



## Legislative Work Group Meeting Wednesday, February 7, 2024

**Summary:** The Carbon Capture Coalition Legislative Work Group met on February 7 to discuss draft Coalition appropriations requests for the Fiscal Year (FY) 2025 cycle. The meeting opened with brief updates from Capitol Hill, including staff indicating progress on FY24 Appropriations, with agreements reached on subcommittee allocations, but potential delays forthcoming due to tight deadlines and the Senate recess. The SFC/W&M Tax Package faces slowed progress following House passage, and staff outlined a potential process for amendments including exploring the possibility of a 45Q-focused amendment. Staff outlined the Coalition's FY25 draft Appropriations requests, which include increased funding levels for carbon management technologies and efforts to streamline permitting processes for carbon storage. We ask that members provide any feedback on the FY25 requests no later than COB February 16.

### Key Next Steps:

- Please provide any feedback to CCC staff on our draft appropriations requests no later than COB, February 16

### Important Documents:

- [Meeting slide deck](#)
- [CCC FY25 Appropriations Request Summary](#)
- Programmatic Request: Carbon Management Technologies (attached)
- Report Language Request: Class VI Injection Well Program (attached)
- Report Language Request: 45Q Guidance & Challenges with Utilization Pathway (attached)
- [Update on Treasury Guidance and Regulation of Clean Energy Tax Credits – Inflation Reduction Act](#)
- [CCC Hill Advocacy Day Sign-Up](#)
- [CO<sub>2</sub>NNECT Storage summit sign-up](#)
- [RFI: Industrial Demonstration & Deployment of Carbon Capture Technologies](#)

### Meeting Notes:

#### Updates from Capitol Hill

- FY24 Appropriations
  - Appropriators reached agreement on 302b allocations
    - Subcommittees have received topline bill allocations which will ideally allow them to make progress toward finalizing FY24 appropriations
  - Laddered CR:
    - First deadline: March 1 (includes Energy & Water bill)
    - Second deadline: March 8 (includes Interior & Environment)
    - May need to punt deadline another time due to Senate being in recess for the next two weeks; time to finalize FY24 is tightening making a punt possible, however headwinds in the House may make this difficult
    - FY25 process has already started as individual offices have already begun to post request deadlines; important to resolve FY24 cycle as soon as possible
- Ukraine/Israel Supplemental + Border Policies
  - Taking up the majority of the oxygen in the Senate

- Will move forward without border provisions
- Difficult House headwinds for supplemental
- Concern about topline spending on defense, if no supplemental; that will be downward pressure on FY24 appropriations which will make that process more difficult
- Senate Finance Committee/Ways & Means Tax Package
  - Timeline/outlook
    - Pace has slowed down; SFC Ranking Member Crapo (R-ID) and others in GOP conference have said they won't move forward without amendments
    - Need to find way forward on amendments that won't kill it in House
    - Likely a post-recess move
    - No energy provisions included in current version
  - Potential for a filed amendment including text of Captured Carbon Utilization Parity Act (S.542/H.R.1262)
    - Anecdotally heard Sen. Cassidy (R-LA) may be interested in filing amendment to include CCU Parity Act
      - This will likely depend on what amendment process ends up looking like
      - Coalition staff meeting with Sen. Cassidy's office next week to clarify if he's interested in filing amendment, and make push to include inflation adjustment in amendment
        - Would want to make sure any amendments carrying Coalition priorities are bipartisan; would also approach Sen. Whitehouse (D-RI) to co-lead amendment, if possible
        - Last we heard from Sen. Whitehouse, he was not intending to file an amendment to avoid rocking the boat with Democratic colleagues
          - Situation is fluid; may be persuaded to co-lead amendment if an effort is already underway
        - **NOTE: May be need for broader Coalition advocacy in the near future, but please keep this note about potential amendment close to the vest until you receive more information from Coalition staff**

## Appropriations

- Overview of FY24 requests and current status
  - **Programmatic Funding Request – Carbon Management Technologies Request level:** \$492,200,000 for “Carbon Management Technologies” at the Office of Fossil Energy and Carbon Management (FECM); \$32,200,000 (7 percent) increase over FY23-enacted levels
    - Includes programs that rely on annual funding; carbon capture, carbon dioxide removal, carbon conversion, carbon transport and storage
      - These represent the foundational programming for carbon management technologies at DOE; these programs are separate from those funded under BIL
    - While FY24 has not yet been finalized, we have energy and water committee report reports from both Senate and House
      - Senate bill: \$462M or \$2M above FY23-enacted levels
      - House bill: \$385,404M or \$75M below FY23-enacted levels
    - Hopeful that Senate number will be included in final agreement, but details still very much being hashed out; will keep group updated as this becomes clearer
  - **Report Language Request – Carbon Utilization Program:** “Of available funds, \$60M for the Carbon Utilization Program”
    - Senate bill: \$50M
    - House bill: \$80,404M
      - Expecting Senate levels (level funding with FY23) to be made in final agreement

- **Report Language Request – Carbon Dioxide Cross-Cutting Initiative:** Requests \$20M of funds provided be dedicated to the CDR competitive purchasing pilot program established under the FY23 omnibus
  - Senate bill: Included
  - House bill: **Not** included
    - Optimistic this will make it into final agreement; request being championed by Sen. Collins (R-ME) who serves as Vice Chair of Senate Appropriations Committee
- Overview of staff-drafted FY25 appropriations requests for consideration
  - In thinking through FY25 cycle, CCC staff have been meeting with various members and partners over the past several weeks to gather information on priorities for this appropriations cycle
    - Following those conversations and taking stock of the priorities that have been outlined in the 2023 Blueprint, as well as other activities we engaged in over the past year, Coalition staff developed 3 requests
  - Programmatic Request: **Increased funding for carbon management technologies at FECM**
    - **Request level: \$494,340,000** for “Carbon Management Technologies” at the Office of Fossil Energy and Carbon Management (FECM); **\$32,340,000 increase** over the FY24 levels identified in the Senate E&W Subcommittee report.
    - **Rationale:** Continue providing funding for core carbon management programs at the Office of Fossil Energy and Carbon Management to ensure that DOE has the resources to carry out programs that operate on funding provided by annual appropriations.
      - Expect this cycle to be just as challenging as FY24; anticipate topline negotiations to be as arduous as last cycle
      - As we saw with the House’s proposed \$75M cut to these programs in their Energy & Water Committee report, we need to make sure that these programs that rely on the annual appropriations are protected
      - Taking a similar approach to this request as we did for FY24; 7 percent increase over FY24 levels identified in Senate Energy & Water report, citing high inflation rates over past several years
        - Inflation argument has generally landed well with Hill staff
  - Report Language Request: **Create a predictable timeline for review and determination on completed Class VI applications**
    - **Report language:** Within the Office of Ground Water and Drinking Water, the Committee recommends that the Agency review and provide a final decision on individual Class VI injection well applications within 18 months of having been deemed ‘administratively complete’ by the Underground Injection Control Program. Within 90 days of enactment, EPA will brief the Committee on how the UIC program intends to meet this timeline of review.
    - **Rationale:** Class VI well permits are the lynchpin to scaling geologic storage to climate scale. Project developers require certainty and predictability to move forward to secure project financing without sacrificing a rigorous review process.
    - Major topic of discussion in conversations on Hill is how members can be helpful to move the needle on Class VI permits; Provided report language aims at creating certainty in the review process of Class VI injection well permits
    - For background and context, in a report to Congress in 2022, EPA signaled that they intended to review complete applications within 2 years, however, most permits are requiring several years to secure
    - Our thinking to provide certainty in the process, is to put a recommended timeline in report language so that there is something to point to in the congressional record in terms of a timeline and a political push for timely review of these applications
    - In multiple conversations with Coalition members and other partners, 18 months seems achievable for review

- Comment: Appreciate the support of Class VI and support this report language, but will this also come with funding request?
- Response: Talked through that internally and in regular communication with UIC staff. From Coalition staff perspective, not entirely clear what they're doing with current annual appropriations plus-ups we secured. Not so sure funding is actual concern. On state side just saw them get money out the door for state regranting program so want to see what comes out of that, imagine there may need to be additional funding there but too early to say what next funding need is
  - Comment: Concerned if not chorus saying levels need to be maintained may be area for cuts
    - Response: Because UIC pretty low funding level Class VI not likely to be a target. Separately in conversations with bipartisan appropriators always very supportive of program
    - Response: Organizations in the innovation table echoed that they don't see Class VI as vulnerable
- Comment: Have heard on average each Class VI well application takes 1500 hours to review, given difficulty permitting at EPA wonder about capacity to complete process permits.
- Response: Coalition staff understanding is that EPA is already shopping a lot of technical review to national labs; not sure if it would be best to hire at EPA or have more go to labs to get reviews done in reasonable timeframes, but again, this appropriations request is more of a political signal about creating certainty in the review process Report Language Request: **Finalize guidance on 45Q and address challenges with electing the carbon utilization pathway**
- This final report language request is really two-fold:
  - The first piece of language is to issue guidance on the most recent enhancements to the 45Q tax credit – still awaiting final guidance from the IRA-era changes to 45Q and we've heard this delay in final guidance is impacting the ability to secure project financing
  - The second piece is an issue that the carbon reuse work group has been discussing for some time now, that specifically relates to challenges with electing 45Q under the utilization pathway
- **Report language:** The Committee recognizes the important role carbon utilization technologies can play in achieving critical greenhouse gas emissions reductions. In addition to issuing guidance on the most recent enhancements to the federal Section 45Q tax credit, the Department should finalize guidance associated with electing the federal Section 45Q tax credit under the utilization pathway, including addressing barriers to electing the credit. Final guidance is necessary to provide clarity and certainty for carbon utilization project developers. The Committee further recommends that within final guidance, Treasury eliminate the current pre-approval requirement for lifecycle analysis (LCA) in Treas. Reg. § 1.45Q-4(c)(6) and give taxpayers an option to obtain pre-approval of the LCA before claiming section 45Q credits.
- **Rationale:** In addition to urgently needing guidance on the most recent enhancements to the 45Q tax credit from the Treasury, it has become apparent that carbon reuse projects are largely sitting on the sidelines -- unable to monetize the utilization pathway due to regulatory barriers. Treasury has an opportunity to address some of these issues in forthcoming 45Q guidance.
  - The challenge that this report language aims to address is with the requirement that utilization projects under 45Q must obtain pre-approval of their LCA, using a full year of real-world operating data
    - Meaning, that if you, as a utilization project developer are intending to claim 45Q, you must invest in the utilization activities before knowing if

you will be able to claim the credit—putting a lot of projects in a difficult position

- This report language requests that in final guidance, this pre-approval requirement be eliminated; this is something we also included in our most recent comments to Treasury on 45Q guidance
- Pre-approval against legislative intent of 45Q; supposed to provide incentive but this LCA pre-approval process undermines ability to reuse carbon in commercial markets. Statute has always had LCA, but pre-approval was inserted in regulation.
- Very few projects have received approval on their LCAs since statute passed. Can take many months to get through DOE review, no appeal procedure, so rejections cause projects to start all over again. Number of other frustrations with pre-approval as well. Actual data vs projected data creates difficulty, if projected data allowed, a developer could elect to have a technical review done before an investment were made
- Language intended to create marker for Treasury to withdraw pre-approval requirement so utilization credit can create incentive and not obstacle to investment
- Reiterated that this would **not** remove requirement for LCA. Additionally, some project developers will want ability for technical review for LCA, otherwise LCA would be filed when tax credit is applied for but gives that optionality
- Next Steps:
  - **Week of February 7** – CCC staff will send draft requests with full description & justifications
    - Have also discussed two other requests that need more development and time to gather additional information
      - First is a potential request for additional FTEs at PHMSA to oversee safe operation of CO<sub>2</sub> pipelines
        - We heard from PHMSA Deputy Administrator Brown in an E&C energy subcommittee hearing last month that PHMSA’s jurisdiction has been expanded due to IRA and IIJA, and with that they are expected to do more work with the same funding
        - Trying to get handle on how many full-time staff currently dedicated to this issue at PHMSA and what the administration needs to continue to ensure proper oversight
        - Possible this gets punted to future process due to tight timeline
      - Second potential request is for the CDR purchasing pilot program, which we made a request for in the FY24 cycle; have explored additional request for this program this cycle
      - Want to make sure we’re aligned with champions of this program who are still developing a request. Will share more information when we have it
    - **Please provide any feedback to CCC staff on these requests no later than COB, February 16**
  - **February 21 Legislative Work Group Call** – CCC staff will share **final** requests with work group and begin filing in March

## Housekeeping

- RFI: Industrial Demonstration & Deployment of Carbon Capture Technologies
  - Deadline: March 14
  - Released at end of January, questions primarily technical and unlikely Coalition provides response. Encourage industry members to respond
- CCC Capitol Hill Advocacy Day: Wednesday, May 15
- CO<sub>2</sub>NNECT Storage Summit: Wednesday, April 10