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November 3, 2025

Lee Zeldin, Administrator
United States Environmental Protection Agency
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<u>Submitted electronically via Regulations.gov</u>

Re: Comment of the States of Nebraska and Iowa on *Reconsideration of the Greenhouse Gas Reporting Program*, 90 Fed. Reg. 44591 (Sept. 16, 2025) [EPA-HQ-OAR-2025-0186; FRL-12720-01-OAR]

Dear Administrator Zeldin:

The States of Nebraska and Iowa are thankful for the opportunity to comment on the proposed rule, which would rescind most of the onerous, Obama-era Greenhouse Gas Reporting Rule. We are pleased to join the North Dakota–led comment that explains the many legal pitfalls and enormous costs the Reporting Rule imposes. We share the Trump Administration's commitment to eliminating unnecessary regulatory burdens across all of government. Repealing the Reporting Rule is an important next step to unleashing American energy.

As the top two ethanol-producing States, we write separately to highlight the effect that repealing certain aspects of the Rule would have on renewable fuel producers. Ethanol producers take advantage of important tax credits—recently reapproved and extended by the One Big Beautiful Bill—when they capture and permanently store carbon dioxide (CO_2) in making ethanol. The elimination of the Subpart RR reporting program would unintentionally block ethanol producers from earning these tax credits because the government would have no way to verify their annual emissions data. We agree with the Administration's push to cut burdensome red tape but urge it to take a closer look at the effect that repealing the Subpart RR reporting program would have on the renewable fuels sector.

The Role of 45Q and 45Z in America's Energy Future

For more than a decade, the federal Section 45Q tax credit has provided an incentive for companies to capture CO_2 and store it safely underground. *See* 26 U.S.C. § 45Q. And earlier this year, President Trump blessed the program with the passage of the One Big Beautiful Bill, which continued to make available Section 45Q tax credits.[1] The program rewards innovation, not regulation, spurring private investment in projects that keep carbon out of the atmosphere while supporting jobs, infrastructure, and new technologies. Under current law, companies that capture and permanently sequester CO_2 can earn a tax credit of $85 per metric ton.[2]

This incentive has transformed the ethanol industry. Roughly 40 percent of all carbon-capture projects announced in the United States since 2018 involve ethanol plants.[3] These facilities capture the CO_2 produced during the fermentation process and inject it deep underground in approved geologic formations. Doing so cuts the carbon intensity of the fuel by as much as 75 to 85 percent as compared to gasoline—transforming corn ethanol from a low-carbon fuel into an *ultra-low-carbon* fuel that competes head-to-head with electric vehicles on emissions performance.[4]

The coming Section 45Z credit for clean fuel production—extended by the One Big Beautiful Bill—will build on this success.[5] That program rewards producers based on the carbon intensity of their fuels. The lower the carbon intensity, the higher the credit—up to $1 per gallon for a net-zero-carbon fuel.[6] Today, most corn ethanol has a carbon intensity of 40–55 grams of CO_2 per megajoule, which is too high to qualify for the maximum credit.[7] But with carbon capture, that same ethanol falls to roughly 20–25 g/MJ, easily within the range for meaningful 45Z benefits.[8] These credits help sustain the economies in ethanol-producing States like Nebraska and Iowa, attract billions in private investment to our States, and ensure that American ethanol remains competitive in markets that reward carbon reductions and incentivizes the production of clean, renewable fuel. As amended and signed into law by President Trump, the Section 45Z credits are also now limited to ethanol made from North American corn—protecting corn farmers in Nebraska and Iowa from being undercut by foreign adversaries.[9]

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[1] *See, e.g.*, One Big Beautiful Bill Act, Pub. L. 119-21, §§ 70522, 70524, 139 Stat. 72, 279, 281 (July 4, 2025).
[2] *See Carbon Capture and the Inflation Reduction Act* at 1, Clean Air Task Force, https://perma.cc/P93W-Y33L; *The One Big Beautiful Bill Act of 2025* at 1, Carbon Capture Coal., https://perma.cc/C7PC-BPC9.
[3] Amena H. Saiyid, *Biofuels Offer Low-Hanging Fruit in Nascent Carbon Capture Industry*, Cipher (Mar. 13, 2024), https://www.ciphernews.com/articles/biofuels-offer-low-hanging-fruit-in-nascent-carbon-capture-industry/.
[4] *Frequently Asked Questions: Carbon Capture & Sequestration, CO2 Pipelines, and the Future of Corn Ethanol* at 2, Renewable Fuels Assoc., https://perma.cc/2V45-YYJW.
[5] *See* One Big Beautiful Bill Act, Pub. L. 119-21, § 70521, 139 Stat. 72, 276 (July 4, 2025).
[6] *See Statutory Overview of 45Z*, Clean Air Task Force (Aug. 19, 2024), https://perma.cc/RKL2-3D4U.
[7] *See* Stefan Unnasch, *Review of GHG Emissions of Corn Ethanol under the EPA RFS2* at 48 (Feb. 4, 2022), https://perma.cc/A3AA-H52U.
[8] *Supra* note 3, at 2.
[9] *See, e.g.*, One Big Beautiful Bill Act, Pub. L. 119-21, §§ 70522, 139 Stat. 72, 279 (July 4, 2025).

Why the Greenhouse Gas Reporting Program (GHGRP) Matters

The success of these credits depends on one simple but crucial factor: trust in the data. Both Treasury and the IRS rely on EPA's *Subpart RR* reporting program under the GHGRP to verify that captured carbon is actually being stored as promised.

Subpart RR provides the framework for monitoring, reporting, and verification (MRV).[10] It requires any facility claiming the 45Q credit to have an EPA-approved MRV plan and to submit annual emissions data.[11] This ensures that taxpayers, investors, and regulators can have confidence that the CO_2 claimed for credit is truly sequestered. The program is the connective tissue between environmental performance and financial accountability.

Eliminating Subpart RR outright would sever that connection. Without EPA's established verification process, Treasury and the IRS would have no reliable means of confirming compliance. Projects already operating under approved MRV plans would face uncertainty, new investments could stall, and the broader market for carbon-reduction projects—including ethanol, steel, cement, and power generation—would lose a key measure of integrity. Outright repeal of Subpart RR without a replacement framework would jeopardize billions of dollars in planned carbon-capture investments in our States by removing the verification system those projects rely on to qualify for federal clean-energy incentives.

The Proposed Rule's Consequences

EPA proposes to remove the GHGRP in nearly all its forms, including Subpart RR, and to suspend most remaining reporting requirements until 2034.[12] For ethanol producers, this would create a decade-long gap in the federal government's ability to verify carbon-capture performance.

That gap would have immediate though unintended consequences. Ethanol facilities that are capturing and storing CO_2 today could lose access to the 45Q credit. Future projects designed around the 45Z clean-fuel incentive could become financially unviable before they even begin. The result would not be deregulation but potential disinvestment, halting progress on technologies that are central to reducing greenhouse-gas emissions while keeping U.S. energy production strong in America's heartland.

A Balanced Solution

EPA has an opportunity to achieve both deregulation and continuity to ensure the renewable fuel industry continues to thrive in our States. **We propose that EPA retain Subpart RR as an opt-in reporting program that ethanol producers can take advantage of on a voluntary basis.** That proposal allows facilities that wish to claim the 45Q (and, in the future, 45Z) tax credits to choose to participate and continue meeting the current MRV requirements. Those that do not seek

[10] *See* 40 C.F.R. §§ 98.440 to 98.449.
[11] *See* 40 C.F.R. §§ 98.443, 98.448.
[12] *See Reconsideration of the Greenhouse Gas Reporting Program*, 90 Fed. Reg. 44591, 44618 (Sept. 16, 2025).

the credits would have no reporting obligations. Simply put, this path keeps the program alive for those who need it without imposing new regulatory burdens on those who do not. It aligns with the Administration's goal of regulatory restraint while maintaining a clear, credible framework for verifying the environmental performance that underpins these tax credits. By offering an opt-in option, EPA would also avoid unnecessary duplication once Treasury finalizes its own MRV rules.

If an opt-in program cannot be implemented immediately, we urge EPA to delay rescission of Subpart RR to provide Treasury and the IRS with sufficient time to establish an alternative system. That transitional approach would safeguard current projects, protect investor confidence, and prevent a costly and avoidable disruption in America's carbon-capture economy.

The Broader Vision

The ethanol industry is a cornerstone of America's clean-energy strategy. Our States' plants turn homegrown crops into renewable fuel that cuts emissions, lowers pump prices, and strengthens rural communities. Carbon capture is the next great leap forward and allows us to produce near-zero-carbon fuels at scale. The 45Q and 45Z credits have made that leap possible, but only because of the accountability that Subpart RR provides. Getting rid of Subpart RR outright would be at odds with the intent of the One Big Beautiful Bill, which explicitly continues the 45Q and 45Z programs in effect to promote the production of clean, renewable fuel in America.

EPA's deregulatory efforts should build upon that success, not unintentionally undermine it. By maintaining a voluntary, transparent reporting framework for carbon sequestration, EPA can ensure that American innovation continues to thrive—without compromising the principles of good governance or fiscal stewardship.

Respectfully,

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