



CARBON CAPTURE COALITION

Legislative Work Group: CO₂ Pipeline Call

June 12, 2024

Coalition staff hosted a meeting in which participants discussed a legislative proposal developed by the Bipartisan Policy Center which would create an optional pathway for the federal siting and construction of interstate CO₂ pipelines through the Federal Energy Regulatory Commission (FERC). The proposal, developed in response to growing permitting challenges, expands upon the Coalition's Guiding Principles for Permitting Reform which calls for a pathway for federal siting authority for interstate CO₂ pipelines. Key legislative players, including Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-WV) and Ranking Member John Barrasso (R-WY), are trading paper on a bipartisan permitting reform package, which has included active discussion on federal siting authority for interstate transmission lines and interstate hydrogen pipelines. However, absent from the discussion thus far has been providing similar siting authority for CO₂ pipelines. Though timing on text of a legislative package is uncertain, committee staff on both sides of the aisle are indicating that the Chairman and Ranking Member will release something yet this summer. Opportunities for bipartisan permitting reform tend to be few and far between, making this an urgent situation. The primary purpose of this call was to provide Coalition members with the opportunity to hear a detailed summary of the proposal and ask questions, with the ultimate goal being to achieve consensus for Coalition endorsement of the proposal.

Key Takeaways

- [CCC Guiding Principles](#): Developed last summer to address permitting challenges, included a call for a federal pathway for the siting and construction of interstate CO₂ pipelines.
- **Legislative Proposal: Federal Siting Authority**: Proposal to create an optional pathway for federal siting authority of CO₂ pipelines through FERC. Aims to provide similar parity for CO₂ pipelines in relation to other types of linear infrastructure systems.
- **Bipartisan Interest**: Noted interest from both parties for federal authority in CO₂ pipeline siting; however, broad industry and sectoral support for the proposal needed.

- Coalition Endorsement of the Proposal: Seeking Coalition endorsement of the proposal; no public-facing element at this time, just allow for Coalition staff to share support for the proposal with committee staff and other key offices involved in negotiations; tight review timeline due to possibility of imminent legislative actions and potential permitting package.
- Current Regime: Interstate CO₂ pipelines are currently regulated on a state-by-state basis, unlike natural gas which falls under FERC.
- Legislative Activity: Manchin and Barrasso exchanging actively discussing and trading paper on permitting reform; timing uncertain, but hearing that conversations are moving toward the release of draft legislative text.

Next Steps

- Review Proposal (attached): Please review the proposal and notify Coalition staff by EOD Thursday, June 20 if you are opposed to the Coalition endorsing this proposal. If we do not hear from you by EOD June 20, we will assume you do not have any reservations.
 - If anyone would like to individually endorse the proposal, please contact Xan Fishman at XFishman@bipartisanpolicy.org.

Meeting Notes

- Welcome
- Level-setting; CCC Guiding Principles for Permitting Reform
 - Background context: historically the Coalition has been more active in the incentives space; however, since enactment of Bipartisan Infrastructure Law and Inflation Reduction Act, clear that there are significant permitting hurdles impeding deployment.
 - With this understanding and growing interest to strengthen and reform the nation's permitting regime from Congress, last summer, Coalition formulated the [CCC's Guiding Principles for Permitting](#).
 - Included six high-level principles for members of Congress to consider when developing a bipartisan permitting reform package; majority of principles were broad and overarching; found consensus on one policy principle that was more prescriptive in nature:
 - provide an optional federal pathway for the siting and construction of interstate CO₂ pipelines
 - In discussing principles with congressional staff, particularly committee staff of Senate Energy and Natural Resources and House

Energy & Commerce, we have seen bipartisan interest in advancing a pathway for federal siting authority of these transport systems.

- Specific to this proposal, Bipartisan Policy Center, who was instrumental in helping us form our guiding principles document, developed the attached draft proposal.
 - Aligns very closely with the Coalition's principle regarding interstate CO₂ pipelines.
- Political headwinds:
 - Senators Manchin and Barrasso discussing a comprehensive, bipartisan permitting reform package, which includes similar proposals for other forms of linear infrastructure but noticeably does not reference CO₂ pipelines.
 - The thinking with this proposal is to share the legislative text with committee staff to include in any moving permitting vehicle.
 - Again, in sharing the Coalition's permitting principles with committee staff over the past several months, seems to be real bipartisan interest in the Coalition's guiding principle on an optional federal siting authority.
 - However, we've heard time and again from staff that it is extremely important that they have clear, decisive support from carbon management stakeholders before considering a proposal like this.
- Intent of call is to share the proposal with Coalition legislative work group, provide a platform to ask Xan questions, and hopefully come to a place where the Coalition can formally endorse this specific policy proposal.
- Coalition precedence: we have endorsed specific policies in the past that were part of a larger package, in which that larger package may not have aligned on the whole with Coalition consensus positions.
 - In those instances, we were able to parse out the pieces of the larger package that were important to the Coalition.
 - Ideally, we are hoping to move forward with the endorsement of this specific proposal; this seems to be a logical next step given the Coalition's inclusion of a guiding principle for permitting which broadly mirrors this proposal.
- Coalition Endorsement:
 - A Coalition endorsement of this proposal would simply be for Coalition staff to share our support for the proposal with committee staff and other key offices, as necessary.

- No public-facing aspect of this endorsement at this time.
 - However, IF text of a permitting package is released with this language, the Coalition would likely praise its inclusion with a press release or blog post on the Coalition's website.
 - Urgency: While Manchin and Barrasso have been discussing the potential for this bipartisan package for some time, we've recently heard positive things from both ENR Democrats and Republicans that they believe legislative text will be released in the next few weeks.
 - Coming to a consensus quickly will be pivotal.
- Current permitting regime for CO₂ pipelines (helpful slide attached)
 - Natural gas is currently regulated under the Natural Gas Act; permitting largely lies with FERC.
 - Oil is regulated under the Interstate Commerce Act; siting and construction permitting lies with states while rates and access lie with FERC.
 - Transmission regulated under the Federal Power Act; siting authority state-by-state with a federal FERC backstop authority.
 - Transmission advocating for more federal authority; key goal of climate hawks in permitting debates.
 - Interstate CO₂ pipelines regulated under the Interstate Commerce Termination Clause Act; siting and construction permitting lies with states.
- Legislative Proposal: Optional Federal Siting Authority for Interstate CO₂ Pipelines
 - Legislative proposal aims to create optional federal permitting pathway for interstate CO₂ pipelines through FERC.
 - Provides developers of interstate CO₂ pipelines the option to obtain authorization from FERC to site, construct, and operate these systems.
 - Pipelines that choose to obtain FERC siting authority would be subject to regulation of rates and open access service requirements.
 - Mirrors the intent of the Natural Gas Act. While the proposal takes inspiration from the Natural Gas Act, it does not mirror the language exactly, since rate and access language from NGA is meant for consumer protection. CO₂ is not going into people's homes, going from industrial site to industrial site or to points of sequestration so language more mirrors what's done for oil in the Interstate Commerce Act since more similar end use.
 - The proposal does not regulate existing CO₂ pipelines.

- **OPTIONALITY:** the proposal would not impact development of interstate CO₂ pipeline projects that choose to be constructed on a state-by-state basis.
 - If state-by-state process is working for your company, you can continue to do so. If not, you have the option to move forward with the FERC authority at the outset of the project.
- Questions?
 - C: Proposal necessary for the anticipated expansion of CO₂ transport systems—especially the projects we’ll need, 5-10 years from now. The political opportunity and potential will-power is here now—we need to seize that opportunity.
 - This is the slimmest proposal which fits with what’s already done today. Mirrors existing regulatory frameworks for siting and construction authority at the federal level and the most similar other type of economically type of pipelines, liquid pipelines use the economic and access regulatory framework that already exists, which makes sense.
 - Optionality aspect is how it works at a lot of state levels today. At state level if you want to access siting authority, you need to opt-in for that and then you have obligations at the state regulatory level, which this proposal would just mimic this for the federal level.
 - Natural Petroleum Council also recently released report looking at hydrogen transport systems, which calls for very similar framework for hydrogen pipelines; different processes have come to the same answer.
 - Q: Politics of this, curious as to your understanding on what oil and gas may want in addition to this? Is there some other big piece oil and gas would want as part of the package?
 - A: Broader permitting package will be larger deal, Barrasso’s priorities reflected in SPUR Act (pro oil and gas). Manchin’s priorities have been focused on transmission and pieces of judicial review. Regardless of whether CO₂ pipelines make it into bill, big pieces will be oil and gas, judicial review, and transmission; meant to balance out where each political faction can claim a win. CO₂ a bit less controversial and more bipartisan so not going to be as much of a trade as those other areas
 - A: CO₂ will just be asking for what oil and gas are already afforded.
 - Q: Is this a sweetener to getting permitting done? Is there anyone that will oppose this? Will PHMSA weigh in on this? Are there other key elements of the proposal that could be added or does it need to be adopted wholesale?

- A: Some completely opposed to carbon management, this is enabling infrastructure for that so some will have some baked in oppositions; however, carbon management is broadly bipartisan and has strong champions on both sides of the aisle.
 - A: The bill itself makes sense as a whole, particularly opt-in process for siting, rate and access, etc.
 - There are extraneous policies or other things that could impact this proposal. For instance, if broader package makes changes to judicial review, Clean Water Act, eminent domain considerations, etc., those would be blanket reforms which would in turn impact the elements of this proposal; however, this proposal does not touch or make those changes to those pieces. This is just about creating parity with other forms of transport infrastructure, and ensuring CO₂ pipelines are afforded similar regulatory options.
 - PHMSA will likely not have an opinion regarding this proposal given their role in safety regulation.
- Q: How will this interact with states and counties with moratoriums? Would this override that?
 - A: To BPC's understanding, yes, this legislation would override moratoriums.
 - A: Important to also remember this is only relevant to interstate. pipelines, those that cross between states; intrastate pipelines would still be permitted at the state level.
- C: Have talked to both sides of the aisle, both open to having discussions including this if industry is in support. You don't get a bite at the permitting apple very often, important to ensure we have infrastructure framework in place.
- Q: Could you recap timeline?
 - A: From Coalition point of view, heard from Republican ENR staff that it may be coming in next couple weeks. After this call we will recirculate section by section and redistribute notes, review and let Coalition staff know by June 20 (next Thursday) COB if your organization opposes the Coalition's endorsement of this proposal. At this time not a public facing endorsement, simply to show broad carbon management support for this proposal
- Q: What are the "sticks" for this proposal?
 - A: You would need to do NEPA, and you would need to subject your line to rate and access regulations; which are reasonable and the

same rate and access regulations under the Interstate Commerce Act.

- Q: Have you approached the CCUS Permitting Task Forces on this proposal?
 - A: We have not approached the task forces formally, but have spoken to a majority of stakeholders who sit on those task forces to share the proposal.
- Q: Have any other agencies offered any support of this?
 - A: Haven't run by agency staff, we don't imagine that PHMSA would have opinion on the proposal given their role in regulation is specific to safety.
- If there is a permitting bill and we're not in it, we have no chance in foreseeable future
- Q: Is there possibility here to build coalitions with other likeminded orgs who may want to endorse? Is there an opportunity here to increase broader acceptance of these infrastructure systems?
 - A: Probably not time right now but could make sense to branch out to other non-carbon management related stakeholders later if we are able to secure the Coalition's endorsement.
 - A: From a messaging perspective, would point to our concurrent work around the anticipated PHMSA regulations, we will certainly be responding to those, as well as our recommendations for a PHMSA reauthorization etc.
- The point of this proposal is to create a regulatory framework that will work for CO₂ pipelines as we scale up carbon management for decades to come.
- Next Steps
 - Please review the proposal by EOD Thursday, June 20 and let Coalition staff know if you have any opposition to Coalition endorsement.
 - If we do not hear from you, we will assume you have no opposition to the Coalition endorsing.