JANUARY 2026
VOL. 26-1

PRATT'S

ENERGY LAW REPORT

LexisNexis

Pratt's Energy Law Report

VOLUME 26 **NUMBER 1** **January 2026**

LexisNexis®

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ISBN: 978-1-6328-0836-3 (print)
ISBN: 978-1-6328-0837-0 (ebook)
ISSN: 2374-3395 (print)
ISSN: 2374-3409 (online)

Cite this publication as:

[author name], [*article title*], [vol. no.] Pratt's Energy Law Report [page number] (LexisNexis A.S. Pratt);
Ian Coles, *Rare Earth Elements: Deep Sea Mining and the Law of the Sea*, 14 Pratt's Energy Law Report 4 (LexisNexis A.S. Pratt)

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(2026–Pub.1898)

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Pratt's Energy Law Report is published 10 times a year by Matthew Bender & Company, Inc.

POSTMASTER: Send address changes to *Pratt's Energy Law Report*, LexisNexis Matthew Bender, 521 Fifth Ave., 7th Floor, New York, NY 10175.

Impacts to Carbon Capture and Sequestration From the Environmental Protection Agency's Proposal to Repeal Greenhouse Gas Reporting

By Samuel Pickerill, Ethan G. Shenkman, Sarah Grey, David A. Sausen and Adam Masurovsky*

In this article, the authors focus on potential implications of the proposed Greenhouse Gas Reporting Program repeal on the carbon capture, utilization, and sequestration industry, as well as on oil and gas methane reduction efforts.

The U.S. Environmental Protection Agency (EPA) recently proposed to repeal virtually all of its Greenhouse Gas Reporting Program (GHGRP),[1] which for the last 15 years has required large industrial sources to disclose their greenhouse gas emissions in a national database accessible to state and federal regulators, businesses, and the public. EPA's proposed rule[2] would end greenhouse gas (GHG) reporting requirements for all industries except for certain oil and natural gas facilities. For the oil and natural gas sector, EPA proposes to suspend GHG reporting for natural gas distribution facilities and suspend reporting for all other industry segments until 2034. EPA's proposal will have significant implications for regulatory programs and stakeholders that rely on the GHGRP for verified GHG emissions data.

EPA established the GHGRP in 2009 in response to a directive from Congress in an appropriations act to establish "mandatory reporting of greenhouse gas emissions above appropriate thresholds in all sectors of the economy of the United States."[3] Since that time, EPA has required GHG emissions reporting from 47 source categories, including oil and gas, power plants, refineries, and chemical manufacturers, as well as fuel suppliers and carbon dioxide (CO2) injection sites. Facilities that emit at least 25,000 metric tons of CO2 equivalent report direct GHG emissions (scope 1 emissions), while fuel suppliers report the CO2 equivalent of their products when combusted by end-users (scope 3 emissions). The 2023 reporting year included

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1 40 C.F.R. Part 98.

2 https://www.federalregister.gov/documents/2025/09/16/2025-17923/reconsideration-of-the-greenhouse-gas-reporting-program.

3 Consolidated Appropriations Act, 2008, Public Law 110-161, 121 Stat 1844, 2128 (2008).

around 8,000 facilities and suppliers accounting for roughly 85% to 90% of U.S. GHG emissions.

EPA developed this program pursuant to its information-gathering authority under Clean Air Act (CAA) Section 114, which allows EPA to seek "information necessary" for the development of, or determining compliance with, certain CAA regulatory programs. EPA has relied on the GHGRP to develop certain regulatory regimes, such as the CAA Section 111 emissions standards for oil and natural gas facilities and the phasedown of hydrofluorocarbons under the AIM Act.

EPA now asserts that Section 114 requires a closer nexus between continuous reporting and statutory objectives than it previously stated. EPA thus argues that Section 114 does not authorize the GHGRP as presently constituted.

Alternatively, EPA asserts that the GHGRP is discretionary and, even if the program were lawful, it is no longer needed.

Reliance on the GHGRP extends beyond EPA regulatory schemes. Importantly, as discussed further below, entities seeking to claim a tax credit under Section 45Q of the Internal Revenue Code for carbon capture, utilization, and sequestration (CCUS) projects rely on the GHGRP to quantify the amount of credit for which such projects are eligible.

This article focuses on potential implications of the proposed GHGRP repeal on the CCUS industry, as well as on oil and gas methane reduction efforts.

IMPLICATIONS OF THE SUBPART RR REPEAL FOR THE CCUS INDUSTRY

If finalized, the GHGRP repeal is likely to be particularly disruptive to the CCUS industry. The primary federal incentive for CCUS projects is the Section 45Q tax credit, which was first enacted in 2008 and expanded under both the Trump administration in 2018 and the Biden administration in 2022. The Section 45Q tax credit can be claimed by taxpayers for capturing carbon oxides that are:

(1) Injected into permanent geologic storage (CCS);

(2) Injected in an enhanced oil or gas recovery project (EOR/EGR); or

(3) Utilized in existing commercial markets. GHGRP Subpart RR is the mechanism for the EPA to verify that captured CO2 is geologically stored in a "secure" manner, which is a requirement for claiming the IRS's 45Q tax credit.

Current U.S. Department of the Treasury (Treasury) regulations rely on Subpart RR of the GHGRP for these purposes.

SECTION 45Q: NEAR-TERM IMPLICATIONS OF SUBPART RR REPEAL

In the United States, permanent geologic storage projects must obtain a Class VI injection permit under the EPA Underground Injection Control (UIC) program. Obtaining a Class VI permit triggers reporting requirements under Subpart RR of the GHGRP. These requirements include reporting the quantity of carbon dioxide received, injected, produced, emitted, and sequestered; specific calculation methodologies and quality assurance for each such category of carbon dioxide; and the development of a monitoring, reporting, and verification plan that EPA makes publicly available on its website.

Under current Treasury regulations for the Section 45Q tax credit, Subpart RR is the only method available to demonstrate "secure geological storage" and quantify the amount of carbon dioxide securely stored in a Class VI-permitted CCS project. In the preamble to the regulations, Treasury explained that it "did not provide for an alternative to subpart RR reporting for UIC Class VI wells because all UIC Class VI wells are already subject to subpart RR reporting requirements." As such, repeal of Subpart RR could leave Class VI projects unable to demonstrate secure geological storage – and therefore unable to claim a Section 45Q tax credit – unless Treasury adopts the Subpart RR as currently codified into a freestanding method or adopts an alternative mechanism.

EOR/EGR projects operating under a Class II permit have more flexibility than Class VI operators. Recognizing that not all Class II operators are required to report under Subpart RR, the Treasury regulations allow such operators to use the international standard CSA/ANSI ISO 27916:2019[4] (the same ISO used in the Subpart VV regulations that were added to the GHGRP in 2024) as an alternative method. EOR/EGR projects should therefore still have a pathway available to continue claiming a Section 45Q tax credit even if the GHGRP repeal is finalized.[5]

SECTION 45Q: LONGER-TERM ALTERNATIVES TO THE GHGRP

Stakeholders are considering a number of potential options to replace the GHGRP's role in claiming the Section 45Q tax credit. The level of disruption that EPA's proposal would inflict on the CCUS industry will depend on how swiftly Treasury acts to provide an alternative to GHGRP. To expedite the

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[4] The International Organization for Standardization (ISO) publishes technical standards agreed upon by global committees of experts, including on emissions quantification and reporting.

[5] Treasury has issued guidance providing a temporary and conditional safe harbor for tax reporting year 2025. See IRS Notice 2026-01 (Dec. 19, 2025) https://www.irs.gov/pub/irs-drop/n-26-01.pdf.

process, Treasury could issue interim guidance to address the period between the GHGRP repeal and the adoption of updated regulations.

Of course, EPA could choose to carve out Subpart RR from the repeal of the broader GHGRP. EPA could base this, for example, on the significant investment-backed reliance interests of investors in the CCUS industry and the close relationship between carbon capture technology, which is fundamentally designed to control air emissions, and the CAA's purposes.

Alternatively, EPA could transition certain aspects of Subpart RR into other regulatory programs, such as the Safe Drinking Water Act (SDWA), which houses the Class VI permitting program for CO2 underground injection wells. EPA would have to determine that it has legal authority to administer the Subpart RR requirements under the SDWA. Moreover, under either of these alternatives, EPA would have to be interested in maintaining its role in validating and managing emissions data. These EPA approaches would also require coordination between Treasury and EPA on Section 45Q, which may be less efficient than alternatives implemented by Treasury alone.

Treasury also has a number of tools available to fill the gap created by EPA's repeal. For example, Treasury could, through a variety of mechanisms, incorporate by reference the Subpart RR methodologies in effect prior to repeal. Doing so would essentially freeze the current EPA requirements in place, and could replace the role currently filled by EPA by requiring Section 45Q claimants to obtain approvals from independent third-party auditors evaluating the reporting plans. This approach could provide a pathway for Treasury to swiftly adjust to the Subpart RR repeal.

Another option could be to adopt an international reporting standard, similar to the one that Treasury currently allows for EOR/EGR projects, i.e., ISO 27916,[6] which is inapplicable to most Class VI projects, because this particular standard does not apply to CO2 sequestration purely for purposes of CO2 storage. However, there is a similar standard issued by the same body, ISO 27914,[7] that could apply to most Class VI projects and is currently undergoing a technical revision, expecting to be released in the coming months, to add quantification and verification standards. Once released, ISO 27914 could potentially be adopted by Treasury as an alternative to Subpart RR, perhaps with certain modifications or enhancements provided by Treasury.

Other approaches could involve reliance on state reporting programs. Treasury considered and rejected this approach in 2021, noting that variability

[6] https://www.iso.org/standard/65937.html.

[7] https://www.iso.org/standard/64148.html.

between state programs would increase the administrative burden on Treasury. Variability between state programs can also increase complexity and cost of compliance for project proponents. State programs, however, have continued to develop and grow in sophistication since 2021 and could be better harmonized. In addition, stakeholders opposed to EPA's repeal have cautioned that shifting from a standardized, nationwide annual reporting framework, such as the GHGRP, to an assortment of voluntary or third-party reporting can make it more difficult for investors to assess performance, increasing the perceived risk and thereby increasing the cost of capital for projects.

IMPLICATIONS OF EPA'S PROPOSED SUSPENSION AND PARTIAL REPEAL OF SUBPART W REPORTING FOR THE OIL AND NATURAL GAS INDUSTRY

For the oil and natural gas sector that is required to report GHG emissions under Subpart W of the GHGRP, EPA is proposing to suspend until 2034 the reporting requirements for industry segments subject to the methane waste emissions charge (WEC) under Section 136 of the CAA. Accordingly, EPA is eliminating the reporting obligations for the one industry segment not subject to the WEC, natural gas distribution.

Oil and natural gas facilities will still need to report on GHG emissions in states that have adopted their own reporting requirements, several of which incorporate the reporting methodologies established under the GHGRP. However, suspending Subpart W reporting may complicate the ability of operators to demonstrate methane emissions reductions in line with corporate sustainability goals or to meet certain methane intensity requirements in other jurisdictions. For example, EU methane regulations will require importers, including those sourcing from U.S. producers, to provide data on methane intensity and ultimately meet certain emissions standards; Subpart W provided a convenient and consistent option for such reporting. In the absence of Subpart W reporting, operators may have to rely on voluntary GHG accounting and reporting mechanisms and/or state reporting programs as they implement methane emissions reduction measures.

While oil and gas facilities will not need to report on GHG emissions until 2034 under the proposed rule, those facilities are still subject to the CAA Section 111 methane emissions standards for new or modified sources and emissions guidelines for states to implement with respect to existing sources. A recent Interim Final Rule issued by EPA partially delayed compliance deadlines for the Section 111 rules. Operators of new or modified facilities are still currently subject to fugitive emissions standards, such as leak detection and repair. EPA is considering revisions to the Section 111 methane rules, and a proposed rulemaking is anticipated in the near future.