innovative technologies and methods for discovery, evaluation, and remediation of anomalies?**
- **General Commenters' View:** No, current criteria do not accommodate innovative technologies sufficiently.
  - **Issue:** PHMSA's interpretation of Section 195.452(h)(1) requires operators to act on data from *any* pipeline assessment, even when testing new tools.
  - **API's Proposed Change:** Operators should be able to designate pipeline assessments using new technology as **R&D efforts**, not initial or periodic assessments that would require immediate action on anomalies. This is referred to as the "false positive issue".
  - **Coalition's interpretation:** Industry seeks a context and timeframe for testing new technologies on pipelines without immediate action, potentially as a secondary system while other detection methods are deployed. This seems interesting and "pro-innovation".
  - **Comment on chat from work group member:** *"Industry should be allowed to do research, and technology should be considered ready to use by PHMSA. This is a solid API recommendation".*
- **Question 3 (PHMSA ANPRM Q6): Should PHMSA consider differences between CO<sub>2</sub> pipelines and natural gas pipelines in reviewing safety and repair criteria? How should it do so?**
- **Coalition's View:** This question was confusing as PHMSA already seems to require developers to consider such differences.
  - **API's Comment:** Current Integrity Management (IM) regulations already require operators to tailor programs to system characteristics. API sees no need to change current regulations.
  - **Characteristics PHMSA requires operators to address:** Differences in Pipeline diameter, operating pressure, product type, pipeline material properties, geographic locations, surrounding receptors, and others.
  - **Coalition's Further Thought:** The differences are currently assessed through generic guidance. More specificity might be required on *how* to account for these differences (e.g., in pipeline diameter, operating pressure).

- *There seems to be no area of contention within the group regarding this.*
- **Question 4 (PHMSA Q10): Should PHMSA amend its regulations governing prioritization of anomaly remediation to prioritize public safety and protection against risks to life and property above other important policy objectives?**
  - **Industry Comment:** No industry comments yet.
  - **Coalition's View:** This relates to the broader discussion on risk assessment and anomaly repair timelines.
  - **Implicit Question:** Balancing public safety and protection against risks versus cost savings.
- **Question 5 (PHMSA ANPRM Section 3D): Breakout Tanks**
  - **Question:** How should Part 195 regulations address assessment and remediation of anomalies in in-service breakout tanks? Would incorporating risk-based inspection intervals from industry standards be appropriate?
  - **Definition:** A tank used to relieve surges in hazardous liquid pipeline systems or to receive/store hazardous liquid (like CO<sub>2</sub>) for re-injection and continued transportation. It serves as temporary holding for excess liquid.
  - **General Commenters' View:** Current PHMSA regulations need updating.
  - **API's Request:** PHMSA should incorporate **forthcoming API comprehensive CO<sub>2</sub> pipeline recommended practice** on breakout tanks. This is expected later this year.
- **Next Steps on PHMSA Comment:**
  - Coalition's comment will be **high-level**.
  - A draft will be circulated with the regulatory and guidance work group shortly for input and sign-off.
- **GHGRP Update**
  - Rule to rescind the GHGRP is currently under review by the Office of Management and Budget (OMB).
  - **Coalition advocacy:**
    - Published a [fact sheet](#) and [FAQ document](#) on the topic.
    - In meetings with OMB and EPA, they were mostly in listening mode, but Coalition reiterated support for **subpart RR** of GHGRP, which relates specifically to carbon management.
  - **Congressional Advocacy:**
    - Making rounds with **congressional champions on the hill**, prioritizing offices on House Energy and Commerce and Senate EPW committees.
    - Ensuring they understand the innate connection between relevant GHGRP subparts and carbon management deployment.
    - Highlighting GHGRP's important role in underpinning **public confidence in 45Q**.
    - Making the case that the broader carbon management industry invested significant time and effort to reach industry consensus on

the **final 2021 Treasury regulations** that reaffirmed the use of subpart RR. Emphasizing that industry alignment took years, and they do not want to undo this progress.

- Efforts are primarily focused on **Democratic offices** but actively seeking **Republican champions** who have rapport with the administration and might push back against a full repeal.
- Talking points, fact sheets, and FAQ documents have been provided to the legislative work group to facilitate these conversations.
- **Future Outlook:**
  - It is assumed that if the proposed rule does not leave critical subparts untouched, the Coalition will likely move to **comment and work with the this work group to do so**.
  - EPA released a rescission of endangerment finding today, since they have been working in tandem with OMB on GHGRP; GHGRP rule might be released **this summer**.
- **45Q Implementation**
  - Brief update on **45Q post OBBA**
  - **New restrictions on Foreign Entities of Concern (FEOC):**
    - Includes specified foreign entities and foreign-influenced entities.
    - Only the **first category applies to 45Q**, which relates to **ownership and control by foreign entities**, including significant creditors with different thresholds.
    - Given recent executive order, interim guidance is likely to be issued within 45 days, followed by finalized guidance.
  - The **Executive Order (EO) on beginning of construction** is focused on 45Y and 48E credits; however, ensuring that new guidance is “appropriate and consistent with applicable law” could impact other tax credits.
- **Implications on Carbon Management Projects from Steptoe**
  - **Background of the EO:**
    - Issued by President Trump on July 7th, directing the Department of Treasury to *strictly enforce* the termination of Clean Energy Production Investment Tax Credits (IRC 45 and 48E).
    - Focus on **preventing manipulation or premature indication of beginning of construction**.
    - Directs Treasury to issue **"new and revised guidance"** to prevent circumvention, artificial acceleration, manipulation of eligibility, and restrict "broad safe harbors" unless a "substantial portion" of the facility has been built.
    - This language is concerning for tax practitioners due to **legal, financial, and regulatory risks** for clean energy developers, including 45Q (carbon capture) and 45V (clean hydrogen) projects, which rely on beginning of construction safe harbor frameworks.
  - **Current Beginning of Construction Frameworks (IRS recognized):**
    - **Physical Work Test:** Satisfied when physical work of a significant nature begins (on-site like foundation building, or off-site like fabrication of project-specific components), evaluated by facts and circumstances.
    - **5% Safe Harbor:** Satisfied when a taxpayer incurs at least **5% of total project costs** in a given year.

- Introduced in IRS Notice 2013-29, reaffirmed in 2016-31 and [2020-12](#). In particular, the Coalition worked to support the provisions in IRS 2020-12 and represented a major victory for the Coalition.
  - Designed to provide a **bright-line rule** for developers and investors, facilitating financial close and tax equity structuring.
  - It is where **most projects are financed** due to ease of meeting at Final Investment Decision (FID).
- Both methods require a **continuity requirement**: Presumed satisfied if the facility is placed in service within a defined period.
  - **Notice 2020-12 (for 45Q)**: Set the continuity safe harbor to **six years**, an improvement over renewables notices. This was a major achievement benefiting 45Q investment.
  - **45Q guidance** also adopted specific definitions and examples for carbon capture projects (e.g., carbon capture equipment, components).
- For 45V (clean hydrogen), no standalone guidance exists, but hydrogen projects will seek similar guidance.
- **Potential Regulatory Changes from EO:**
  - Treasury could **modify or repeal the 5% safe harbor**.
  - Could require a **greater degree of physical construction** before eligibility.
  - Could apply changes **retroactively or quasi-retroactively** to projects in development.
  - Such actions would **increase legal uncertainty** and **undermine established reliance interests**, particularly for CCS and hydrogen projects with long lead times and multi-year procurement cycles.
  - **Difficulty in changing rules for 45Q differently from renewables**: It would be "arbitrary and capricious" unless justified.
  - **Raising the 5% threshold**: While possible and potentially more defensible, it might have less effect as a lot of equipment is ordered at FID.
  - The **5% safe harbor is more vulnerable** than the physical work test because it's an "investment safe harbor" not directly tied to physical construction. However, the physical work test is a "facts and circumstances" determination, making it less desirable for projects needing clear safe harbors for financing.
  - The **six-year continuity safe harbor for 45Q** is also very advantageous and could be vulnerable to changes, as it might be seen as easier to tamper with compared to facts and circumstances determinations.
  - **Any changes to these rules/safe harbors are detrimental to investment**. Less risk and more reliability are needed for tax credit-based investment decisions. Years of experience and project financing under current rules provide confidence for legal opinions.
- **Legal protections:**
  - The **Administrative Procedure Act (APA)** restricts the Treasury Department.
  - Agency actions can be reviewed as arbitrary, capricious, an abuse of discretion, or not in accordance with law.
  - Agencies must acknowledge and explain departures from prior policy and consider reliance interests.



- The [Loper](#) decision means **Chevron deference no longer applies**, allowing courts to review statutory interpretations *de novo*.
  - Any materially different retroactive application of beginning of construction could be vulnerable if Treasury fails to justify departure from precedent, provide transitional relief/grandfathering, or consider taxpayer reliance/investment-backed expectations.
- **Coalition's position:**
  - Preserve the **legal certainty** that exists in current safe harbors for 45Q.
  - Treasury should **not penalize projects under development**.
  - Treasury should **avoid introducing vague "substantial construction" thresholds** that lack legal clarity.
- **Industry response:**
  - Already, significant pushback from the **renewables industry**.
  - The **hydrogen industry** will likely prepare draft guidance similar to 45Q.
  - There's a need for **education** as some members of Congress seem to misunderstand the established nature and legitimacy of current construction tests, which have financed billions of dollars in projects.
  - Considerable activity is underway, though it's relatively recent. Different industries are coordinating and deciding on potential policies.
- **EPA proposal to rescind the endangerment finding**
  - The proposal was released today.
  - Coalition has issued a [statement](#) on its website.
- **Other Updates / Housekeeping**
  - An Inspector General report from **EPA's Office of Inspector General (OIG) on Class VI** was released.
  - Coalition's **annual meeting** is scheduled for **November**. Register [here](#).