

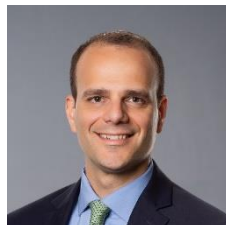


An Update on the Status of 45Q and How to Prepare for its Usage

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Durham C. McCormick, Jr.
McGuireWoods
Partner
dmccormick@mcguirewoods.com



Ryan M. Bernstein
McGuireWoods Consulting LLC
Sr. VP, Federal Public Affairs
rbernstein@mwc llc.com



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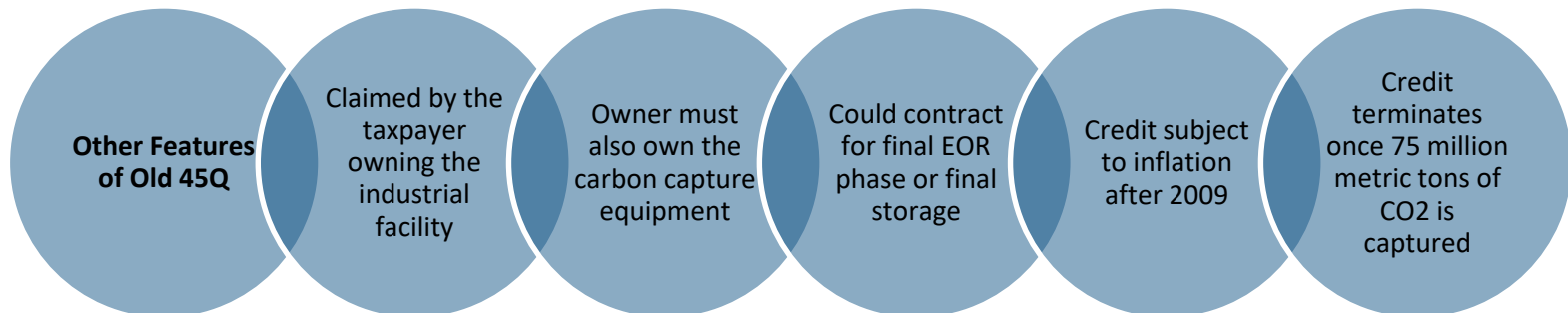
Section 45Q – Tax Credits for Carbon Capture, Utilization and Storage

- Enacted as a policy to incentivize private construction and deployment of carbon capture and sequestration projects
- Originally enacted in 2008 and amended in 2009 (“Old 45Q”)
- Amended in the Bipartisan Budget Act of 2018, which became law on Feb. 9, 2018 (“New 45Q”)



Old 45Q - Features

- **Enhanced Oil or Natural Gas Recovery Projects (EORs)**
 - \$10 per metric ton of CO₂ captured and injected in EORs
- **Storage Projects**
 - \$20 per metric ton of CO₂ captured and injected into secure geological storages



Old 45Q – Flaws

- **75 Million Metric Ton Cap**
 - Uncertainty hurt third party project financing
- **Restricted Ownership to Industrial Facility Owner**
 - Third party owners of the carbon capture equipment could not claim the credit
 - Credit had to be monetized by the industrial facility owner
- **Applied to Industrial Facilities Where At Least 500,000 Metric Tons of Carbon Dioxide are Capture Annually**

New 45Q - Improvements

- **EOR**
 - Increased from \$10 to \$35 per metric ton
- **Storage Project**
 - Increased from \$20 to \$50 per metric ton
- **75 Million Metric Ton Cap Removed; Replaced with 12-Year Tax Credit Term**
 - 12-year term begins on the date the carbon capture equipment is placed in service
- **Expanded to Include All Carbon Oxides**
- **Changed Taxpayer Able to Claim the Credit from the Industrial Facility Owner to the Capture Equipment Owner**

New 45Q – Additional Features

- **Requires Project to Begin Construction Before End of 2023**
- **Adds Direct Air Capture as Qualifying Facility**
- **Adds “Utilization” Concept**
 - Carbon oxide can be used to grow algae, bacteria, or converted into a storage chemical or other commercial purpose
- **Creates Tiers of Qualifying Facilities**
 - Capture at least 25,000 metric tons annually from facilities emitting less than 500,000 metric tons of carbon oxide annually
 - Capture at least 500,000 metric tons annually from an electrical generation facility
 - Capture at least 100,000 metric tons from all other facilities, including direct air capture facilities

Department of Energy Involvement

- **Rulemaking of “Secure Geological Storage” Requirements**
 - Includes both EOR and tertiary storage
- **Rulemaking of “Measurement” Requirements**
 - Determining what amount of carbon oxide is stored and not later released
- **Other Rulemaking**



Congressional Action and FUTURE Action

- **Future Act (S.1535)**

- Bipartisan support 17 Democrats 6 Republicans and 1 Independent original cosponsors

Sen. Heitkamp	Sen. Whitehouse
Sen. Capito	Sen. Barrasso

- **Carbon Capture Act (HR. 3761)**

- Bipartisan support 35 Republicans and 15 Democrats

Rep. Conaway	Rep. Barton
Rep. Simena	Rep. Jackson Lee

- **Bipartisan Budget Act of 2018**

Building off the FUTURE Act

- **Clarify the Rules to Access the Credit – IRS**
 - EOR
 - Liability
- **Extend the January 1, 2024 Construction Deadline**
- **DOE and Private Research, Development, and Demonstration Funding**
- **Possible Application to Retrofitting Coal Plants**
- **Infrastructure Planning and Siting**
- **Additional Storage Options**
- **Increase Transferability/Refundability of the 45Q Credit**

Proposed CCUS Expansion Legislation

USE IT Act (S. 383, H.R.1166)

- Authorizes money for technical and financial assistance to CO2 utilization projects and grants for direct air capture research; classify CO2 pipelines and other CCUS projects as “covered projects” under the Fixing America’s Surface Transportation (FAST) Act.
- Provisions included in Senate NDAA

EFFECT Act (S.1201, H.R. 3607)

- Bill would expand the DOE’s fossil energy research and development programs and establish new R&D programs for carbon capture, utilization, storage, and removal.

Carbon Capture Modernization Act (S. 407, HR. 1796)

- Bill would modify the Section 48A Advanced Coal Tax Credit to make retrofitted coal plants eligible to tax credit.

Carbon Capture Improvement Act (S. 1763, HR. 3861)

- Bill authorizes the issuance of tax-exempt facility bonds for the financing of qualified carbon dioxide capture facilities

CO2 Regulatory Certainty Act (S. 2263)

- Designates and clarifies standards used for monitoring requirements under UU (EOR) and RR (Storage)

IRS Issues Request for Comments

- On May 2, 2019 the IRS requested comments from taxpayers on 45Q
- Comment period is now closed
- Expect IRS Proposed Regulation addressing some of these topics:
 - Secure Geological Storage.
 - Begin Construction.
 - Measurement of Utilized Carbon Oxide.
 - Recapture of Credits if the carbon oxide ceases to be captured.
 - Lifecycle Emissions.
 - Requirements for third party contracts to store captured carbon oxide.
 - Tax equity structures and financing assurances.

Questions or Comments?

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