



February 11, 2026

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

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

**RE: Notice 2026-1 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**

Dear Mr. Kies and Mr. Paul,

We appreciate the prompt response by the U.S. Department of the Treasury and the Internal Revenue Service (collectively “Treasury”) to concerns raised in our December 10, 2025, [letter](#) regarding the ability of taxpayers to elect the Section 45Q credit in the absence of the Greenhouse Gas Reporting Program (GHGRP). However, we write to identify several technical eligibility matters that remain unresolved following the issuance of Notice 2026-1, which provides interim guidance regarding eligibility for the Section 45Q tax credit for qualified carbon oxide disposed of in secure geological storage during calendar year 2025. While Notice 2026-1 represents an important step forward, certain additional clarifications are necessary to ensure the continued operability of the credit and to maintain investor confidence. As leading carbon management industry organizations in the United States, we respectfully request that Treasury update the interim guidance as soon as practicable to incorporate the provisions discussed below and set forth in greater detail in appendix A, which contains our proposed mark-up to update Notice 2026-1.

**Requested Clarifications to Notice 2026-1**

*1. Extend applicability of the safe harbor beyond 2025*

Carbon capture and storage projects are complex, multi-party developments with long investment horizons. Certainty regarding Section 45Q eligibility is essential to reaching final investment decisions. Even a short-term lapse in guidance would create material uncertainty and deter investment. Accordingly, we request that Treasury extend the applicability of the safe harbor beyond tax year 2025 for taxpayers relying on Subpart RR as in effect on December 31, 2024, until the proposed regulations referenced in Notice 2026-1 are issued.

*2. Clarify that qualified EOR projects may continue to rely on Subpart RR*

Notice 2026-1 provides a safe harbor for qualified carbon oxide captured and disposed of in secure geological storage. We request that Treasury expressly reference Treas. Reg. § 1.45Q-3(b)(2)(ii) to clarify that qualified enhanced oil or natural gas recovery (EOR) projects may continue to rely on Subpart RR as in effect on December 31, 2024, to demonstrate secure geological storage for Section 45Q purposes.

Although ISO-27916 is an alternative pathway for EOR projects for Section 45Q eligibility, project developers have more than a decade of operational and contractual reliance on opting into Subpart RR. Project developers have made significant investments to comply with its requirements, and Subpart RR remains embedded in commercial agreements throughout the industry.

Currently, 38 of the 50 approved Subpart RR monitoring, reporting, and verification (MRV) plans apply to EOR fields. Transitioning from Subpart RR to ISO-27916 is estimated to take a year or longer and to cost at least \$100,000 per plan, with substantially higher costs for larger EOR fields. Most importantly, developers who collected data during calendar year 2025 have done so pursuant to Subpart RR and cannot retroactively comply with ISO-27916 for that year. Explicit confirmation from Treasury that Subpart RR, as in effect on December 31, 2024, remains an available compliance pathway for EOR projects is therefore critical to the timely filing of tax returns, cost containment, and continued confidence in the Section 45Q credit.

We further request that Treasury clarify that the provisions of a binding written contract for contractually ensuring the disposal, injection, or utilization of qualified carbon dioxide that are described in Treas. Reg. § 1.45Q-1(h)(2) related to compliance with Subpart RR be considered satisfied if the other remaining requirements of the safe harbor are satisfied.

*3. Allow approval or revision of Subpart RR MRV plans in 2025 and beyond*

While Notice 2026-1 permits CO<sub>2</sub> geologic sequestration projects to have their annual reports certified by an independent engineer, it does not address the process for approving or revising Subpart RR MRV plans. Currently, EPA-approved MRV plans are a prerequisite for qualifying for Section 45Q credits. MRV plans are also essential for ensuring the integrity of the Section 45Q credit and the responsible stewardship of taxpayer dollars.

We therefore request that Treasury allow new or revised MRV plans to be certified by a qualified independent engineer or geologist for purposes of Section 45Q eligibility. Absent such clarification, taxpayers' ability to qualify for the credit will be materially impaired.

*4. Clarify application of recapture provisions*

Notice 2026-1 does not address Section 45Q recapture requirements. Both Subpart RR and ISO-27916 include methodologies for quantifying carbon oxide for credit recapture. We request that Treasury expressly reference Treas. Reg. § 1.45Q-5(a) and (c) to clarify that taxpayers remain subject to the applicable recapture provisions in Subpart RR as in effect on December 31, 2024.

## Conclusion

The Section 45Q tax credit underpins 32 operational and 288 announced domestic carbon management projects and supports an estimated \$77.5 billion in capital investment across the energy, power, and industrial sectors. These investments will generate thousands of family-sustaining jobs while delivering substantial economic and environmental benefits nationwide. The Carbon Capture Coalition, the Carbon Utilization Research Council, and our members respectfully request that Treasury incorporate the clarifications summarized above and detailed in appendix A into updated interim guidance as soon as practicable. Doing so will help preserve market certainty, protect ongoing investments, maintain and create jobs, and ensure the continued deployment of carbon management technologies nationwide.

If you have any questions or would like to discuss these matters further, please contact Michael Platner ([mlp@vnf.com](mailto:mlp@vnf.com) or 202-298-1988) and Madelyn Morrison ([MMorrison@carboncapturecoalition.org](mailto:MMorrison@carboncapturecoalition.org) or 612-709-0645).

Sincerely,



Jessie Stolark  
Executive Director  
Carbon Capture Coalition



Shannon Angielski  
Executive Director  
Carbon Utilization Research Council

**CC:** Kevin Salinger, Deputy Assistant Secretary for Tax Policy  
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## Appendix A

### Redline of Notice 2026-01 - Safe Harbor for the Credit for Carbon Oxide Sequestration

#### 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~~ Notice 2026-xx

#### **SECTION 1. PURPOSE**

01. This notice provides additional guidance to clarify and modify Notice 2026-1, 2026-4 I.R.B. 365, which provided 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)<sup>1</sup> 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~~ The Department of Treasury (Treasury Department) and the Internal Revenue Service (IRS) released Notice 2026-1 on December 19, 2025, to provide a safe harbor (Initial 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

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

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 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), § 1.45Q-3(b)(2)(ii), or 1.45Q-2(h)(5)(iii), as applicable, ~~and~~ § 1.45Q-3(d), and § 1.45Q-5(a) and (c), for purposes of determining the § 45Q credit ~~with respect to 2025 Calendar Year Secure Geological Storage~~.

02. The additional guidance contained in this notice provides clarification regarding the Initial Safe Harbor, in six ways:

(1) The applicability of the safe harbor is extended beyond 2025.

(2) The safe harbor is made available (i) in the event the EPA does not launch the e-GGRT for filers to prepare and submit information required under subpart RR for reporting year 2025 by June 10, 2026, or (ii) in the event EPA finalizes the proposed regulations to remove Subpart RR reporting obligations (collectively GHGRP Removal).

(3) The safe harbor is extended to determining eligibility for the § 45Q credit for qualified carbon oxide that is captured and 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, and the owner or operator of the wells chose under subpart RR (40 CFR § 98.440(c)(1)) to submit a site-specific monitoring, reporting, and verification plan (MRV Plan) to EPA for approval (440(c)(1) Election). The safe harbor is applicable regardless of whether the owner or operator of the wells previously made a 440(c)(1) Election, and the safe harbor allows for future 440(c)(1) Elections.

(4) This notice provides information regarding the methods under the safe harbor of (i) developing, submitting, and certifying an MRV Plan (as specified in 40 CFR § 98.448(a) and (c)), and (ii) certifying revisions to an MRV Plan (as specified in 40 CFR § 98.448(d) and (e)).

(5) The safe harbor is extended to determining the amount of qualified carbon oxide securely stored, and the quantity of qualified carbon oxide leaked to the atmosphere, pursuant to the recapture requirements of § 1.45Q-5(a) and (c).

(6) The safe harbor is also made applicable for purposes of any binding written contract described in § 1.45Q-1(h)(2).

## **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).<sup>2</sup>

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<sup>2</sup> 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

(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 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).

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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.

(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 (CO<sub>2</sub>-EOR) (CSA/ANSI ISO 27916:2019). For purposes of this guidance, Applicable Secure Geological Storage includes all secure geological storage described in the immediately preceding sentence other than storage in compliance with the standards of 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.

(11) Section 1.45Q-5(a) provides that the quantity of qualified carbon oxide that is securely stored in a tax year is determined according to the applicable requirements of subpart RR or CSA/ANSI ISO 27916:2019.

(12) Section 1.45Q-5(c) provides that when qualified carbon oxide disposed of in secure geological storage is determined to have leaked to the atmosphere, the quantity of metric tons of qualified carbon oxide leaked to the atmosphere is determined pursuant to the requirements of subpart RR or CSA/ANSI ISO 27916:2019.

#### .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 permit(s). 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 II may be an appropriate UIC well permit for wells that inject fluids (including carbon dioxide) brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants that are an integral part of production operations, unless those fluids are classified as a hazardous waste at the time of injection, and for wells which inject fluids (including carbon oxides) for enhanced recovery of oil or natural gas.<sup>3</sup> 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 § 98.440(a), 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,

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<sup>3</sup> Note to draft: the inserted language is quoted from the preamble to the 45Q regulations, at 86 F.R. at 4740 Col 1 (Jan 15, 2021).

including include (i) UIC Class VI wells (40 CFR § 98.440(b) and (c)(2)), (ii) facilities such as Class II wells that inject carbon dioxide in subsurface geologic formations to enhance the recovery of oil or natural gas and for long-term containment in subsurface geologic formations and that have chosen to submit a proposed monitoring, reporting, and verification plan (MRV Plan) to EPA for approval and received EPA approval under 40 CFR § 98.440(c)(1), and (iii) facilities that inject a CO<sub>2</sub> stream into the subsurface that are reported under subpart RR (40 CFR 98.470(a) and (b)) (collectively Subpart RR Facilities). An operator of a Subpart RR Facility (Operator) ~~are~~ is required to report basic information on carbon dioxide received for injection, develop and implement an EPA-approved ~~site-specific Monitoring, Reporting, and Verification~~ MRV 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), § 1.45Q-3(b)(2)(ii), or § 1.45Q-2(h)(5)(iii), as applicable, ~~and~~ § 1.45Q-3(d), and § 1.45Q-5(a) and (c), for ~~Calendar Year 2025 demonstrating Applicable~~ Secure Geological Storage in the event ~~the EPA does not launch the e-GGRT for reporting year 2025 by June 10, 2026~~ of an GHGRP Removal (2025 Safe Harbor). The ~~2025~~ Safe Harbor does not apply to such storage in the event the EPA does not finalize regulations removing Subpart RR reporting obligations and 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)~~, 3.02(4), and 3.02(5) of this notice will be considered to have satisfied (i) the requirements in §1.45Q-3(b)(1)(ii), § 1.45Q-3(b)(2)(ii), or § 1.45Q-2(h)(5)(iii), as applicable, related to subpart RR (§ 45Q Subpart RR Requirements) including requirements related to MRV Plans; ~~and~~ (ii) the requirements of § 1.45Q-3(d) (Certification Requirements), and (iii) the requirements of § 1.45Q-5(a) and (c) related to determining the amount of qualified carbon oxide securely stored and the quantity of qualified carbon oxide leaked to the atmosphere (Recapture Quantification Requirements).

(2) Compliance with § 45Q Subpart RR Requirements. In the event ~~the EPA does not launch the e-GGRT for reporting year 2025 by June 10, 2026~~ of an GHGRP Removal, for Calendar Year 2025-Applicable Secure Geological Storage, ~~such storage~~ will be considered to have satisfied the § 45Q Subpart RR Requirements beginning on January 1, 2025 if (i) such storage is in compliance with the applicable requirements of subpart RR as in effect on December 31, ~~2025~~2024,<sup>4</sup> (ii) the requisite MRV Plan satisfies the requirements specified in section 3.02(3) of this notice, and (iii) instead of submitting the Annual Report for a reporting year ~~2025~~ with respect to such storage through the e-GGRT pursuant to 40 CFR §§ 98.3 and 98.5, the taxpayer or Operator prepares and submits the Annual Report to an

<sup>4</sup> Note to draft: Even though EPA's final regulation will not be effective until 60 days after publication in the Federal Register, EPA's proposed removal of Subpart RR is effective for reporting year 2025. The practical effect of that final rule would be that Subpart RR's requirements will not have been in place as of December 31, 2025. Accordingly, it is recommended that the guidance refer Subpart RR as in effect on December 31, 2024 rather than December 31, 2025. There were no amendments to Subpart RR between those two dates.

independent engineer or geologist, who certifies the Annual Report, in the manner specified in section 3.02(34)(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~~2024.

(3) MRV Plan Requirements. Subpart RR at 40 CFR § 98.448 imposes requirements on Operators (i) to develop and submit an MRV Plan to EPA, (ii) to timely submit an MRV Plan, (iii) for the EPA to issue a final MRV Plan, (iv) to revise the MRV Plan and submit changes to EPA for approval, (v) to follow a revised MRV Plan upon approval but adhere to an existing MRV Plan while awaiting revision approval, and (vi) to submit any applicable requisite certificate of representation; and Subpart RR at 40 CFR § 98.440(c)(1) imposes requirements on owners or operators of a well or group of wells that inject a CO<sub>2</sub> stream for long-term containment in subsurface geologic formations and choose to submit to, and receive approval by, EPA of an MRV Plan (collectively MRV Plan Requirements).

(A) In the event of an GHGRP Removal, the § 45Q Subpart RR Requirements related to a requisite MRV Plan will be considered satisfied if the requirements of section 3.02(3)(B) through (E) of this notice are satisfied.

(B) Any MRV Plan Requirements related to developing, submitting, issuing, approving and revising an MRV Plan may be satisfied by either (i) the EPA on or

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before December 31, 2025,<sup>5</sup> or (ii) satisfying the requirements of section 3.02(3)(C), (D) and (E) of this notice, as applicable.

(C) Owners or operators of a well or group of wells that inject carbon dioxide in subsurface geologic formations to enhance the recovery of oil or natural gas and for long-term containment in subsurface geologic formations may make a 440(c)(1) Election pursuant to the requirements of section 3.02(3)(D) and (E) of this notice.

(D) Instead of submitting the MRV Plan (or revision) for EPA approval pursuant to 40 CFR §§ 98.440(c)(1) and 98.448, the Operator may obtain certification of an MRV Plan (or revision) by submitting the proposed MRV Plan (or revision) to a qualified independent engineer or geologist who is duly registered or certified in any State. The qualified independent engineer or geologist must certify that the MRV Plan (or MRV Plan as revised) contains 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, 2024.

(E) If the qualified independent engineer or geologist determines that, based upon the requirements under subpart RR as in effect on December 31, 2024, (i) the MRV Plan (or revision) meets the MRV Plan Requirements, as applicable, and (ii) the information and documentation contained in the MRV Plan (or revision) is accurate and complete, then the qualified independent engineer or geologist may

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<sup>5</sup> Note to draft: The EPA approved some MRV Plans in calendar year 2025 (<https://www.epa.gov/ghgreporting/subpart-rr-geologic-sequestration-carbon-dioxide>), but no MRV Plans or revisions have been approved by the EPA since December 31, 2025, and none are expected to be approved by EPA prior to the date of the GHGRP Removal. While “on or before the date of the GHGRP Removal” was considered as an alternative to “on or before December 31, 2025”, it seems clearer to have a date certain.

certify the MRV Plan (or revision) as being in compliance with subpart RR as in effect on December 31, 2024. Any such certification must contain an affidavit from the qualified independent engineer or geologist stating that he or she is independent from the Operator. The affidavit must be made under penalties of perjury.

(34) Compliance with Certification Requirements. Calendar Year 2025 Secure Geological Storage will be considered to have satisfied In the event of an GHGRP Removal, the Certification Requirements of § 1.45Q-3(d) will be considered satisfied if the taxpayer satisfies the requirements of section 3.02(34)(A) and (B) of this notice with respect to such storage, regardless of whether the MRV Plan (or revision) was approved by the EPA or the requirements of section 3.02(3) of this notice are satisfied.

(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), § 1.45Q-3(b)(2) or § 1.45Q-2(h)(5), as applicable, is in compliance with subpart RR as in effect on December 31, ~~2025~~2024, 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~~2024. 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.

(5) Compliance with Recapture Quantification Requirements. In the event of an GHGRP Removal, the Recapture Quantification Requirements will be considered satisfied if the Annual Report, certified in the manner specified in section 3.02(4)(A) and (B) of this notice, includes the following determinations pursuant to the applicable requirements of subpart RR as in effect on December 31, 2024: (i) the amount of qualified carbon oxide that is securely stored for the calendar year, and (ii) the quantity (if any) of the metric tons of qualified carbon oxide that has leaked to the atmosphere.

(6) In the event of an GHGRP Removal, provisions of a binding written contract described in § 1.45Q-1(h)(2) related to compliance with Subpart RR will be considered satisfied if the other requirements of the Safe Harbor are satisfied.

.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. The MRV Plan (or revision) satisfying the requirements of Section 3.02(3) of this notice shall be considered the approved or applicable MRV Plan (or revision) for purposes of those forms, which will be updated as appropriate. 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), (3), (4) and (35) 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), (3), (4) and (35) of this notice in their books and records pursuant to § 6001. See also T.D. 9944; 86 F.R. 4728, 4758-59.

.04 Nothing in this notice shall preclude a taxpayer claiming 45Q tax credits from being able to demonstrate secure geological storage in § 1.45Q-3(b)(2)(ii), §1.45Q-3(d), or § 1.45Q-5(a) and (c) in compliance with the standards of CSA/ANSI ISO 27916:2019.

#### **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-Applicable Secure Geological Storage in the event ~~the EPA does not launch the e-GGRT for reporting year 2025 by June 10, 2026~~ of a GHGRP Removal. Taxpayers claiming the § 45Q credit for Calendar Year 2025-Applicable Secure Geological Storage for tax years beginning after December 31, 2024 may rely upon this notice to satisfy the requirements of § 1.45Q-3(b)(1)(ii), § 1.45Q-3(b)(2)(ii), or 1.45Q-2(h)(5)(iii), as applicable, ~~and § 1.45Q-3(d), and § 1.45Q-5(a) and (c),~~ until further guidance is issued or proposed regulations are published in the *Federal Register*.

## **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).