Congress of the United States

Washington, DC 20515

September 21, 2023

The President
The White House
Washington DC 20500

Dear Mr. President,

While we have a range of views regarding carbon capture utilization and sequestration (CCUS) and hydrogen technology, we agree that infrastructure for these technologies should be deployed only with the highest environmental safeguards and would urge strongly against advancing deployment of these technologies without a safe and protective regulatory framework. We accordingly would appreciate responses to the following questions regarding the work of the many agencies engaged with respect to CCUS and hydrogen technology and infrastructure:

Whole-of-government coordination

- How is the Administration reconciling the physics of CO_2 removal from the atmosphere with congressional guidance that provide tax-advantages to technologies like Enhanced Oil Recovery that do not lead to a net reduction in atmospheric GHG concentrations?
- What mechanisms are being used to coordinate between the Council on Environmental Quality (CEQ), the Department of Energy (DOE), the Environmental Protection Agency (EPA), the Internal Revenue Service (IRS), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the other federal agencies involved in the deployment and regulation of CCUS and hydrogen technologies to provide for a coordinated whole-of-government approach to their collective work?
- What mechanisms are being used to ensure coordinated oversight of state implementation of CCUS and hydrogen programs?
- What mechanisms are being used to facilitate transparency and public input into the wide range of federal decisions involving the deployment and regulation of CCUS and hydrogen technologies?
- Is the federal government developing an agreed-upon government-wide definition of "permanent storage" of carbon dioxide (CO_2)?
- Given the range of federal subsidies for CCUS and hydrogen technologies and infrastructure, what measures are being put in place to protect against the financial risk of unnecessary or overbuilt capacity and stranded assets?
- What measures are being used to ensure that private entities receiving federal support for the deployment of CCUS or hydrogen technologies and infrastructure will carry out their obligations required as a condition of that support?

NEPA implementation

- To what extent will CCUS and hydrogen-related activities and funding be considered major federal actions under the National Environmental Policy Act (NEPA) and therefore subject to the full environmental impact statement (EIS) process?
- What measures are being used to provide agencies and the public opportunities to engage and provide input when the full EIS process is not being utilized?
- Will the US Army Corps of Engineers consider requiring individual permit coverage for carbon dioxide pipelines?

- If the Corps allows coverage under Nationwide Permit 58 for pipeline projects, how will it provide agencies and the public an opportunity to provide input regarding the unique dynamics pipeline crossings may have on individual waterways?

EPA programs

- What measures are being taken to ensure that CCUS projects permanently remove CO2 from the atmosphere?
- What measures are being taken by the EPA to ensure that CCUS- and hydrogen-related activities will not add to the environmental burdens of already-overburdened communities?
- What CO_2 monitoring, verification and certification mechanisms will be put in place that can be used by EPA, the IRS, and other agencies?
- Will EPA develop a tracking mechanism, analogous to the hazardous waste manifest system, from the point of CO_2 capture to the point of permanent sequestration?
- Does EPA plan to update the following 2011 guidance?: "Geologic Sequestration of Carbon Dioxide – UIC Quick Reference Guide – Additional Tools for UIC Program Directors Incorporating Environmental Justice Considerations into the Class VI Injection Well Permitting Process" (EPA 816-R-11-002)
- What measures are being taken to address the potential impact that CCUS- and hydrogen-related activities may have on local criteria air pollutants and other environmental stressors?
- Is EPA considering offering support for community engagement and environmental monitoring at carbon injection sites?
- What measures are being taken to ensure against migration of injected CO_2 into groundwater?
- What measures are being taken to ensure that CO_2 injection does not increase seismicity?
- What measures are being taken to prevent existing abandoned oil and gas wells from serving as routes for carbon migration and leakage from intended storage sites?
- What measures are being taken to ensure that metals and other contaminants in brine produced during the injection process are properly disposed of?
- Has EPA considered requiring the establishment of buffer areas around carbon injection sites, as is being done in California for oil and gas operations?
- What measures are being taken to ensure that states that receive primacy under the Safe Drinking Water Act for the regulation of CO_2 injection meet the most rigorous standards?
- What has been the experience of EPA in its oversight of the North Dakota and Wyoming programs, which have been granted primacy?
- Will states be allowed to transfer liability from operators to the public by limiting liability for CO_2 leaks to short periods of time (e.g., 10 years), given the geologic timescale for which climate-relevant sequestration must be ensured?

Pipeline safety

- Given that PHMSA currently only regulates CO_2 pipelines if they transport CO_2 as a supercritical fluid of more than 90% purity, how is PHMSA planning to regulate pipelines transporting CO_2 as a gas or liquid with less than 90% purity?
- Is PHMSA considering requiring that odorants be added to CO_2 and hydrogen, as required with natural gas?
- What measures are being taken by PHMSA to ensure that CO_2 pipelines do not rupture or unzip?
- Is PHMSA considering establishing standards for the toxic and corrosive contaminants that may be present in the pipelines?

- Will PHMSA evaluate the interaction of multiple contaminates that could reasonably occur in gases added to pipelines from multiple sources and how those contaminates and interaction of these contaminates can impact pipeline safety?
- Given evidence that hydrogen is an indirect global warming forcer, how are PHMSA and other agencies preparing to address the leakage risks associated with the small hydrogen gas molecule?
- Is the Federal Energy Regulatory Commission's regulation of natural gas pipelines under the Natural Gas Act being considered as a model for regulating interstate CO_2 and hydrogen infrastructure?
- How is PHMSA updating dispersion modeling of potential CO_2 pipeline ruptures?
- What steps are the administration taking to ensure that first responders have resourses necessary to address unique issues of CO_2 pipeline ruptures, such as the potential inoperability of respirators and vehicles with internal combustion engines?

Offshore CO_2 injection

- What measures are being used to address the complexities and uncertainties associated with CO_2 injection in the offshore environment?
- What measures are being taken to prevent existing abandoned oil and gas wells from serving as a route for carbon migration and leakage from intended storage sites?

Tax credits and grants under the previous administration

- What is the IRS doing to prevent a repeat of the issues regarding the previous administration's oversight of production tax credits available for CCUS, as identified by the Inspector General of the Treasury Department?
- What has the IRS done to reclaim any tax credits that may have been claimed inappropriately under the previous administration and to hold any parties accountable for possible fraud?
- What is the DOE doing to prevent a repeat of the issues regarding the previous administration's issuance of grants for CCUS, as identified by the General Accounting Office?

We look forward to your responses to these questions. Please contact Nikki Roy (nikki.roy@mail.house.gov) on the staff of Rep. Casten or Shane Trimmer (shane.trimmer@mail.house.gov) with Rep. Huffman with any questions.

Sincerely,

Sean Casten
Member of Congress

Jared Huffman
Member of Congress

CC: The Honorable Brenda Mallory
Chair, Council on Environmental Quality

The Honorable Jennifer Granholm
Secretary, Department of Energy

The Honorable Michael S. Regan
Administrator, Environmental Protection Agency

The Honorable Danny Werfel
Commissioner, Internal Revenue Service

The Honorable Tristan Brown
Deputy Administrator, Pipeline and Hazardous Materials Safety Administration