

Biden Administration Affirms Burgeoning Interest in Carbon Capture Investments

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On June 30, 2021, the White House Council on Environmental Quality (“CEQ”) issued a [Report](#) to Congress on Carbon Capture, Utilization, and Sequestration (“CCUS”). The overall goal of the report is to outline the administration’s commitment to the responsible development and deployment of CCUS as needed to decarbonize the U.S. economy by mid-century. To that end, the report identifies opportunities to improve existing infrastructure and incentives relating to carbon capture, such as:

- **Improving Staff Capacity and Training for Permitting.** The report suggests several opportunities for improving the efficiency of permitting carbon capture projects, including training for Class VI Underground Injection Control (“UIC”) well permits, developing workflow planning strategies for permit writers and additional training on subsurface transport over multiple phases (i.e., the study of the performance and environmental impact of geologic sequestration of CO₂). The report also notes that carbon capture projects are eligible for the FAST-41 permitting process, which aims to improve interagency coordination and increase the efficiency of permitting for significant infrastructure projects.
- **Developing Programmatic NEPA Reviews and Guidance.** Many of the federal agency reviews and authorizations required for carbon capture projects are subject to the National Environmental Policy Act (“NEPA”). CEQ suggests convening federal agencies to identify areas where development of programmatic environmental impact statements or environmental assessments could facilitate more streamlined project-specific reviews and share lessons learned. CEQ could also develop and provide resources that are designed to assist agencies in implementing emerging NEPA guidance.
- **Further Study and Development of Regulations Relating to Capture, Transportation, Utilization, and Sequestration of CO₂.** The report suggests further analysis of the impacts of, and development of additional regulations

relating to, the capture, transportation, utilization and sequestration of CO₂, including analysis of the potential air emissions impacts from carbon capture retrofits on industrial facilities, developing a more comprehensive network of regulations relating to transportation (e.g., Surface Transportation Board or PHMSA regulations specifically covering CO₂ transportation), development of regulations to support early markets for CO₂ utilization (e.g., developing pathways for carbon capture projects under the Renewable Fuel Standard), and developing a process for regulating carbon capture development and leasing on federal lands.

- **Leveraging Existing and Developing New Incentive Programs.** The report suggests utilizing existing incentive programs to further advancement of carbon capture technologies, including increased funding for the Department of Energy’s (“DOE”) Office of Fossil Energy and Carbon Management (which is supported by the Administration’s FY 2022 budget request), utilizing loans and credits available through the DOE’s Loan Program Office and the U.S. Department of Agriculture’s Rural Development Program loans, supporting use of tax incentives (e.g., Section 45Q, Section 48A Qualifying Advanced Coal Project Credits, and Section 48C tax credits for investments in facilities that manufacture clean energy technologies). The report also describes other incentives that are under consideration at the federal level that could be leveraged in the future, including the Storing CO₂ And Lowering Emissions (“SCALE”) Act (which is designed to support CO₂ transportation infrastructure projects), reforms to Section 45Q, which provides tax credits for CO₂ sequestration, and the Energy Efficiency and Clean Electricity Standard.

The report is clear evidence of the Biden administration’s intent to advance CCUS technologies and streamline federal regulatory processes. The practical implications of this report remain to be seen and will be outlined in subsequent detailed guidance and regulations. Moving forward, CEQ plans to establish an interagency working group to develop guidance and recommendations based on this report, which it plans to issue to agencies by the end of 2021.

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