

December 10, 2025

SENT VIA E-MAIL

The Honorable Kenneth Kies
Assistant Secretary for Tax Policy
U.S. Department of the Treasury
Washington, DC

William Paul
Principal Deputy Chief Counsel
Internal Revenue Service
Washington, DC

Re: Impact of Recission of Subpart RR by the EPA on Treas. Reg. § 1.45Q-3

Dear Mr. Kies and Mr. Paul:

On September 16, 2025, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking (EPA NPRM) that, if finalized, would eliminate the greenhouse gas reporting program (GHGRP), including the elimination of the annual greenhouse gas reporting requirements of 40 C.F.R. part 98 subpart RR (Subpart RR), for reporting years following 2024. See RIN 2060-AW76, 90 FR 44591 (Sept. 16, 2025). Treasury Regulations under Section 45Q require certain taxpayers to substantiate Section 45Q tax credits by certifying on their tax returns the amounts reported to the EPA under Subpart RR. The Treasury Regulations currently do not provide an alternative method of substantiation for these taxpayers. Accordingly, for these taxpayers, elimination of the reporting requirements of Subpart RR for reporting years following 2024 would lead to immediate questions on how to substantiate Section 45Q credits for 2025 taxable years and beyond.

As discussed in more detail below, we respectfully request that the Department of Treasury (Treasury) and the Internal Revenue Service (IRS) issue interim guidance as soon as possible that would allow taxpayers to substantiate Section 45Q tax credits for taxable years in respect of which the reporting requirements of Subpart RR do not apply by preparing independently certified reports that are based on the requirements of Subpart RR. Pending further guidance from Treasury and IRS, taxpayers could rely on this interim safe harbor to substantiate the quantity of qualified carbon oxide (CO) disposed of in secure geological storage. In addition, we respectfully submit for your consideration a draft example of guidance as "Appendix A" to this letter.

Section 45Q provides a credit for taxpayers capturing qualified carbon oxide (CO) (including CO₂) and sequestering the CO in secure geological storage (the Section 45Q Credit). The credit is available to taxpayers disposing of qualified CO in secure geological storage, either as part of an enhanced oil or natural gas project (EOR Project), or directly without use in an EOR Project.

In 2021, Treasury promulgated regulations under Section 45Q (Section 45Q Treasury Regulations), including procedures to establish the amount of qualified CO disposed of in secure geological storage. First, the Section 45Q Treasury Regulations require taxpayers claiming the Section 45Q Credit to inject qualified CO into wells that comply with the applicable underground injection control regulations promulgated by the EPA. Treas. Reg. §§ 1.45Q-3(b)(1)(i), (2)(i). Second, if the captured CO is not used as a tertiary injectant in an EOR Project, taxpayers also must obtain EPA approval of an MRV Plan and file annual reports under Subpart RR. See Treas. Reg. § 1.45Q-3(b)(1)(ii); 40 CFR § 98.446. Third, if the captured CO is used as a tertiary injectant in an EOR Project prior to secure geological storage, taxpayers may either opt into compliance and reporting under Subpart RR, or alternatively, prepare independently certified reports under standards developed by the International Organization for Standardization (ISO) endorsed by the American National Standards Institute (ANSI) under CSA/ANSI ISO 27916:2019.¹ Treas. Reg. § 1.45Q-3(b)(2)(ii) and (d).

Subpart RR provides reporting requirements for any well or group of wells that inject a carbon dioxide (CO₂) stream for long-term containment in subsurface geologic formations. As part of Subpart RR, operators of such wells are required to obtain EPA approval of monitoring, reporting, and verification plans (MRV plans) and any modifications to previously approved MRV plans. 40 CFR § 98.448. The EPA NPRM would eliminate the requirement to file MRV plans with the EPA for 2025 and beyond, including on a voluntary basis, and eliminate the EPA's capability to receive electronic filings. Under the EPA NPRM, after reporting year 2024 taxpayers would no longer be required, nor would they be able to obtain EPA approval of MRV plans and updates, or file annual reports of the mass of CO₂ that they sequester under Subpart RR.

The removal of Subpart RR beginning with the 2025 reporting year would end synchronization between the Section 45Q Treasury Regulations and annual reports filed with the EPA under Subpart RR. Taxpayers that dispose of captured qualified CO in secure geological storage would be unable to obtain EPA approved MRV plans, or file with the EPA annual reports of the mass of CO₂ sequestered during the year. Accordingly, such taxpayers would be unable to certify the amounts of qualified CO reported to EPA as required by the Section 45Q Treasury Regulations, or answer questions based on EPA filings when preparing Form 8933 and accompanying schedules. The EPA NPRM acknowledged that Treasury and the IRS use Subpart RR reporting as a basis for claiming Section 45Q Credits and noted the use of this data for purposes of the Section 45Q credit is an "additional benefit" of GHGRP reporting.

¹ The ISO and ANSI do not provide standards for quantifying secure geological storage of CO₂ that is not used as a tertiary injectant, and the Treasury Regulations only discuss Subpart RR reporting in such cases. Treas. Reg. §1.45Q-3(b)(1)(ii). Consequently, if the CO₂ is not used as a tertiary injectant, Subpart RR is the only method of substantiation for the Section 45Q Credit under the Section 45Q Treasury Regulations.

The EPA further suggested that post-removal such “information could be provided in different, more efficient ways.” See RIN 2060-AW76, 90 FR at 44599.

Currently, the Section 45Q Treasury Regulations do not offer taxpayers who dispose of qualified CO without use in an EOR Project an alternative to annual reports under Subpart RR. See Treas. Reg. § 1.45Q-3(b)(1)(ii). Accordingly, if Subpart RR is eliminated, taxpayers who have earned credits by capturing qualified CO and disposing of it in secure geological storage would be unable to substantiate the amount of CO they sequester to support a section 45Q credit claim on their 2025 tax returns in the manner prescribed by the Section 45Q Treasury Regulations. Effectively, for these taxpayers, current Treasury and IRS guidance under Section 45Q would not address the manner in which these taxpayers are required to substantiate Section 45Q tax credits or prepare Form 8933, which we believe would inevitably lead to compliance and enforcement questions under Section 45Q, for both taxpayers and the IRS. Accordingly, we respectfully request Treasury and IRS to take immediate action to clarify the procedural requirements for taxpayers to claim Section 45Q Credits by issuing binding guidance that would apply upon the elimination of Subpart RR GHGRP reporting to allow taxpayers to substantiate Section 45Q tax credits based on MRV plans and annual reports that are certified by qualified independent engineers or geologists.

We recommend allowing taxpayers to substantiate Section 45Q Credits based on independently certified reports that are prepared using the requirements of Subpart RR. Under this approach, a qualified independent engineer or geologist would certify MRV plans and any other reports previously filed with the EPA under Subpart RR, including the calculations and information regarding monitoring and containment assurance, are accurate and complete. We note that such an approach would align with Treas. Reg. § 1.45Q-3(b)(2), which allows taxpayers utilizing CO₂ as a tertiary injectant to substantiate Section 45Q tax credits and prepare Form 8933 based on independently certified reports under the standards of CSA/ANSI ISO 27916:2019. We respectfully submit Appendix A as an example of IRS guidance that could address issues presented by the removal of Subpart RR by providing a procedure for taxpayers to substantiate the amount of CO sequestered in secure geological storage for purposes of the section 45Q credit.

Guidance addressing this issue should accomplish the following:

- Allow taxpayers claiming Section 45Q Credits to certify the mass of qualified CO disposed of in secure geological storage based on annual reports prepared under the requirements of Subpart RR as it existed on December 31, 2024, and certified by a qualified independent engineer or geologist.
- Allow taxpayers claiming credits based on the requirements of Subpart RR to have their MRV Plans, and all updates to the MRV Plans, certified by a qualified independent engineer or geologist.
- Apply the requirements of Subpart RR, including cross-references to other subparts of the GHGRP as they existed on December 31, 2024, taking into account that the GHGRP would no longer be in force. Thus, for example the approval of MRV plans and any other

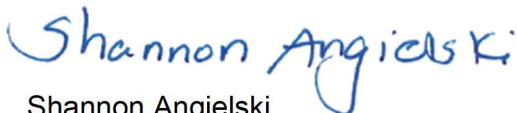
reports filed under Subpart RR which required filing with or actions taken by the EPA would instead be certified by a qualified independent engineer or geologist.

- Allow taxpayers to claim Section 45Q Credits based on the requirements of Subpart RR as it existed on December 31, 2024, with modifications as outlined in Appendix A, regardless of whether they use captured qualified CO as a tertiary injectant prior to secure geological storage.
- Provide that taxpayers may prepare Form 8933 and accompanying schedules based on MRV plans and annual reports that satisfy the requirements of Subpart RR as it existed on December 31, 2024, with modifications as outlined in Appendix A, and certified by a qualified independent engineer or geologist.
- Provide that documentation and certification requirements provided by Treas. Reg. § 1.45Q-3 would be applied in light of the requirements of Subpart RR as it existed on December 31, 2024, with modifications as outlined in Appendix A.

These recommendations are intended as an interim safe harbor to avoid potential confusion among taxpayers and the IRS in the wake of the EPA's removal of Subpart RR of the GHGRP. Taxpayers that earn Section 45Q Credits should have clear guidance on how to substantiate their credits, and the IRS should be assured that the elimination of Subpart RR is not a basis for questioning the validity of Sec. 45Q tax credit claims. We anticipate that amendments to the Section 45Q regulations would provide a longer-term solution.

If you have any questions, or if you would like to discuss this matter further, please reach out to Michael Platner (mlp@vnf.com or 202-298-1988) and Madelyn Morrison (MMorrison@carboncapturecoalition.org or 612-709-0645).

Sincerely,



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APPENDIX A

Reporting Requirements for Taxpayers Using Secure Geological Storage under Section 45Q

Notice 2026-XX

SECTION 1. PURPOSE

This Notice describes interim safe harbor procedures under which taxpayers may certify and document that qualified carbon oxide (CO) has been disposed of in secure geological storage for purposes of Section 45Q(f)(2) of the Internal Revenue Code (Code) and Section 1.45Q-3 of the Treasury Regulations.

Section 1.45Q-3(b)(1)(ii) of the Treasury Regulations currently requires that certain taxpayers claiming Section 45Q credits based on the disposal of qualified CO in secure geological storage certify the amount stored based on reports filed with the Environmental Protection Agency (EPA) under Subpart RR of the EPA's Greenhouse Gas Reporting Program (GHGRP): 40 C.F.R. part 98 subpart RR (Subpart RR). On September 16, 2025, the EPA published a notice of proposed rulemaking to remove Subpart RR of the GHGRP for reporting years after 2024. See RIN 2060-AW76, 90 FR 44591 (Sept. 16, 2025). In the event that EPA eliminates the ability to report under Subpart RR, taxpayers may follow the procedures in Section 3 of this Notice to certify and substantiate the disposal of qualified CO in secure geological storage for purposes of Code Section 45Q(f)(2) and Treas. Reg. §1.45Q-3.²

SECTION 2. BACKGROUND

Section 45Q was added to the Code by § 115 of the Energy Improvement and Extension Act of 2008, enacted as Division B of Pub. L. 110-343, 122 Stat. 3765, 3829 (October 3, 2008), to provide a credit for the sequestration of CO₂. Section 45Q was amended by § 1131 of the American Recovery and Reinvestment Tax Act of 2009, enacted as Division B of Pub. L. 111-5, 123 Stat. 115 (February 17, 2009), § 41119 of the Bipartisan Budget Act of 2018 (BBA), Pub. L. No. 115-123 (February 9, 2018), § 121 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted as Division EE of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 3051 (December 27, 2020), § 13104 of Pub. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA), and § 70522 of Pub. L. 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

As relevant to this Notice, Section 45Q generally allows a credit per metric ton of qualified CO captured by the taxpayer using carbon capture equipment (CCE) placed in service at a qualified facility and disposed of in secure geological storage as defined in Section 45Q(f)(2) or utilized in a manner described in Section 45Q(f)(5). For CCE or facilities placed in service on or before enactment of the OBBBA, the Section 45Q credit was based on an "applicable amount" per metric ton, and such applicable amounts differed depending on whether the qualified CO was used as a tertiary injectant in a qualified enhanced oil or natural gas (EOR) project prior to disposal in secure geological storage. For CCE or facilities placed in service after

² In the event that the EPA does not remove Subpart RR, taxpayers will continue to be required to rely on substantiation of the credit through Subpart RR reporting. The interim safe harbor procedures in Section 3 of this Notice will only go into effect with the elimination of Subpart RR reporting to EPA and will apply until Treasury and IRS issue superseding guidance on secure geological storage.

enactment of the OBBBA, Section 45Q provides parity for different end uses of qualified CO. Additionally, higher credit amounts apply where qualified CO is captured through direct air capture or where the taxpayer meets conditions for an increased credit under Section 45Q(h).

Section 45Q(f)(2) addresses secure geological storage for purposes of Section 45Q. It requires the Secretary of Treasury, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Secretary of the Interior, to establish regulations for determining adequate security measures for the geological storage of qualified CO such that the qualified CO does not escape into the atmosphere. Where qualified CO escapes from secure geological storage, Section 45Q credits may be recaptured under Section 45Q(f)(4) and Treas. Reg. §1.45Q-5.

In 2021, Treasury promulgated § 1.45Q-3(b) of the Treasury Regulations, which describes the requirements a taxpayer must satisfy to claim the Section 45Q credit for secure geological storage of qualified CO. First, the regulation requires that the qualified CO be injected into a well that complies with applicable Underground Injection Control or other regulations and located onshore or offshore under submerged lands within the territorial jurisdiction of the United States or federal waters. See Treas. Reg. §§1.45Q-3(b)(1)(i) and (b)(2)(i). Second, the regulation requires that, if the qualified CO is used as a tertiary injectant in an enhanced oil or natural gas recovery project (EOR project), it is 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). See Treas. Reg. §1.45Q-3(b)(2)(ii). Currently, the ISO and ANSI do not have standards for quantifying sequestration of CO₂ in secure geological storage when it is not used as a tertiary injectant. Accordingly, the regulation requires that, if the qualified carbon oxide is not used as a tertiary injectant in an EOR project, it is required to be stored in compliance with applicable requirements under Subpart RR to be considered sequestered in secure geological storage. See Treas. Reg. §1.45Q-3(b)(2)(i).

SECTION 3. PROCEDURES TO CERTIFY AND DOCUMENT THE DISPOSAL OF QUALIFIED CO IN SECURE GEOLOGICAL STORAGE FOR PURPOSES OF SECTION 45Q(F)(2) AND TREAS. REG. §1.45Q-3

For taxable years where reporting to EPA under Subpart RR is not required, taxpayers may follow the interim safe harbor procedures described below to certify and substantiate the disposal of qualified CO in secure geological storage for purposes of Code Section 45Q(f)(2) and Treas. Reg. §1.45Q-3 and to prepare Form 8933.

.01 In General

For purposes of the Section 45Q credit, qualified CO is considered disposed of by the taxpayer in secure geological storage such that the qualified CO does not escape into the atmosphere if the qualified CO is 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. either:
 - a. regardless of whether the qualified CO is used as a tertiary injectant in an EOR project, is stored in accordance with 40 CFR Part 89 subpart RR, as in effect on December 31, 2024 and with the modifications in Sections 3.02 through 3.03 below; or
 - b. if the qualified CO is used as a tertiary injectant in an EOR project, is stored in accordance with 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) and certified by a qualified independent engineer or geologist in the manner described in Treas. Reg. § 1.45Q-3(d).

.02 Modifications to Subpart RR Provisions Regarding MRV Plans

- i. Taxpayers that have a monitoring, reporting, and verification plan (MRV plan) previously approved by the EPA may continue to rely on such previously approved plan to claim Section 45Q credits in tax years 2025 and later periods. In the event of a modification to the MRV plan, taxpayers must follow the procedures in (iii), below.
- ii. Taxpayers that have not received an EPA-approved MRV plan may develop a proposed MRV plan that is consistent with the requirements described in Subpart RR, 40 CFR §98.448, as in effect on December 31, 2024. However, instead of submission to the EPA for approval, MRV plans shall be submitted to a qualified independent engineer or geologist. The qualified independent engineer or geologist must be duly registered or certified in any state. The taxpayer must provide all documentation as outlined in Subpart RR required as part of an MRV plan to such qualified independent engineer or geologist, who then must certify that the MRV plan and supporting documentation is accurate, complete, and consistent with the requirements described in Subpart RR. The certification must contain an affidavit from the certifying engineer or geologist stating that he or she is independent of the taxpayer (and if the credit has been transferred, the affidavit must state that he or she is independent from both the taxpayer and the credit claimant). Certification of any MRV plan must occur prior to the filing of the tax return for the tax year in which the taxpayer is claiming credits under Section 45Q. Taxpayers may use the independently certified MRV plan in preparing Form 8933 and accompanying schedules.
- iii. Where a material change to monitoring or operational parameters under an MRV plan, or a change in permit class under the Underground Injection Control Regulations, would require MRV plan revisions under the requirements of Subpart RR, MRV plan revisions shall be submitted to a qualified independent engineer or geologist, who then must certify that the revised MRV plan and supporting documentation are accurate, complete, and consistent with the requirements described in Subpart RR. The independent qualified engineer or geologist shall provide an affidavit of independence as described above. Certification of any MRV plan revisions must occur prior to the filing of the tax

return for the tax year in which the taxpayer is claiming credits under Section 45Q. Taxpayers may use the independently certified MRV plan revisions in preparing Form 8933 and accompanying schedules.

.03 Modifications to Subpart RR Provisions Regarding Annual Reports

- i. Taxpayers must prepare annual reports that quantify the data identified in Subpart RR, 40 CFR §98.446 as it existed on December 31, 2024, except that the annual reports are to be submitted to a qualified independent engineer or geologist for certification as described in (ii), below. Quantification shall be based on the formulas, monitoring and quality assurance/quality control requirements, and procedures for estimating missing data as described in Subpart RR, 40 CFR §§98.443 through 98.445.
- ii. Taxpayers must submit each annual report to a qualified independent engineer or geologist, who then must certify that the annual report, including the mass balance calculations and information regarding monitoring and containment assurance, is accurate, complete, and consistent with the requirements of subpart RR and provide an affidavit of independence as described above. Certification of the annual reports must occur prior to the filing of the tax return for the tax year in which the taxpayer is claiming credits under Section 45Q.
 - a. In applying the requirements of Subpart RR, cross-references to other subparts of the GHGRP would be applied based on the requirements of such subparts as they existed on December 31, 2024.
 - b. Thus, for example, GHGRP filings previously made with or actions previously taken by the EPA would be certified or taken by a qualified independent engineer or geologist. Similarly, data previously drawn from other reports previously filed under the GHGRP may be calculated based on standards published by an appropriate standards organization, or if no such standard exists, industry standard practice.

.04 Modification of Subpart RR Filing and Documentation Requirements.

Taxpayers are not required to submit MRV plans, MRV plan modifications, or annual reports to the EPA or IRS at the time of completing such documents. However, taxpayers must retain copies of the records specified in Subpart RR, 40 CFR § 98.447, MRV plans, MRV plan modifications, and annual reports, together with certifications thereof by a qualified independent engineer or geologist, in the case of an audit by the IRS.

.05 Returns, Documentation and Certification under § 1.45Q-3(e)

- i. Taxpayers (and credit claimants) may prepare Form 8933 and accompanying schedules based on MRV plans and annual reports that satisfy the requirements of this Notice and are certified by a qualified independent engineer or geologist.
- ii. Taxpayers (and credit claimants) timely submitting the documentation and certifications required by this Notice or Form 8933 shall be treated as satisfying the requirements of Treas. Reg. §1.45Q-3(e).

SECTION 4. APPLICABILITY DATE

This Notice applies with respect to taxable years when taxpayers are no longer able to report under EPA GHGRP Subpart RR.

SECTION 5. PAPERWORK REDUCTION ACT

The collection of information contained in this Notice has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control numbers [_____].

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 collection of information in this Notice is in Section 3 of this Notice. This information is required to obtain approval, which is required before a §45Q credit may be determined for a taxpayer. 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 6. DRAFTING INFORMATION

The principal authors of this Notice are [_____] and [_____]. For further information regarding this Notice please contact [_____] at [_____].