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Submitted Electronically via Regulations.gov
U.S. Environmental Protection Agency
Administrator Lee Zeldin
1200 Pennsylvania Ave NW
Washington, DC 20004

RE: Comment on the *Reconsideration of the Greenhouse Gas Reporting Program*, 90 FR 44591

Dear Mr. Zeldin:

The United States Conference of Catholic Bishops (USCCB) appreciates the opportunity to provide public comment and share our concerns with the U.S. Environmental Protection Agency (EPA) on the Reconsideration of the Greenhouse Gas Reporting Program, issued September 16, 2025 ("Proposed Rule" or "Reconsideration").[1] The USCCB is concerned with the deregulatory action that the EPA is proposing.

The Reconsideration amends the Greenhouse Gas Reporting Program (GHGRP) to remove program obligations for most source categories. The EPA argues that it either does not have the authority to issue these sorts of continuous information requests under Clean Air Act (CAA) § 114 or that it has discretionary authority to amend this program, effectively terminating most greenhouse gases (GHG) reporting under the program. The loss of this data collection would be a grave loss to the environment, since any GHG emissions reporting from the approximately 8,200 facilities, suppliers, and CO2 injection sites that submit data each year is publicly available and helps inform policies, science, and industry benchmarking. Ultimately, this data and its use can serve to protect our "common home"[2] for current and future generations and allow the EPA to carry forth its mission to ensure Americans (especially the most vulnerable) have clean air, land, and water, and to protect human health and the environment.

Our concerns with the Reconsideration are founded on the Catholic Church's commitment to care for creation and the "least of these"[3] among us, as these tenets are integral components of Catholic faith. As Sacred Scripture states, reflecting on His creation, "God looked at everything he had made, and found it very good."[4] He gave us the gift of clean air and the breath of life.[5] In this same vein, Pope Leo XIV said, "[i]n a world where the most vulnerable of our brothers and sisters are the first to suffer the devastating effects of climate

[1] *Reconsideration of the Greenhouse Gas Reporting Program*, 90 FR 44591 (Sept. 16, 2025)
[2] *Laudato Si'*, Encyclical of Pope Francis (Vatican, May 24, 2015) at §§ 1, 13, 17-19, available online: https://tinyurl.com/339b39wz (*Laudato Si'*)
[3] Matthew 25:40
[4] *Genesis* 1:31.
[5] *Genesis* 2:7.

change… care for creation becomes an expression of our faith and humanity."[6]

The USCCB requests that the Reconsideration be withdrawn. The USCCB does not believe that the EPA has complied with the Administrative Procedure Act's[7] ("APA") requirements in its Reconsideration, rendering the proposed rule arbitrary and capricious. In addition, the USCCB requests that the EPA utilizes its discretion to keep the GHGRP as it stands. Lastly, the USCCB believes that the EPA did not accurately estimate the costs of the proposed regulation. This would make a final rule that does not take costs fully into account arbitrary and capricious.

Background

In 2007, the Supreme Court of the United States ruled in *Massachusetts v. E.P.A.*, 549 U.S. 497 (2007) ("*Massachusetts*") that the EPA has the authority to regulate GHGs from new motor vehicles and engines, as they fall under the definition of air pollutants under the CAA. Importantly, the Court's read the CAA title II to authorize the EPA to regulate certain GHGs as "air pollutants" if it determines such emissions contribute to climate change.[8] In addition, Congress authorized funding for the creation of the GHGRP in the Fiscal Year 2008 Consolidated Appropriations Act.

After the landmark decision, the EPA issued the 2009 Endangerment Finding, which identified six GHGs endangering public health and welfare because of their contributions to air pollution and climate change.[9] These GHGs "endanger the health and environment for future generations."[10] Once the endangerment finding was made, EPA quickly moved to require mandatory GHG reporting.

The EPA issued the GHGRP in 2009,[11] and covered facilities had to begin monitoring their GHG emissions on January 1, 2010. 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, while fuel suppliers report the CO2 equivalent of their products when combusted by end-users. The EPA has estimated that 85-90% of the total U.S. GHG emissions come from the facilities that are covered by the program.[12] The GHGRP currently requires reporting of GHG data from certain large GHG emission sources, fuel and industrial gas suppliers, and CO2 injection sites.

The USCCB has consistently advocated for policies that address climate change and curb sources of greenhouse gases. Among others, this includes previous comment submissions

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[6] *Message of His Holiness Pope Leo XIV for the 10th World Day of Prayer for the Care of Creation 2025* (Vatican, Jun. 30, 2025), available online: https://tinyurl.com/us2z22fj.
[7] 5 U.S.C. § 701 *et seq.*
[8] *Massachusetts*, 549 U.S. at 528.
[9] *See generally Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 FR 66496-01 (Dec. 15, 2009).
[10] *Id*, at 66498-99.
[11] *Mandatory Reporting of Greenhouse Gases: Final Rule*, 74 Fed. Reg. 56260 (Oct. 30, 2009).
[12] *Id.*, at 74 FR 56272 (EPA's estimate that the GHGRP covers 85% of the source emitters.); EPA, *GHGRP and the U.S. Inventory of Greenhouse Gas Emissions and Sinks* (Oct. 3, 2025) available online: https://tinyurl.com/435a9ty4 ("Over 8,000 facilities and suppliers reported greenhouse gas data to EPA for 2023, covering approximately 85-90% of total U.S. greenhouse gas emissions.")

in 2023 on power plant emissions standards, 2018 and 2023 comments in favor of GHG emissions regulations for light-, medium-, and heavy-duty motor vehicles, a 2022 comment on methane standards, and a 2020 comment on proposed GHG guidance. As Pope Francis said, "[t]he climate is a common good belonging to all and meant for all."[13] He encouraged that lifestyle changes, combined with indispensable political decisions, can have a significant impact on combatting climate change.[14] The Catholic faith calls us to protect God's creation for future generations, similar to the rationale behind the Endangerment Finding. Pope Francis warned, "[i]ntergenerational solidarity is not optional, but rather a basic question of justice, since the world we have received also belongs to those who will follow us."[15] As Pope Leo said at an October 2025 conference, "God will ask us if we have cultivated and cared for the world that he created (cf. *Gen* 2:15), for the benefit of all and for future generations, and if we have taken care of our brothers and sisters (cf. *Gen* 4:9; *Jn* 13:34). What will be our answer?"[16]

In the Reconsideration, the EPA seeks comment on two prongs: (1) the conclusion that the EPA does not have the authority to collect GHGRP data under CAA § 114(a)(1) for those sectors not subject to CAA § 136,[17] and (2) whether the EPA may alternatively pursue the proposal to rescind the GHGRP as an exercise in discretion.[18] On both grounds for reconsideration, the EPA is looking for any legitimate reliance interest that bears on the statutory purposes for which CAA § 114(a) authorizes the Agency to impose information collection and reporting obligations.

Argument

The EPA's action may be set aside if found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law."[19] A recission of an agency rule is arbitrary and capricious under the Administrative Procedure Act if "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."[20] In the Proposed Rule, the EPA misinterprets the plain language of CAA § 114; impermissibly seeks to shift administrative or regulatory burdens to other federal agencies, along with States or local governments; argues that Congress just authorized the EPA to issue the GHGRP via appropriations, and not substantive legislation; and does not take into consideration any reliance interest in access to this information. These deficiencies render the Proposed Rule arbitrary and capricious.

The USCCB respectfully requests that EPA rescind the Proposed Rule and reissue any

[13] *Laudato Si'*, at § 23.
[14] *Laudate Deum*, Apostolic Exhortation of Pope Francis (Vatican, Oct. 4, 2023) at § 72, available online: https://tinyurl.com/bdcsd857 (*Laudate Deum*).
[15] *Laudato Si'* § 159.
[16] *Address of the Holy Father Leo XIV to the Participants in the "Raising Hope" Conference on the Tenth Anniversary of the Encyclical Laudato Si* (Castel Gandolfo, Oct. 1, 2025) available online: https://tinyurl.com/5f44us49
[17] 90 FR 44596
[18] 90 FR 44597
[19] 5 U.S.C. § 706(2)(A).
[20] *Motor Vehicle Manufacturers Association of the United States, Inc. v. State Farm Mutual Automobile Insurance Company*, 463 U.S. 29, 43 (1983) ("*State Farm*").

Reconsideration after reevaluating the CAA statutory framework, impacts health and welfare, and reliance interests.

I. The EPA's Reconsideration is not the best reading of CAA § 114. The EPA impermissibly introduces a currency requirement that does not appear in the statute, and the best reading of § 114 permits the EPA to continuously collect this data from emitting sources.

The EPA issued this Reconsideration on the mistaken belief that it lacks the authority under CAA §114 to engage in continuous data collection. The EPA asserts that "the statute is best read to require a closer nexus between continuous reporting obligations and an underlying statutory purpose, particularly given the Agency's obligation to take the cost of information collection and reporting into account when taking action."[21] The EPA further contends that "[i]t has been over 15 years since the EPA originally promulgated the GHGRP information collection requirements, and since 2011 it has not used most of the information collected to carry out other provisions under the CAA."[22]

For the reasons set forth below, the USCCB believes that this course of action is arbitrary and capricious, and unlawful under the standard of review established in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

a. Loper Bright Standard

The EPA's Reconsideration is, at best, a permissible reading of CAA § 114. However, there remains a best reading—"the reading the court would have reached" if no agency were involved.[23] If the agency's interpretation is not the best reading of the statute, it is not permissible.[24] The best reading must guide judicial review; otherwise, courts would be required to abandon the most faithful interpretation of the law "in favor of views of those presently holding the reins of the Executive Branch."[25] Such an approach would compel judges to repeatedly revise their interpretations of statutes at the government's behest.[26]

Here, the EPA is not applying the best reading of the statute. While the EPA acknowledges that CAA § 114(a)(1) authorizes the collection of information "on a one-time, periodic or continuous basis," it contends that the statute is best read to require a closer nexus between continuous reporting obligations and an underlying statutory purpose, particularly in light of the Agency's obligation to consider the cost of information collection and reporting when taking action.[27] The EPA argues that it must rescind the GHGRP because "to date, the EPA has not proceeded with developing emissions standards that would apply to the majority of source categories reporting to the GHGRP."[28] It further notes that it has not implemented such standards and does not plan to do so at this time. Under this interpretation, the EPA claims that information collection must be directly tied to ongoing regulatory development.

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[21] 90 FR 44596
[22] 90 FR 44597
[23] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024) (quotations omitted) (*Loper Bright*).
[24] *Id.*
[25] *Loper Bright Enterprises v. Raimondo*, 603 U.S. at 433 (Gorsuch, J. concurring)
[26] *Id.*
[27] 90 FR 44596 (quotations omitted)
[28] 90 FR 44598

The EPA appears to be reading into the statute a requirement that it must be actively engaged in rulemaking in order to invoke its CAA § 114 authority. This interpretation fails because it imposes both a currency and a nexus requirement that do not exist in the statutory text.

The meaning of a statute is "fixed at the time of enactment," and the traditional tools of statutory construction seek that fixed meaning.[29] CAA **§** 114(a) reads as follows:

> "For the purpose (i) of developing or assisting in the development of any implementation plan under section 7410 or section 7411(d) of this title, any standard of performance under section 7411 of this title, any emission standard under section 7412 of this title, or any regulation of solid waste combustion under section 7429 of this title, or any regulation under section 7429 of this title (relating to solid waste combustion), (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out any provision of this chapter[.]"

Congress has authorized the EPA to engage in data collection when one of the three approved purposes under CAA § 114 is met. Clause (iii) serves as a catch-all provision, and is expansive, permitting data collection so long as it is undertaken to carry out any provision of the CAA.[30] This broad grant of authority was the basis for the EPA's establishment of the GHGRP in 2009. As reflected in the plain text of the statute, clause (iii) does not contain the nexus requirements found in clauses (i) and (ii). A review of subsection (1) reinforces this reading: Section 114(a)(1) authorizes the Administrator to require certain persons or entities, on a one-time, periodic or continuous basis, to keep records, submit reports, monitor, sample emissions, or provide other information as reasonably required.[31] The GHGRP, in its current form, satisfies all the requirements listed in CAA § 114(a).

Even if a nexus requirement were present in the statute, it has been met. The data collected under the GHGRP has been used to support regulation under the CAA. Previous administrations have proposed programs that relied on GHGRP as a baseline.[32] The EPA itself acknowledges that this data has been used in attempts to regulate under other CAA provisions.[33] Nevertheless, the EPA now seeks to do away with this data collection on the grounds that it currently has no plans to use the data for regulatory purposes. But the absence of current plans does not preclude mean future administrations from relying on GHGRP data. The statute contains no currency requirement, and the EPA's implied reading to the contrary

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[29] *Loper Bright*, 603 U.S. at 400 (2024)
[30] 74 FR 16454
[31] *Id.*
[32] *See e.g., Protection of Stratospheric Ozone: Updates Related to the Use of Ozone-Depleting Substances as Process Agents*, 89 FR 82414-01 (October 10, 2024) (program to effectively monitor narrow uses and enhance understanding of emissions of substances harmful to the stratospheric ozone layer under the Clean Air Act.); *Proposed Rules on Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014*, 80 FR 64966 (Oct. 23, 2015) (withdrawn 82 Fed. Reg. 16144-01); among others.
[33] 90 FR 44598 ("GHGRP data from the petroleum and natural gas, municipal solid waste landfill, and carbon capture and sequestration source categories were previously analyzed to inform the development of new source performance standards (NSPS) and emission guidelines (EG) under CAA section 111 for oil and natural gas facilities (81 FR 35824; June 3, 2016), municipal solid waste landfills (81 FR 59332; August 29, 2016), and fossil-fuel fired electricity generating units (89 FR 39798; May 9, 2024)[.]")

is unsupported by the text.

Even assuming the EPA's conclusion reflects the best reading of the statute—which it does not—its interpretation must still fail. The EPA overlooks the possibility that the GHGRP serves as a mechanism for regulated entities to self-regulate and develop technologies to reduce year-over-year emissions. In fact, the EPA appears to assume the opposite.[34]

Furthermore, the EPA's reading fails to account for the technology-forcing nature of the statute.[35] Continuous greenhouse gas data collection can incentivize the development of emission-reduction technologies, as businesses monitor their annual emissions. While GHGRP disclosure does not mandate emissions reductions, closing the informational gap between polluting facilities and their stakeholders often leads to significant reductions.[36]

For instance, two studies examining the impact of disclosures required by the GHGRP and found that power plants subject to the GHGRP decreased emissions between 7% and 7.9% after reporting.[37] Conversely, entities not subject to reporting requirements experienced increases in emissions.[38] Contrary to the EPA's assertion that recission will not result in increased emissions, the evidence suggests that even voluntary disclosure has a disciplining effect.[39] Companies that disclose their carbon emissions tend to adjust operations to reduce those emissions.[40]

Accordingly, the EPA's proposed reading must fail for several reasons: there is no nexus requirement in CAA § 114(a)(iii) to justify data collection under CAA § 114(a)(1); there is no currency requirement in the statutory text; and the GHGRP demonstrably helps businesses identify and reduce GHG emissions, contrary to the EPA's position.

* * *

The instant Reconsideration reflects precisely the kind of shift in statutory interpretation that Justice Gorsuch criticized in his concurrence.[41] In this analysis, the EPA is

[34] *Id*., at 44603 ("this is a reporting rule and there are no requirements to reduce emissions, there are no expected emission changes or monetized changes in benefits from emissions.")
[35] *Union Elec. Co. v. EPA*, 427 U.S. 246, 256-57 (1976) (recognizing the "'technology-forcing character'" of Clean Air Act pollution control requirements that are "designed to force regulated sources to develop pollution control devices that might at the time appear to be economically or technologically infeasible."); *see also* Pub. L. No. 84-159, 69 Stat. 322 (Jul. 14, 1955).
[36] *Chamber of Commerce of United States v. California Air Res. Bd*., No. Dkt. 56 (C.D. Cal., Jul 24, 2024) (Declaration of Lyon in opposition to Summary Judgment) ("*Chamber of Commerce*")
[37] *Chamber of Commerce*, 2:24-CV-00801-ODW (PVCX), 2025 WL 2337209, at *17 (C.D. Cal. Aug. 13, 2025) citing (Lavender Yang et al. *The Real Effects of Mandatory CSR Disclosure on Emissions: Evidence from the Greenhouse Gas Reporting Program*, No. w28984. National Bureau of Economic Research (Jul. 2021) and Sorabh Tomar, *Greenhouse Gas Disclosure and Emissions Benchmarking,* 61(2) J. of Acct. Res. 451, 451–492 (Oct. 29, 2022)); *see also* Cynthia A. Williams, *Does Climate Disclosure Work to Reduce Greenhouse Gas Emissions? Emerging Evidence Suggests Cautious Optimism*, 48 Seattle U.L. Rev. 571, 591 (2025) ("The reduction in CO2 emissions is 10% in plants owned by publicly held firms, and 11% in plants owned by publicly-held firms in the Standard and Poor's 500. In firms owned by private investors or government, the GHGRP disclosure causes reductions in emissions of 6%.") ("Williams")
[38] Williams, 48 Seattle U.L. Rev. at 591 (2025) ("[However,] emissions in the non-reporting plants increased by between 25% and 56%.")
[39] *Id*. at 595 (2025)
[40] *Id.*
[41] *Loper Bright*, 603 U.S. 369, 433 (2024) (Gorsuch, J. concurring)

not attempting to arrive at the best reading of the statute. Instead, it is engaging in, at best, a merely permissible reading of CAA § 114, one that disregards the technology-forcing nature of the CAA, introduces a currency requirement tied to regulatory or enforcement action to justify ongoing data collection, and imposes a nexus requirement for continuous data collection. This is not the best reading of the statute.

For these reasons, the USCCB urges the EPA not to rescind the GHGRP.

b. States utilize GHG emission data in their State Implementation Plans (SIP's) prepared under CAA § 110, 42 USC § 7410, which is an allowable purpose under CAA § 114(a)(i).

Furthermore, the EPA has not considered all alternatives before seeking to rescind the GHGRP. As an alternative, the EPA should consider maintaining the GHGRP to assist states in their SIP development.

Contrary to the EPA's assertion that the information gathered under the GHGRP is not used to regulate under the CAA, states routinely rely on GHGRP data in their SIP planning to establish regulatory goals, as required under CAA § 110. Under this provision, each state must prepare and submit a SIP to meet applicable primary and secondary National Ambient Air Quality Standards (NAAQS). SIPs provide for the implementation, maintenance, and enforcement of the NAAQS and other CAA requirements within the state.

SIPs must include emission limitations, other control measures, and schedules and timetables for compliance.[42] They often incorporate state air emissions statutes and regulations that meet minimum CAA requirements. SIPs must also provide for monitoring, compiling, and analyzing ambient air quality data, enforcement of emissions limits and control measures, and regulation of the modification and construction of stationary sources of air pollutants, including permitting programs for new major sources of pollutants in nonattainment and attainment areas.[43] Additionally, SIPs must prohibit emissions that interfere with attainment of NAAQS or other CAA requirements.[44]

These SIPs are then submitted to the EPA for approval.[45] If a SIP fails to meet the requirements of CAA § 110, the EPA may approve it in part or reject it and issue a Federal Implementation Plan (FIP).[46]

SIP's are comprehensive environmental studies that help states benchmark and plan future state emissions.[47] State emission planning includes and relies upon data on GHG emissions and sinks.[48] Data generated under the GHGRP is currently used to support regulation

[42] 42 U.S.C.A. § 7410(a)(2)(A)
[43] 42 U.S.C.A. § 7410(a)(2)(B)-(C)
[44] 42 U.S.C.A. § 7410(a)(2)(D)-(M)
[45] 40 C.F.R. Part 51
[46] 42 U.S.C.A. § 7410(c)
[47] California Air Resources Board, *Proposed 2022 State Strategy for the State Implementation Plan* (Aug. 12, 2022) available online: https://tinyurl.com/ydm2np5e ("Accurate on-going reporting would enable better emissions inventory development, technology assessment, and policy development, such as future regulatory and incentive programs.")
[48] *See e.g.*, Maryland's 2023 SIP *52 ("Additional figures come from the landfill facility reporting to EPA Part 98 GHG reporting and from annual MDE emission certification Reports.") available online:

under the CAA by enabling states to benchmark emissions data from in-state producers.

Therefore, even assuming the EPA's narrow reading is correct, continuous GHGRP collection should continue to support states in their SIP development, which is one of the enumerated purposes authorizing the EPA to collect this information under the CAA.[49]

c. The EPA has not explained why it is departing from its earlier interpretation authorizing this action, rendering this proposed rule arbitrary and capricious.

In this rule, the EPA proposes to conclude that it lacks the authority under CAA § 114(a)(1) to collect GHGRP data, and it acknowledges that this interpretation marks a departure from prior GHGRP rulemakings.[50] The EPA asserts that this reinterpretation is most consistent with the statutory text. However, it fails to explain what prompted this abrupt change in position.

This revocation resembles the agency action at issue in *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co*. The EPA should recognize that rescinding an existing regulation is materially different from declining to act.[51] Revocation constitutes a reversal of the agency's prior view of the proper course, and when an agency changes course by rescinding a rule, it must provide a reasoned analysis for the change—one that goes beyond what may be required when the agency declines to act initially.[52] While an agency's view of the public interest may evolve, with or without a change in circumstances, any such shift must be accompanied by a reasoned explanation.[53]

In this case, the EPA does not offer a reasoned analysis for its change in position. It merely asserts, in conclusory fashion, that it no longer believes that it has the authority to maintain the GHGRP. Although agencies have some discretion to revise regulations in response to changing circumstances,[54] they must comply with APA requirements. The EPA's failure to provide a reasoned explanation for its departure renders the proposed revocation arbitrary and capricious.

II. The EPA should exercise its discretion and retain the GHGRP because Congress mandated it, continues to support its use, and because maintaining the program promotes regulatory consistency and reduces compliance costs.

If the EPA's reading of the statute is not the best reading, in the alternative, "the EPA proposes to rescind the aspects of the GHGRP that rely on CAA § 114 on the basis that this authority is discretionary, and the Administrator no longer believes the information is necessary to carry out the provisions of the CAA."[55] The USCCB believes that the EPA should use its discretion to keep the GHGRP as it is for the reasons laid out in I, *supra*, and for the

https://tinyurl.com/33eanrte; New Jersey's State Implementation Plan (SIP) Revision, available online: https://tinyurl.com/594yrek3

[49] 42 U.S.C.A. § 7414(a)(i); *see also*, 90 FR 44596-97

[50] 90 FR 44597

[51] *State Farm*, 463 U.S. at 41.

[52] *Id.*

[53] *Id.*, at 57.

[54] *Id.*, at 42.

[55] 90 FR 44597

reasons below.

a. Congress mandated the creation of this program

When agencies exercise the authority delegated to them by Congress, they are limited to taking actions authorized by law.[56] "[A]n agency literally has no power to act[] unless and until Congress confers power upon it."[57] Consequently, agencies may not exceed the statutory bounds of their authority. In the case of the GHGRP, Congress directed EPA to adopt the Reporting Program fifteen years ago to ensure transparent, comparable, and reliable data on climate pollution across all major sectors in order to inform mitigation approaches. Congress has not directed the EPA to rescind this program. In fact, Congress keeps utilizing this program to come up with legislative proposals.[58]

b. Congress keeps using the GHGRP both directly and impliedly

While the EPA is correct that it has expended the funds that Congress authorized for the creation of the GHGRP, there is an open question as to whether the EPA has the discretion to rescind the GHGRP.

The GHGRP has historically been supported by federal appropriations as part of the overall EPA budget. Since the creation of the program, Congress has kept funding the EPA's GHGRP with just one exception: the mandatory reporting of GHG emissions from manure.[59] This seems to imply that Congress wishes to keep the rest of the GHGRP. Furthermore, Congress has funded compliance efforts with the GHGRP, even if they have been subsequently rescinded.[60] In fact, Congress has funded the GHGRP until Sept. 30, 2025 with the manure exception.[61] Since Congress keeps providing its tacit approval to keep the GHGRP with the manure exception, the Rescission might require an act of Congress explicitly end it. Therefore, it is questionable if the EPA possesses the unilateral discretion to rescind a program that was created under the direction of Congress that Congress keeps funding.[62]

In addition, reliance on this program extends beyond EPA regulatory schemes.[63] The Reconsideration raises questions on how this will impact reporting on industrial emissions that helps inform eligibility for tax incentives such as the 45Q tax credit.[64] The 45Q credit offers a credit for each metric ton of qualified carbon oxide that is captured and sequestered

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[56] *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986).
[57] *Id*.
[58] *See e.g.*, PROVE IT Act of 2024, S.1863 (2023); Pricing Greenhouse Gases Report Act of 2019, H.R.5168 (2019)
[59] *See e.g.* Consolidated Appropriations Act, 2024, Pub. L. No. 118-42 (2024), § 436; Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, § 437 (2023); Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, § 421 (2014); Consolidated Appropriations Act, 2012, Pub. L. No. 112–74, § 427 (2012).
[60] Inflation Reduction Act of 2022, Pub. L. No. 117-169, § 60113 (2022), *rescinded by* Pub. L. No. No: 119-21, § 60012 (2025)
[61] Pub. L. No. 119-4, § 1101 (a)(7) (keeping Pub. L. No. 118-42 funding levels for the EPA.)
[62] Sean Stiff, *Regular Appropriations Acts: Selected Statutory Interpretation Issues*, Congressional Research Service, R46899, *24-28 (Sept. 3, 2021) available online: https://www.congress.gov/crs-product/R46899
[63] Samuel Pickering, *Impacts To Carbon Capture And Sequestration From EPA's Proposal To Repeal Greenhouse Gas Reporting*, Mondaq, 2025 WLNR 26568343 (Oct. 15, 2025) ("Pickering")
[64] Greg L. Johnson, *EPA Proposes Key Updates To The GHG Reporting Program: What You Need To Know*, Mondaq, 2025 WLNR 25017527 (Sept. 30, 2025) ("Johnson")

or utilized in accordance with the regulatory framework.[65] Congress mandated the Department of the Treasury to set standards for Section 45Q credits in conjunction with the EPA.[66] Contrary to the EPA's position that it's not required to keep 40 CFR Part 98 for this reason, based on Treasury's 45Q credit proposed and final rules, it seems to imply that the EPA determined, in conjunction with Treasury, that utilizing the data generated under 40 CFR Part 98 would have been the most appropriate course of action for taxpayers to qualify for the tax credit.[67] This was also supported by various commenters, to reduce compliance costs.[68]

c. Keeping the GHGRP reporting in place will similarly reduce regulatory burden by not forcing states to change their regulations to reflect the rescission of 40 CFR Part 98.

States are free to regulate GHG emissions that occur within their borders, and many states have issued laws and regulations that attempt to do so. However, such regulation usually directs emitters within states to comply with 40 CFR Part 98 or incorporate GHGRP reporting methodologies.[69] This keeps the GHGRP as the only comprehensive and consistent framework for emissions accounting by regulated entities.[70] "Nearly every major producer or supplier reports to the GHGRP and uses the exact same methods—so the program summarizes emissions performance among a wide range of companies."[71]

Going through with the rescission is likely to kick off state regulatory action to "clean up" out of date regulations, create new reporting requirements,[72] and reconstitute state programs that rely on the GHGRP.[73] This will increase the regulatory burden to emitters, state and local governments, and lead to a loss of valuable nationwide public access data that informs research and policy proposals.[74]

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[65] *Id*.
[66] 26 U.S.C. § 45Q(f)(2), (f)(5)(B), (g)
[67] *Credit for Carbon Oxide Sequestration*, 85 FR 34050, 34055 (Jun. 2, 2020) *e.g.* ("The Treasury Department and the IRS, in consultation with the EPA, DOE, and the Department of Interior (Interior Department), agree that providing CSA/ANSI ISO 27916:19 as an alternative for UIC Class II wells is a viable quantification methodology that is appropriate for these purposes[.] Operators of UIC Class II wells that follow the CSA/ANSI ISO 27916:19 standard could elect to report to the EPA's GHGRP under subpart RR but would not be required to do so. Rather, they could continue to report to the EPA under subpart UU.")
[68] *See e.g.* 85 FR 34056 ("the commenter recommended that guidance make clear that models that are acceptable to the EPA will also be acceptable for purposes of section 45Q.")
[69] Pickering, *supra,* FN61. *See also e.g.,* Washington's Substitute Senate Bill No. 6373; Illinois' 35 Ill. Adm. Code 204 (utilizing GHGRP to set benchmark and define GHG's)
[70] Ben Cahill, *Why the Oil Industry Needs the Greenhouse Gas Reporting Program*, University of Texas at Austin (Jul. 9, 2025), available online: https://tinyurl.com/4p7hddrf ("Cahill")
[71] *Id.*
[72] Zachary Pilchen, *EPA Seeks Public Comments On Reconsideration Of Greenhouse Gas Reporting Program*, Mondaq, 2025 WLNR 24654026 (Sept. 26, 2025) ("If the EPA's proposal becomes final, other state and local governments may feel pressure to develop their own programs that would mimic the data gathering requirements of the GHGRP.")
[73] Beveridge & Diamond PC, *Environmental Developments To Watch In New England*, 2025 WLNR 26849848 (Oct. 17, 2025) ("In light of potential Trump administration rollbacks-such as anticipated changes to the U.S. Environmental Protection Agency's (EPA) mandatory Greenhouse Gas Reporting Program (GHGRP) as well as the Endangerment Finding-New England states may be increasing efforts to regulate on the climate front.")
[74] Cahill, *supra*, FN68.

In addition, as noted in Section I above, states can use this data to prepare and plan for their SIPs.

d. The EPA should utilize its discretion and keep the GHGRP because rescinding it will lead to a likely increase in GHG emissions.

Contrary to the EPA's belief that the Rescission will not result in increased emissions, there seems to be a disciplining effect of even voluntary disclosure.[75] This means that companies that disclose their carbon emissions seem to alter their operations as a way to reduce emissions.[76] The EPA should consider keeping the GHGRP in place as a way to continue decreasing or maintaining current levels of GHG emissions. Once measurement stops, there will likely be an increase in GHG emissions.

e. The GHGRP has been used as a model for international regulatory action, and rescinding it will be a loss of US leadership in global climate matters.

Another reason why the EPA should consider keeping the GHGRP is that this program has been the basis and inspiration for other international GHG reporting programs. For instance, the GHGRP is a model that has been adopted by other countries and by the UN to calculate emissions under the 2015 Paris Agreement.[77] These sorts of programs show how the U.S. is "leading the pack" when it comes to protecting "our common home"[78] for current and future generations. The U.S. should not pursue a self-harming pathway by relinquishing this leadership, especially considering that any increase in pollution and emission will end up harming the least among us.

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For all of these reasons, the USCCB requests that the EPA utilize its discretion and keep the GHGRP for the protection of our "common home."[79]

III. The EPA's cost benefit analysis is likely flawed because the rescission and termination of certain GHGRP provisions would shift the regulatory burden to other federal agencies, or state or local governments.

The proposed rule is likely arbitrary and capricious because the EPA does not fully take into account the costs and externalities that will arise from the GHGRP going away into its estimated annual savings. The proposed rule acknowledges that the collected data is used for non-CAA statutory reasons by various state, Tribal, local, Federal, and nongovernmental entities, and admits that it does not know how significant these impacts would be.[80] It would

[75] Williams, 48 Seattle U.L. Rev. at 595.
[76] *Id.*
[77] Cahill, *supra*, FN68.
[78] *Laudato Si', supra* FN2
[79] *Id.*
[80] 90 FR 44604 ("Although the magnitude of these impacts or the response by non-EPA parties to adapt to these changes is too uncertain to quantify, the EPA invites comment or data that could be used to inform analysis for the final rule.")

be arbitrary and capricious to finalize a rule without attempting to quantify these costs.[81]

If the EPA will engage in a cost-benefit analysis as a basis for regulatory action, it must take into account the advantages and the disadvantages of agency decisions.[82] Reasonable regulation ordinarily requires paying attention to these costs and benefits. Doing so reflects the reality that "too much wasteful expenditure devoted to one problem may well mean considerably fewer resources available to deal effectively with other (perhaps more serious) problems."[83] These parts of the opinion in *Michigan* are not necessarily tied to the facts of the case.[84] Instead, the opinion in places creates a presumption that "reasonable regulation" in general necessitates attention to cost.[85] While *Michigan* dealt with the EPA's refusal to consider whether the costs of its decision outweighed the benefits,[86] the decision left open the question whether an agency can consider ancillary benefits when engaging in a cost benefit analysis.[87]

Here, the EPA has not fully done its job in calculating the cost-benefit estimate. When the EPA issued the GHGRP in 2009, the EPA met with over 4,000 people and 135 groups since proposal signature to elicit feedback on the program.[88] The EPA's cost-benefit analysis estimates around $303 million in annual cost savings from eliminating federal reporting requirements. However, this number is likely to be less. The rescission of GHGRP leaves a gap in the uniform collection of GHG emission data. This leaves the states open to enforce their own programs, and require GHGRP participants to file different reports to comply with state laws and regulations. These programs are unlikely to be uniform or take each other into account. This is the reason why Treasury, in conjunction with the EPA, rejected this approach for the 45Q credits.[89] The EPA must consider the disadvantages as well as the advantages of its decision.[90]

Conclusion

In summary, the EPA attempts to reinterpret the unambiguous plain language of the Clean Air Act fails to consider alternative purposes for data collection—an approach that is demonstrably arbitrary and capricious. The EPA also disregards clear congressional intent supporting the collection and publication of this information, which likely constrains the agency's discretion in terminating the GHGRP.

Furthermore, while the EPA conducts a cost-benefit analysis, it concedes that it does not fully understand the significance of the ancillary impacts of the proposed rescission.

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[81] *Michigan v. E.P.A.*, 576 U.S. 743, 752 (2015) ("No regulation is "appropriate" if it does significantly more harm than good.") ("*Michigan*")
[82] *Id*., at 753.
[83] *Id.*
[84] *Clean Air Act-Cost-Benefit Analysis-Michigan v. EPA*, 129 Harv. L. Rev. 311, 317 (2015)
[85] *Id.*
[86] *Michigan,* 576 U.S. at 751.
[87] *Id.* at 759-60.
[88] 74 FR 56264
[89] 85 FR 34055 ("Reporting rules among states are not uniform and states may have different reporting requirements and different governing bodies to whom carbon dioxide injection projects are required to report. Adopting such rules would not promote uniformity, and would increase the administrative burden[.]")
[90] Adrian Vermeule, *Does Michigan v. EPA Require Cost-Benefit Analysis?* Yale Journal on Regulation (Feb. 6, 2017) available online: https://tinyurl.com/yyssv9nk

Despite this uncertainty, the EPA implies that it will proceed with rescission without adequately accounting for these consequences, which further supports a finding of arbitrariness and capriciousness.

The EPA appears to be attempting to reverse progress made in addressing the harmful effects of climate change from regulated entities' GHG emissions. Informed by faith, the USCCB opposes this Proposed Rule, and respectfully urges the EPA to withdraw it.

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