

Part III - Administrative, Procedural, and Miscellaneous

Safe Harbor for the Credit for Carbon Oxide Sequestration under Section 45Q for Qualified Carbon Oxide Disposed of in Secure Geological Storage in Calendar Year 2025

Notice 2026-1

SECTION 1. PURPOSE

This notice provides interim guidance, pending the issuance of forthcoming proposed regulations, relating to the credit for carbon oxide sequestration under section 45Q (§ 45Q credit) of the Internal Revenue Code (Code)¹ in light of the Environmental Protection Agency's (EPA) proposed regulations to remove reporting obligations regarding the geological sequestration of carbon dioxide imposed under subpart RR of 40 CFR part 98 (subpart RR). See 90 F.R. 44591 (Sept. 16, 2025). Specifically, this notice provides a safe harbor for determining eligibility for the § 45Q credit for qualified carbon oxide that is captured and disposed of in secure geological storage (and carbon oxide described in § 1.45Q-2(h)(5)) and not used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project during calendar year 2025 (Calendar Year 2025 Secure Geological Storage) in the event the EPA does not launch the electronic Greenhouse Gas Reporting Tool (e-GGRT) for filers to prepare and submit information

¹ Unless otherwise specified, all "section" or "§" references are to the Code or the Income Tax Regulations (26 CFR part 1).

required under subpart RR for reporting year 2025 by June 10, 2026. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) expect that the forthcoming proposed regulations will propose updated requirements for taxpayers claiming the credit for secure geological storage after the 2025 calendar year. Taxpayers may rely on the safe harbor and guidance described in section 3 of this notice to demonstrate compliance with the subpart RR requirements of § 1.45Q-3(b)(1)(ii) or 1.45Q-2(h)(5)(iii), as applicable, and § 1.45Q-3(d), for purposes of determining the § 45Q credit with respect to 2025 Calendar Year Secure Geological Storage.

SECTION 2. BACKGROUND

.01 Section 45Q

(1) Section 45Q was added to the Code by § 115 of Division B of the Energy Improvement and Extension Act of 2008, Pub. L. 110-343, 122 Stat. 3765, 3829 (Oct. 3, 2008). Section 45Q was amended a number of times thereafter, including most recently by § 70522 of Public Law 119-21, 139 Stat. 72, 279 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).²

(2) Section 45Q(a)(1) allows a credit of \$20 per metric ton of qualified carbon oxide (i) captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility before February 9, 2018; (ii) disposed of by the taxpayer in secure geological storage; and (iii) neither used by the taxpayer as a tertiary

² Section 70522 of the OBBBA modified section 45Q to disallow the credit if the taxpayer is a specified foreign entity as defined in section 7701(a)(51)(B) of the Code or a foreign influenced entity as defined in section 7701(a)(51)(D), determined without regard to clause (i)(II) thereof, for taxable years beginning after July 4, 2025. Section 70522 of the OBBBA also modified section 45Q to establish parity between the credit amount for the different uses and utilization of qualified carbon oxide and the credit amount for disposal in secure geological storage for facilities or equipment placed in service after July 4, 2025..

injectant in a qualified enhanced oil or natural gas recovery project nor utilized in a manner described in section 45Q(f)(5).

(3) Section 45Q(a)(2) allows a credit of \$10 per metric ton of qualified carbon oxide (i) captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility before February 9, 2018; and (ii) either (A) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and disposed of by the taxpayer in secure geological storage; or (B) utilized by the taxpayer in a manner described in section 45Q(f)(5).

(4) Section 45Q(a)(3) allows a credit of the applicable dollar amount (as determined under section 45Q(b)(1)) per metric ton of qualified carbon oxide captured by the taxpayer using carbon capture equipment which is originally placed in service at a qualified facility on or after February 9, 2018, during the 12-year period beginning on the date the equipment was originally placed in service, and (i) disposed of by the taxpayer in secure geological storage, (ii) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and disposed of by the taxpayer in secure geological storage, or (iii) utilized by the taxpayer in a manner described in section 45Q(f)(5).

(5) Section 45Q(f)(2) directs the Secretary of the Treasury or the Secretary's delegate (Secretary), in consultation with the EPA, the Secretary of Energy, and the Secretary of the Interior, to establish regulations for determining adequate security measures for the geological storage of qualified carbon oxide under section 45Q(a) such that the qualified carbon oxide does not escape into the atmosphere.

Section 45Q(f)(2) further provides that the term "geological storage of qualified carbon

oxide” includes storage at deep saline formations, oil and gas reservoirs, and unminable coal seams under such conditions as the Secretary may determine under such regulations.

(6) On June 2, 2020, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-112339-19) in the *Federal Register* (85 F.R. 34050) under section 45Q. After consideration of all comments received in response to the proposed regulations, on January 15, 2021, the Treasury Department and the IRS, in consultation with the EPA, Department of Energy, and the Department of the Interior, published final regulations in the *Federal Register* under section 45Q. See T.D. 9944; 86 F.R. 4728, as corrected in 86 F.R. 16530 (March 30, 2021).

(7) Section 1.45Q-3(a) provides that, in general, to qualify for the § 45Q credit, a taxpayer must either physically or contractually dispose of captured qualified carbon oxide in secure geological storage in the manner provided in § 1.45Q-3(b), or utilize qualified carbon oxide in a manner conforming with section 45Q(f)(5) and § 1.45Q-4. Secure geological storage includes, but is not limited to, storage at deep saline formations, oil and gas reservoirs, and unminable coal seams.

(8) Section 1.45Q-3(b) provides that for purposes of the § 45Q credit, qualified carbon oxide is considered disposed of by the taxpayer in secure geological storage such that the qualified carbon oxide does not escape into the atmosphere if the qualified carbon oxide is (1) injected into a well that (i) complies with applicable Underground Injection Control or other regulations, located onshore or offshore under submerged lands within the territorial jurisdiction of States or federal waters, and (ii) is not used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project, in

compliance with applicable requirements under subpart RR; or (2) injected into a well that (i) complies with applicable Underground Injection Control or other regulations, is located onshore or offshore under submerged lands within the territorial jurisdiction of States or Federal waters, and (ii) is used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and stored in compliance with applicable requirements under subpart RR, or the International Organization for Standardization (ISO) standards endorsed by the American National Standards Institute (ANSI) under CSA/ANSI ISO 27916:2019, Carbon dioxide capture, transportation and geological storage—Carbon dioxide storage using enhanced oil recovery (CO₂-EOR) (CSA/ANSI ISO 27916:2019).

(9) Section 1.45Q-2(h)(5) provides that, in general, carbon oxide that is injected into an oil reservoir that is not a qualified enhanced oil recovery project under section 43(c)(2) of the Code due to circumstances such as the first injection of a tertiary injectant occurring before 1991, or because a petroleum engineer's certification was not timely filed, cannot be treated as qualified carbon oxide, disposed of in secure geological storage, or utilized in a manner described in section 45Q(f)(5). Section 1.45Q-2(h)(5) does not apply to an oil reservoir if: (i) the reservoir has permanently ceased oil production; (ii) the operator has obtained an Underground Injection Control Class VI permit; and (iii) the operator complies with subpart RR.

(10) Section 1.45Q-3(d) provides that for qualified enhanced oil or natural gas recovery projects in which the taxpayer reported volumes of carbon oxide to the EPA pursuant to subpart RR, the taxpayer may self-certify the volume of qualified carbon oxide claimed for purposes of section 45Q. For qualified enhanced oil or natural gas

recovery projects in which the taxpayer determined volumes pursuant to CSA/ANSI ISO 27916:2019, a taxpayer may prepare documentation as outlined in CSA/ANSI ISO 27916:2019 internally, but all such documentation must be provided to a qualified independent engineer or geologist, who then must certify that the documentation provided, including the mass balance calculations as well as information regarding monitoring and containment assurance, is accurate and complete. The qualified independent engineer or geologist certifying a project must be duly registered or certified in any State. The certification must contain an affidavit from the certifying engineer or geologist stating that he or she is independent from the taxpayer (and if an election under section 45Q(f)(3)(B) has been made, the affidavit must state that he or she is independent from both the electing taxpayer and the credit claimant). Certifications must be made annually and under penalties of perjury. For any leaked amount of qualified carbon oxide (as defined in § 1.45Q-5(c)) that is determined pursuant to CSA/ANSI ISO 27916:2019, the certification must also include a statement that the quantity was determined in accordance with sound engineering principles. Taxpayers that capture and dispose of qualified carbon oxide giving rise to the § 45Q credit must file Form 8933, *Carbon Oxide Sequestration Credit*, with a timely filed Federal income tax return or Form 1065, *U.S. Return of Partnership Income*, including extensions or amendments to Federal income tax returns, Forms 1065, or on administrative adjustment requests under section 6227 (AARs), as applicable.

.02 EPA Regulations

(1) Under the Safe Drinking Water Act and regulations promulgated thereunder, injection of carbon dioxide into any underground reservoir requires the operator to

comply with Underground Injection Control (UIC) program regulations and to obtain the appropriate UIC well permits. The UIC program is designed to protect underground sources of drinking water from underground injection. Under 40 CFR § 146.5 (Classification of injection wells), Class VI is an appropriate UIC well permit for wells that are not experimental in nature and that are used for geologic sequestration of carbon dioxide beneath the lowermost formation containing an underground source of drinking water; for wells used for geologic sequestration of carbon dioxide that have been granted a waiver of the injection depth requirements pursuant to requirements at 40 CFR 146.95; or for wells used for geologic sequestration of carbon dioxide that have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to 40 CFR §§ 146.4 and 144.7(d).

(2) Operators that inject carbon dioxide underground are also subject to the EPA's Greenhouse Gas Reporting Program (GHGRP) requirements set forth at 40 CFR Part 98. Under 40 CFR Part 98, facilities that inject carbon dioxide underground for long-term containment of carbon dioxide in subsurface geologic formations are specifically subject to subpart RR (Geologic Sequestration of Carbon Dioxide source category). Facilities that are subject to subpart RR, including UIC Class VI wells, are required to report basic information on carbon dioxide received for injection, develop and implement an EPA-approved site-specific Monitoring, Reporting, and Verification Plan, and report the amount of carbon dioxide geologically sequestered using a mass balance approach and annual monitoring activities. Such reports under subpart RR must be prepared on a calendar year basis (Annual Reports).

(3) Annual Reports generally must be submitted no later than March 31 of each calendar year for greenhouse gas emissions in the previous calendar year. 40 CFR § 98.3(b). Annual Reports are required to be submitted electronically in a format specified by the Administrator of the EPA. 40 CFR § 98.5(a). The EPA generally requires Annual Reports to be submitted through the EPA's electronic reporting system, e-GGRT. Historically, the EPA has launched the e-GGRT system in mid-February for a given reporting year. See EPA, "Extending the Reporting Deadline Under the Greenhouse Gas Reporting Rule for 2024 Data," 90 F.R. 13085, 13087 (March 20, 2025). Annual Reports undergo verification by the EPA, and non-confidential data from these reports are published on the EPA's website.

(4) On September 16, 2025, the EPA issued proposed regulations, Reconsideration of the Greenhouse Gas Reporting Program, 90 F.R. 44591, proposing to amend the GHGRP to remove program obligations for most source categories, including the obligations in subpart RR, for reporting years after 2024. The proposed regulations would also revise 40 CFR Part 98 subpart A to extend the Part 98 (including subpart RR) reporting deadline for reporting year 2025 from March 31, 2026, to June 10, 2026. The EPA has proposed that the amendments, if finalized, would become effective within sixty days of publication in the *Federal Register*. Because the proposed amendments would remove the reporting obligations under subpart RR following reporting year 2024, reporters would cease submitting Annual Reports within sixty days of publication of the final rule in the *Federal Register*. 90 F.R. at 44603.

SECTION 3. SAFE HARBOR FOR CALENDAR YEAR 2025 SECURE GEOLOGICAL STORAGE

.01 In General. This section describes a safe harbor that taxpayers may use to satisfy the requirements of § 1.45Q-3(b)(1)(ii) or § 1.45Q-2(h)(5)(iii), as applicable, and § 1.45Q-3(d), for Calendar Year 2025 Secure Geological Storage in the event the EPA does not launch the e-GGRT for reporting year 2025 by June 10, 2026 (2025 Safe Harbor). The 2025 Safe Harbor does not apply to such storage in the event the EPA launches the e-GGRT for reporting year 2025 by June 10, 2026.

.02 2025 Safe Harbor.

(1) In general. Taxpayers following the guidance set forth in sections 3.02(2) and 3.02(3) of this notice will be considered to have satisfied (i) the requirement in §1.45Q-3(b)(1)(ii) or § 1.45Q-2(h)(5)(iii), as applicable, related to subpart RR (§ 45Q Subpart RR Requirement); and (ii) the requirements of § 1.45Q-3(d) (Certification Requirements).

(2) Compliance with § 45Q Subpart RR Requirement. In the event the EPA does not launch the e-GGRT for reporting year 2025 by June 10, 2026, for Calendar Year 2025 Secure Geological Storage, such storage will be considered to have satisfied the § 45Q Subpart RR Requirement if (i) such storage is in compliance with the applicable requirements of subpart RR as in effect on December 31, 2025, and (ii) instead of submitting the Annual Report for reporting year 2025 with respect to such storage through the e-GGRT pursuant to 40 CFR §§ 98.3 and 98.5, the taxpayer prepares and submits the Annual Report to an independent engineer or geologist, who certifies the Annual Report, in the manner specified in section 3.02(3)(A) and (B) of this notice. The

Annual Report for reporting year 2025 must contain all of the information and documentation, including mass balance accounting calculations and monitoring and containment assurance, that would have been required under subpart RR as in effect on December 31, 2025.

(3) Compliance with Certification Requirements. Calendar Year 2025 Secure Geological Storage will be considered to have satisfied the Certification Requirements of § 1.45Q-3(d) if the taxpayer satisfies the requirements of section 3.02(3)(A) and (B) of this notice with respect to such storage.

(A) The taxpayer must submit the Annual Report for reporting year 2025 to a qualified independent engineer or geologist. The qualified independent engineer or geologist certifying the information must be duly registered or certified in any State.

(B) The qualified independent engineer or geologist must certify that (i) the capture and disposal described in § 1.45Q-3(b)(1) or § 1.45Q-2(h)(5), as applicable, is in compliance with subpart RR as in effect on December 31, 2025, and (ii) the information and documentation contained in the Annual Report for reporting year 2025 is accurate and complete based upon the requirements under subpart RR as in effect on December 31, 2025. The certification must contain an affidavit from the certifying engineer or geologist stating that he or she is independent from the taxpayer (and if an election under section 45Q(f)(3)(B) has been made, the affidavit must state that he or she is independent from both the electing taxpayer and the credit claimant). The certification must be made under penalties of perjury.

.03 Timely reporting. Taxpayers that capture and dispose of qualified carbon oxide giving rise to the § 45Q credit must file Form 8933 with a timely filed Federal

income tax return or Form 1065, including extensions, or amendments to Federal income tax returns, Forms 1065, or on AARs, as applicable. In order to rely upon the 2025 Safe Harbor, a taxpayer must complete all documentation and obtain the certification described in section 3.02(2) and (3) of this notice by the time it (or if an election under § 45Q(f)(3)(B) has been made, any credit claimant) timely files its relevant tax return, as described in the preceding sentence. Taxpayers should retain the documentation and certification described in section 3.02(2) and (3) of this notice in their books and records pursuant to § 6001. See also T.D. 9944; 86 F.R. 4728, 4758-59.

SECTION 4. PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507). The estimated burden for individual filers is approved under OMB control number 1545-0074; for business filers, it is approved under OMB control number 1545-0123; and for trust filers, it is approved under OMB control number 1545-0092.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this notice are in section 3 of this notice. This information is required to certify the volume of qualified carbon oxide disposed of in secure geological storage for the purpose of claiming the § 45Q credit. This information will be used by the IRS to verify that the taxpayer is eligible for the § 45Q credit. The collection of information is required to obtain a benefit. The likely respondents are

businesses or other for-profit institutions.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by § 6103.

SECTION 5. APPLICABILITY DATE

This notice applies with respect to Calendar Year 2025 Secure Geological Storage in the event the EPA does not launch the e-GGRT for reporting year 2025 by June 10, 2026. Taxpayers claiming the § 45Q credit for Calendar Year 2025 Secure Geological Storage may rely upon this notice to satisfy the requirements of § 1.45Q-3(b)(1)(ii) or 1.45Q-2(h)(5)(iii), as applicable, and § 1.45Q-3(d).

SECTION 6. DRAFTING INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Energy, Credits, and Excise Tax). For further information regarding this notice contact (202) 317-6853 (not a toll-free call).