

Proposed Confidentiality Determinations for 8 Subparts and Proposed Amendments to Table A-6 in Subpart A under the Mandatory Reporting of Greenhouse Gases Rule

Action

- On December 22, 2011, the U.S. Environmental Protection Agency (EPA) proposed a rule that would determine which data elements under six subparts of part 98¹ will be entitled to confidential treatment under the Clean Air Act (CAA). These data elements will be reported to EPA for the first time in 2012 under the Greenhouse Gas Reporting Program (GHGRP). The six subparts are:
 - Subpart L (Fluorinated Gas Production),
 - Subpart DD (Electrical Transmission and Distribution Equipment Use),
 - Subpart QQ (Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-charged Equipment or Closed-cell Foams),
 - Subpart RR (Geologic Sequestration of Carbon Dioxide),
 - Subpart SS (Electrical Equipment Manufacture or Refurbishment), and
 - Subpart UU (Injection of Carbon Dioxide).
- This action also includes proposed confidentiality determinations for seven new data elements recently added to subparts II (Industrial Wastewater Treatment) and TT (Industrial Waste Landfills). The proposed rule also includes minor updates to Table A-6 in subpart A (General Provisions) of part 98 to reflect the technical revisions recently made to subpart TT.
- EPA will release and withhold part 98 data in accordance with its confidential business information (CBI) regulations for part 98 at 40 CFR 2.301.
- This proposal does not include subpart W (Petroleum and Natural Gas Systems) or subpart I (Electronics Manufacturing). EPA will issue separate rulemaking actions in the future to determine which data elements in subparts W and I will be entitled to confidential treatment.
- This proposal does not make confidentiality determinations for any data elements that are inputs to emission equations. In an August 2011 action, EPA deferred reporting of inputs to emissions equations for several years (76 FR 30782).

Background

- On October 30, 2009, EPA published the Mandatory Reporting of Greenhouse Gases rule (74 FR 56260) at 40 CFR part 98, requiring reporting from facilities that directly emit greenhouse gases (GHGs) to the atmosphere (“direct emitters”) as well as suppliers of products that would release GHGs if combusted, oxidized, or used (“suppliers”). In November of 2010, EPA amended part 98 with reporting requirements for six additional source categories (subparts L, DD, QQ, RR, SS, and UU).

¹ On October 30, 2009, EPA published the Mandatory GHG Reporting Rule at 40 CFR part 98 for collecting information regarding greenhouse gases from a broad range of industry sectors. Under part 98 and its subsequent amendments, certain facilities and suppliers above specified thresholds are required to report greenhouse gas information to EPA annually.

- On May 26, 2011, EPA promulgated confidentiality determinations for data elements in 34 subparts of part 98, not including inputs to emission equations². This action proposes confidentiality determinations for data elements in six remaining subparts.
- On November 29, 2011, EPA finalized technical corrections, clarifying and other amendments to part 98, including adding seven new data elements to the subparts II and TT reporting requirements. This action proposes confidentiality determinations for these seven data elements, so the total number of subparts affected by this action is eight.
- The CAA precludes “emission data” from being considered confidential and requires that such data be available to the public.

Proposed Confidentiality Determinations

- In this proposal, EPA grouped similar data elements into data categories to make confidentiality determinations for each element. This is the same approach that was used in the May 26, 2011, action to make confidentiality determinations for data elements in 34 part 98 subparts.
- EPA evaluated part 98 data elements for six subparts (subparts L, DD, QQ, RR, SS, and UU) to determine which data elements are emission data and, therefore, are not eligible for confidential treatment.
- For the remaining data elements included in this proposal, EPA evaluated whether the data elements qualify as CBI³.
- For a list of the data elements along with the corresponding final confidentiality determinations, see the memorandum “Proposed Data Category Assignments for data elements in 40 CFR Part 98, subparts L, DD, II, QQ, RR, SS, TT, and UU” at: <http://www.epa.gov/climatechange/emissions/CBI.html>.

Next Steps and Implementation

- The notice of confidentiality determination will be published in the *Federal Register* shortly and will be available at www.regulations.gov.
- A prepublication version is available on our Web site at: www.epa.gov/climatechange/emissions/ghgrulemaking.html
- The public comment period is open for 60 days after publication in the *Federal Register*.
- After consideration of public comments, we intend to issue a final notice in 2012.

More Information

For more information on the mandatory GHG reporting rule, including guidance and a schedule of training opportunities, please visit EPA’s GHG Mandatory Reporting Rule Website: www.epa.gov/climatechange/emissions/ghgrulemaking.html.

² On August 25, 2011, EPA finalized an action to defer until 2013 and 2015 the reporting of data elements that are inputs to emission equations. That action covered inputs to equations in all 42 source categories of part 98, including the six source categories that are the subject of this proposed rule.

³ 40 CFR 2.208