Part III - Administrative, Procedural, and Miscellaneous

Safe Harbor for the Credit for Carbon Oxide Sequestration under Section 45Q for Qualified Carbon Oxide Reported under Subpart RR

Notice 2026-50

SECTION 1. PURPOSE

Notice 2026-1, 2026-4 I.R.B. 365, provides interim guidance, pending the issuance of forthcoming proposed regulations, relating to the credit for carbon oxide sequestration under § 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) of the Greenhouse Gas Reporting Program (GHGRP). *See* 90 F.R. 44591 (Sept. 16, 2025). This notice modifies and amplifies Notice 2026-1 by expanding the scope of the safe harbor provided in Notice 2026-1 to include qualified carbon oxide that is used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project and the determination of the amount of qualified carbon oxide subject to recapture. This notice also extends the applicability date of the safe harbor provided in Notice 2026-1.

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

SECTION 2. BACKGROUND

Notice 2026-1 provided 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 not used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project, but did not address eligibility for qualified carbon oxide that is used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project because there were other available reporting standards that could be used to claim the § 45Q credit for 2025. Stakeholders have explained, however, that taxpayers claiming the § 45Q credit for a qualified enhanced oil or natural gas recovery project are potentially unable to transition from the subpart RR standard to other available reporting standards in time to claim the § 45Q credit for 2025, or would incur significant costs, timeline constraints, and compliance issues in trying to do so. Other stakeholders have explained that the limited applicability of the safe harbor to the storage of qualified carbon oxide that occurs in calendar year 2025 is creating uncertainty for projects with long investment horizons. Finally, the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) have received inquiries as to whether taxpayers claiming the § 45Q credit may rely upon the safe harbor provided in Notice 2026-1 to determine the amount of qualified carbon oxide securely stored in geological storage and the amount of qualified carbon oxide leaked into the atmosphere for purposes of determining the amount of qualified carbon oxide subject to recapture under § 1.45Q-5(a) and (c).

In view of the unique circumstances resulting from the proposed removal of subpart RR of the GHGRP, and in consultation with the Administrator of the EPA, the

Secretary of Energy, and the Secretary of the Interior, the Treasury Department and the IRS are extending and expanding the safe harbor provided in Notice 2026-1 in the manner specified in this notice.

SECTION 3. MODIFICATIONS TO NOTICE 2026-1

.01 Modification of Section 2 of Notice 2026-1. This section 3.01 modifies and amplifies section 2 of Notice 2026-1 by revising section 2.01(8), adding new section 2.01(11) and (12), revising section 2.02(1) and (2), adding new section 2.02(5), and making several nonsubstantive modifications in other sections. As so modified and amplified, section 2 of Notice 2026-1 now reads:

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 § 45Q to disallow the credit if the taxpayer is a specified foreign entity as defined in § 7701(a)(51)(B) of the Code or a foreign-influenced entity as defined in § 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 § 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 § 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 § 45Q(f)(5).

(4) Section 45Q(a)(3) allows a credit of the applicable dollar amount (as determined under § 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 § 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 § 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 § 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 § 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 § 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 (UIC) 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 UIC 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_2-EOR) (CSA/ANSI ISO 27916:2019). Collectively, the storage of qualified carbon oxide at a project complying with the requirements of § 1.45Q-3(b)(1) or (2) is hereinafter referred to in this notice as "secure geological storage."

(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 § 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 § 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 a UIC Class VI permit; and (iii) the operator complies with subpart RR.

(10) Section 1.45Q-3(d) provides that for a qualified enhanced oil or natural gas recovery project 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 § 45Q. For a qualified enhanced oil or natural gas recovery project 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 § 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 § 6227 (AARs), as applicable.

(11) Section 1.45Q-5(a) provides that a recapture event occurs when qualified carbon oxide for which a § 45Q credit has been previously claimed ceases to be

disposed of in secure geological storage or used as a tertiary injectant during the recapture period. The amount of such carbon oxide that is securely stored in the current 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 the metric tons of qualified carbon oxide that has leaked to the atmosphere must be quantified 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 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 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 which may be commingled with waste waters from gas plants that are an integral part of production operations, unless those waters 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. 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 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 must report basic information on carbon dioxide received for injection, develop and implement an EPA-approved site-specific Monitoring, Reporting, and Verification Plan (MRV Plan), and report the amount of carbon dioxide geologically sequestered using a mass balance approach and annual monitoring activities. Facilities that are subject to subpart RR include UIC Class VI wells and those UIC Class II wells that have opted into being subject to subpart RR by submitting a proposed MRV Plan to, and receiving approval from, the EPA. Such facilities are required to prepare and submit reports 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.

(5) On February 27, 2026, the EPA issued a final rule extending the deadline for Annual Reports for reporting year 2025 to October 30, 2026. *See Extending the Reporting Deadline Under the Greenhouse Gas Reporting Rule for 2025*, 91 F.R. 9712.

.02 <u>Modification of Section 3 of Notice 2026-1</u>. This section 3.02 modifies and amplifies section 3 of Notice 2026-1 by revising sections 3.01 and 3.02(1), (2), and (3), and adding new section 3.02(4). These changes expand the applicability of the safe harbor provided in Notice 2026-1 to (1) qualified carbon oxide that is stored (i) at a qualified enhanced oil or natural gas recovery project for which the taxpayer received an

EPA-approved MRV plan, and (ii) in compliance with the applicable requirements of subpart RR as in effect on December 31, 2025, and (2) the determination of the amount of qualified carbon oxide securely stored, and the amount of qualified carbon oxide that has leaked into the atmosphere, for purposes of satisfying the recapture requirements of § 1.45Q-5(a) and (c). As so modified and amplified, section 3 of Notice 2026-1 now reads as follows:

SECTION 3. SAFE HARBOR FOR SECURE GEOLOGICAL STORAGE OCCURRING ON OR AFTER JANUARY 1, 2025

.01 In General. This section describes a safe harbor (Safe Harbor) that taxpayers may use for certain reporting years in which secure geological storage occurs (relevant reporting year) 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, § 1.45Q-3(d), and § 1.45Q-5(a) and (c), in the event the EPA does not launch the e-GGRT by March 31 of the calendar year immediately following the relevant reporting year (e-GGRT Unavailability). The Safe Harbor does not apply in the event the EPA launches the e-GGRT for the relevant reporting year by March 31 of the calendar year immediately following the relevant reporting year.

.02 Safe Harbor for Secure Geological Storage.

(1) In General. Taxpayers following the guidance set forth in section 3.02(2), (3), and (4) 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); (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 Requirements).

(2) Compliance with § 45Q Subpart RR Requirements. In the case of e-GGRT Unavailability for a relevant reporting year, the taxpayer performing secure geological storage in such reporting year will be considered to have satisfied the § 45Q Subpart RR Requirements for such reporting year if: (i) such storage complies with the applicable requirements of subpart RR as in effect on December 31, 2025; (ii) the taxpayer received an EPA-approved MRV plan for such project and the MRV plan is applicable to the dates of such storage; and (iii) instead of submitting the Annual Report for the relevant reporting year 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 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. In the event of e-GGRT Unavailability for a relevant reporting year, the taxpayer performing secure geological storage will be considered to have satisfied the Certification Requirements 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 the relevant reporting year 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, and (ii) the information and documentation contained in the Annual Report for the relevant reporting year 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 § 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.

(4) Compliance with Recapture Requirements. In the event of e-GGRT Unavailability for a relevant reporting year, a taxpayer will be considered to have satisfied the Recapture Requirements with respect to any secure geological storage subject to the Recapture Requirements if the Annual Report for reporting year 2025 or later, certified in the manner specified in section 3.02(3) of this notice, includes the following determinations pursuant to the applicable requirements of subpart RR as in effect on December 31, 2025: (i) the quantity of qualified carbon oxide that is securely stored for the calendar year; and (ii) the quantity, if any, in metric tons of qualified carbon oxide that has leaked into the atmosphere in such reporting year.

.03 Timely reporting. Taxpayers that capture and dispose of qualified carbon oxide giving rise to the § 45Q credit must file a 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. To rely upon the 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.

.03 Modification of Section 5 of Notice 2026-1. This section 3.03 modifies and amplifies section 5 of Notice 2026-1 by extending the applicability of the Safe Harbor to secure geological storage occurring on or after January 1, 2025, and on or before December 31 of the calendar year in which the Treasury Department and the IRS publish further interim guidance in the Internal Revenue Bulletin or forthcoming proposed regulations in the *Federal Register* addressing compliance with measurement, reporting, and verification requirements under § 45Q for secure geological storage. As so modified and amplified, section 5 of Notice 2026-1 now reads as follows:

SECTION 5. APPLICABILITY DATE

This notice applies to secure geological storage occurring on or after January 1, 2025, and on or before December 31 of the calendar year in which the Treasury Department and the IRS publish further interim guidance in the Internal Revenue Bulletin or forthcoming proposed regulations in the *Federal Register* addressing compliance with requirements under § 45Q for secure geological storage. Taxpayers claiming the § 45Q credit for secure geological storage occurring on or after January 1, 2025, and on or before December 31 of the calendar year in which the Treasury Department and the IRS publish such guidance or forthcoming proposed regulations 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, § 1.45Q-3(d), and §1.45Q-5(a) and (c).

SECTION 4. REQUEST FOR COMMENTS

.01 Request for Comments.

The Treasury Department and the IRS, in consultation with the Administrator of the EPA, the Secretary of Energy, and the Secretary of the Interior, request comments on the appropriate standard to be used in place of subpart RR to demonstrate compliance with § 45Q for secure geological storage. In particular, the Treasury Department and the IRS request comments on whether the International Organization for Standardization's standard 27914:2026—Carbon dioxide capture, transportation and storage—Geological storage (Ed. 2, 2026), which was published in March 2026, could be used as an alternative, including the verification methods set forth therein. In addition, the Treasury Department and the IRS request comments on whether there are other processes or methodologies that could serve as suitable alternatives to subpart RR in the event the EPA finalizes its regulations as proposed.

.02 Deadline for Submission.

Written comments should be submitted by October 30, 2026. However, consideration will be given to any written comments submitted after October 30, 2026, if such consideration will not delay the issuance of future published guidance.

.03 Form and Manner.

The subject line for the comments should include a reference to Notice 2026-50. All stakeholders are strongly encouraged to submit comments electronically. Comments may be submitted in one of two ways:

(1) Electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (type IRS-2026-0728 in the search field on the *https://www.regulations.gov* homepage to find this notice and submit comments).

(2) By mail to: Internal Revenue Service, CC:PA:01:PR (Notice 2026-50), Room 5503, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

.04 Publication of Comments.

The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to the IRS's public docket on *https://www.regulations.gov*.

SECTION 5. EFFECT ON OTHER DOCUMENTS

This notice modifies and amplifies Notice 2026-1.

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).