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Bipartisan Senate Infrastructure Bill Promotes Carbon Capture, Utilization, and Sequestration

Few issues in Washington have been as elusive as passage of legislation to address the nation's aging infrastructure. For a number of years, the White House, Senators and Members of Congress have announced plans to spend billions of dollars to repair bridges, roads, waterways as well as to build information infrastructure, such as expansion of broadband capability to rural areas. More recently, many have called upon Congress to include energy production in infrastructure legislation, acknowledging the dynamic interplay between modes of transportation and the energy that powers them. In each of those instances, for a number of reasons, once the fanfare of a "major infrastructure announcement" faded away, the issue moved to the back burner, only to be resurrected again with the same end result.

It looks like this time will be different. After the House of Representatives passed its own \$715 billion "INVEST in America" infrastructure bill in July, the Biden Administration, working with a bipartisan coalition of Senators, successfully developed what was being called the "BIF"—the bipartisan infrastructure bill. The BIF is a \$550 billion package that addresses what is traditionally viewed as infrastructure, with a 21st Century update, that includes funding for building out broadband capability and boosting new energy sources. On August 10, 2021, the Senate passed the bill (the "Infrastructure Act") and sent it back to the House. The House recently decided to vote up or down on the Senate's version by September 27, 2021. There will be no opportunity for amendments, so what is currently in the Senate bill will either be passed as is or rejected. It is expected to pass.

Energy plays a major role in the Infrastructure Act, as the bipartisan supporters seek to address environmental concerns through the promotion of new and cleaner sources of energy. One key area addressed in the bill is the development of carbon capture, utilization and sequestration ("CCUS").



The Infrastructure Act contains a number of provisions designed to promote the use of CCUS.

- **Carbon Dioxide Transportation Infrastructure Finance and Innovation (“CIFIA Program”).** The Secretary of Energy (“Secretary”) shall establish and carry out a carbon dioxide transportation infrastructure finance and innovation program, under which the Secretary shall provide for eligible projects either Federal credit instruments or a grant (or both). Priority will be given to projects that: (a) consist of large-capacity, common carrier infrastructure; (b) have demonstrated demand for use of the infrastructure by associated projects that capture carbon dioxide from anthropogenic sources or ambient air; (c) enable geographical diversity in associated projects that capture carbon dioxide from anthropogenic sources or ambient air, with the goal of supporting projects in all major carbon dioxide-emitting regions of the United States; and (d) are sited within, or adjacent to, existing pipeline or other linear infrastructure corridors, in a manner that minimizes environmental disturbance and other siting concerns.
- **Carbon Storage Validation and Testing.** The Secretary shall establish a commercialization program under which the Secretary shall provide funding for the development of new or expanded commercial large-scale carbon sequestration projects and associated carbon dioxide transport infrastructure, including funding for the feasibility, site characterization, permitting, and construction stages of project development.
- **Secure Geologic Storage Permitting.** The EPA Administrator is appropriated \$5 million for each of fiscal years 2022 through 2026 for the permitting of Class VI wells by the Administrator for the injection of carbon dioxide for the purpose of geologic sequestration. The EPA Administrator also shall award grants to States that receive approval of the EPA Administrator for a State permitting program for Class VI wells.
- **Geologic Carbon Sequestration on the Outer Continental Shelf.** The Infrastructure Act amends the Outer Continental Shelf Lands Act to allow the Department of the Interior to permit injection of a carbon dioxide stream into sub-seabed geologic formations for the purpose of long-term carbon sequestration.
- **Carbon Removal.** The Secretary shall provide funding for eligible projects that contribute to the development of 4 regional direct air capture hubs each of which: (a) facilitates the deployment of direct air capture projects; (b) has the capacity to capture and sequester, utilize, or sequester and utilize at least 1,000,000 metric tons of carbon dioxide from the atmosphere annually from a single unit or multiple interconnected units; (c) demonstrates the capture, processing, delivery, and sequestration or end use of captured carbon; and (d) could be developed into a regional or interregional carbon network to facilitate sequestration or carbon utilization. The Secretary shall solicit applications for funding of eligible projects within 180 days of enactment and select eligible projects within three years of the deadline for submitting proposals.
- **New Programs.** The Act also contains provisions to establish and promote Carbon Utilization Programs and Carbon Capture Technology Programs.

All eyes are now on the House. As previously stated, the House has adopted a resolution under which it has committed to voting on the infrastructure bill by September 27th of this year. Most believe that it will pass. Because of that, anyone interested in the CCUS provisions would be wise to study them carefully as it is likely they will soon become law.

We will continue to monitor the legislation and report on developments as they occur.



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