and center mounting rods, and rod ends. If any corrosion is found during any inspection, before further flight, do the actions required by paragraphs (f)(1)(i), (f)(1)(ii), and (f)(1)(iii) of this AD, as applicable. Do all actions required by this paragraph in accordance with the Accomplishment Instructions of EMBRAER Service Bulletin 120–49–0023, Revision 01, dated June 30, 2008.

(i) If light corrosion (characterized by discoloration or pitting) is found on a mounting rod, remove the corrosion and apply an anticorrosive treatment.

(ii) If moderate corrosion (characterized by surface blistering or evidence of scaling and flaking), or heavy corrosion (characterized by severe blistering exfoliation, scaling and flaking) is found, replace the affected mounting rod with a new mounting rod having the same part number.

(iii) If any corrosion is detected on the rod ends, remove the corrosion and apply an anticorrosive treatment.

(2) Accomplishing of the inspection and corrective actions required by paragraph (f)(1) of this AD before the effective date of this AD in accordance with EMBRAER Service Bulletin 120–49–0023, dated April 18, 2008, is acceptable for compliance with the corresponding requirements of paragraph (f)(1) of this AD.

(3) For mounting rods with moderate or heavy corrosion, submit a report of the positive findings (including level of corrosion such as moderate or heavy; guidance on corrosion can be found in Chapter 51–11–01 of the EMBRAER Corrosion Prevention Manual) of the inspection required by paragraph (f)(1) of this AD to Mr. Antonio Claret—Customer Support Group, Embraer Aircraft Holding, Inc, 276 S.W 34th Street Fort Lauderdale, FL 33315—USA; telephone (954) 359–3826; e-mail *structure@embraer.com.br;* at the applicable time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

(1) Although Brazilian Airworthiness Directive 2008–08–01, dated October 21, 2008, does not include a reporting requirement, the service bulletin identified in paragraph (f)(1) of this AD does specify reporting findings to EMBRAER. This AD requires that operators report the results of the inspections to EMBRAER because the required inspection report will help determine the extent of the corrosion in the affected fleet, from which we will determine if further corrective action is warranted. This difference has been coordinated with ANAC.

(2) Brazilian Airworthiness Directive 2008–08–01, dated October 21, 2008, allows replacement of the affected APU mounting rods by "new ones bearing a new P/N [part number] approved by ANAC [Agência Nacional de Aviação Civil]." However, paragraph (f)(1)(ii) of this AD requires replacing the affected mounting rod only with a new mounting rod having the same part number. Operators may request approval of an alternative method of compliance to install a new part number in accordance with the procedures specified in paragraph (g)(1) of this AD. This difference has been coordinated with ANAC.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

(4) *Special Flight Permits:* Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the airplane can be modified (if the operator elects to do so), except if two or more center mounting rods or rod ends are heavily corroded or broken, a special flight permit is not permitted.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2008–08–01, dated October 21, 2008; and EMBRAER Service Bulletin 120–49–0023, Revision 01, dated June 30, 2008; for related information.

Material Incorporated by Reference

(i) You must use EMBRAER Service Bulletin 120–49–0023, Revision 01, dated June 30, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170–Putim–12227–901 São Jose dos Campos–SP–BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; e-mail *distrib@embraer.com.br*; Internet *http://www.flyembraer.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on August 30, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–22849 Filed 9–21–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2009–0925; FRL–9204–7]

RIN 2060–AQ02

Mandatory Reporting of Greenhouse Gases

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action amends the Final Mandatory Reporting of Greenhouse Gases Rule to require reporters subject to the rule to provide: The name, address, and percentage ownership of their U.S. parent company(s); their primary North American Industry Classification System code(s) as well as all additional applicable North American Industry Classification System code(s); and an indication of whether or not any of their reported emissions are from a cogeneration unit. This final action also corrects an editorial error in revisions made to the General Provisions published earlier this year.

DATES: The final rule is effective on November 22, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2009–0925. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For technical information and implementation materials, please go to the Web site *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.* To submit a question, select Rule Help Center, followed by Contact Us. You may also contact Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; e-mail address: *GHGMRR@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* This amendment to 40 CFR part 98 affects facilities that are direct emitters of GHGs, and suppliers of fuels and industrial gases that are already subject to the rule. Regulated categories and entities include those listed in Table 1 of this preamble.

TABLE 1—EXAMPLES OF REGULATED ENTITIES BY CATEGORY

Category	NAICS Code	Examples of regulated entities
General Stationary Fuel Combustion Sources.	.....	Facilities operating boilers, process heaters, incinerators, turbines, and internal combustion engines:
	211	Extractors of crude petroleum and natural gas.
	321	Manufacturers of lumber and wood products.
	322	Pulp and paper mills.
	325	Chemical manufacturers.
	324	Petroleum refineries and manufacturers of coal products.
	316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
	331	Steel works, blast furnaces.
	332	Electroplating, plating, polishing, anodizing, and coloring.
	336	Manufacturers of motor vehicle parts and accessories.
	221	Electric, gas, and sanitary services.
	622	Health services.
	611	Educational services.
	325193	Ethyl alcohol manufacturing facilities.
Electricity Generation	221112	Fossil-fuel fired electric generating units, including units owned by Federal and municipal governments and units located in Indian Country.
Adipic Acid Production	325199	Adipic acid manufacturing facilities.
Aluminum Production	331312	Primary Aluminum production facilities.
Ammonia Manufacturing	325311	Anhydrous and aqueous ammonia manufacturing facilities.
Cement Production	327310	Portland Cement manufacturing plants.
Ferroalloy Production	331112	Ferroalloys manufacturing facilities.
Glass Production	327211	Flat glass manufacturing facilities.
	327213	Glass container manufacturing facilities.
	327212	Other pressed and blown glass and glassware manufacturing facilities.
HCFC–22 Production and HFC–23 Destruction.	325120	Chlorodifluoromethane manufacturing facilities.
Hydrogen Production	325120	Hydrogen manufacturing facilities.
Iron and Steel Production	331111	Integrated iron and steel mills, steel companies, sinter plants, blast furnaces, basic oxygen process furnace shops.
Lead Production	331419	Primary lead smelting and refining facilities.
.....	331492	Secondary lead smelting and refining facilities.
Lime Production	327410	Calcium oxide, calcium hydroxide, dolomitic hydrates manufacturing facilities.
Magnesium Production	331419	Primary refiners of nonferrous metals by electrolytic methods.
	331492	Secondary magnesium processing plants.
Nitric Acid Production	325311	Nitric acid manufacturing facilities.
Petrochemical Production	32511	Ethylene dichloride manufacturing facilities.
	325199	Acrylonitrile, ethylene oxide, methanol manufacturing facilities.
	325110	Ethylene manufacturing facilities.
	325182	Carbon black manufacturing facilities.
Petroleum Refineries	324110	Petroleum refineries.
Phosphoric Acid Production	325312	Phosphoric acid manufacturing facilities.
Pulp and Paper Manufacturing	322110	Pulp mills.
	322121	Paper mills.
	322130	Paperboard mills.
Silicon Carbide Production	327910	Silicon carbide abrasives manufacturing facilities.
Soda Ash Manufacturing	325181	Alkalies and chlorine manufacturing facilities.
	212391	Soda ash, natural, mining and/or beneficiation.
Titanium Dioxide Production	325188	Titanium dioxide manufacturing facilities.
Underground Coal Mines	212113	Underground anthracite coal mining operations.
	212112	Underground bituminous coal mining operations.

TABLE 1—EXAMPLES OF REGULATED ENTITIES BY CATEGORY—Continued

Category	NAICS Code	Examples of regulated entities
Zinc Production	331419	Primary zinc refining facilities.
	331492	Zinc dust reclaiming facilities, recovering from scrap and/or alloying purchased metals.
Municipal Solid Waste Landfills	562212	Solid waste landfills.
	221320	Sewage treatment facilities.
Industrial Waste Landfills	562212	Solid waste landfills.
	322110	Pulp mills.
	322121	Paper mills.
	322122	Newsprint mills.
	322130	Paperboard mills.
	311611	Meat processing facilities.
	311411	Frozen fruit, juice, and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
	221320	Sewage treatment facilities.
Industrial Wastewater Treatment	562212	Solid waste landfills.
	322110	Pulp mills.
	322121	Paper mills.
	322122	Newsprint mills.
	322130	Paperboard mills.
	311611	Meat processing facilities.
	311411	Frozen fruit, juice, and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
	221320	Sewage treatment facilities.
	325193	Ethyl alcohol manufacturing facilities.
Manure Management [a]	112111	Beef cattle feedlots.
	112120	Dairy cattle and milk production facilities.
	112210	Hog and pig farms.
	112310	Chicken egg production facilities.
	112330	Turkey Production.
	112320	Broilers and Other Meat type Chicken Production.
Suppliers of Coal Based Liquids Fuels	211111	Coal liquefaction at mine sites.
Suppliers of Petroleum Products	324110	Petroleum refineries.
Suppliers of Natural Gas and NGLs	221210	Natural gas distribution facilities.
	211112	Natural gas liquid extraction facilities.
Suppliers of Industrial GHGs	325120	Industrial gas manufacturing facilities.
Suppliers of Carbon Dioxide (CO_2)	325120	Industrial gas manufacturing facilities.

[a] EPA will not be implementing subpart JJ of the Mandatory GHG Reporting Rule using funds provided in its FY2010 appropriations due to a Congressional restriction prohibiting the expenditure of funds for this purpose.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Table 1 of this preamble lists the types of entities that may be reporting under 40 CFR part 98 and, therefore, may be affected by this action. However, other types of entities not listed in the table could also be subject to reporting requirements. To determine whether an entity is affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A. EPA has also proposed reporting requirements for several other source categories (rule subparts). If these subparts are finalized, entities subject to them would be also subject to this action starting with their first reports. The following subparts have been proposed, but not yet finalized, by EPA:

- 40 CFR part 98, subpart I (Electronics Manufacturing) (75 FR 18652, April 12, 2010);
- 40 CFR part 98, subpart L (Fluorinated Gas Production) (75 FR 18652, April 12, 2010);
- 40 CFR part 98, subpart W (Petroleum and Natural Gas Systems) (75 FR 18608, April 12, 2010);
- 40 CFR part 98, subpart DD (Electric Transmission and Distribution Equipment Use) (75 FR 18652, April 12, 2010);
- 40 CFR part 98, subpart QQ (Imports and Exports of Fluorinated GHGs Inside Pre-charged Equipment and Closed-cell Foams (75 FR 18652, April 12, 2010);
- 40 CFR part 98, subpart RR (Injection and Geologic Sequestration of Carbon Dioxide (75 FR 18576, April 12, 2010); and
- 40 CFR part 98, subpart SS (Electrical Equipment Manufacture or Refurbishment) (75 FR 18652, April 12, 2010).

If you have questions regarding the applicability of this action to a particular entity, consult the Web site or the person listed in the preceding **FOR FURTHER GENERAL INFORMATION CONTACT** section.

Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 22, 2010. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Acronyms and Abbreviations

The following acronyms and abbreviations are used in this document:

CAA Clean Air Act
CBI confidential business information
CFR Code of Federal Regulations
CO_2 carbon dioxide
CO_2e CO_2-equivalent
CUSIP Committee on Uniform Security Identification Procedures
DUNS Data Universal Numbering System
EIA Economic Impact Analysis
EO Executive Order

EPA U.S. Environmental Protection Agency
FEIN Federal Employer Identification Numbers
GHG greenhouse gas
GHGRP Greenhouse Gas Reporting Program
HCFC hydrochlorofluorocarbon
HFC hydrofluorocarbon
ICR Information Collection Request
LDC Local Distribution Company
NAICS North American Industry Classification System
NTTAA National Technology Transfer and Advancement Act of 1995
OMB Office of Management and Budget
SBREFA Small Business Regulatory Enforcement Fairness Act
SEC Securities and Exchange Commission
TRI Toxics Release Inventory
UMRA Unfunded Mandates Reform Act
U.S. United States

Table of Contents

I. Background
A. Background on the Final Rule
B. Summary of the Final Rule
C. Legal Authority
D. Relationship to Other Programs
II. The Final Rule and Reponses to Public Comments
A. U.S. Parent Company
B. NAICS Code(s)
C. Cogeneration
D. Frequency of Reporting
E. Applicability of the Reporting Requirements
F. Miscellaneous Public Comments and Responses
G. Correction to Subpart A
III. Economic Impacts of the Final Rule
A. How were compliance costs estimated?
B. What are the costs of the rule?
C. What are the economic impacts of the rule?
D. What are the impacts of the rule on small businesses?
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Background

A. Background on the Final Rule

On April 12, 2010, EPA proposed this rule amending 40 CFR part 98, which provides the regulatory framework for the GHG Reporting Program (GHGRP).[1] The GHGRP requires the reporting of greenhouse gas (GHG) emissions and other relevant information from certain source categories in the United States (U.S). The GHGRP, which became effective December 29, 2009, includes reporting requirements for facilities that emit GHGs ("facilities") and for suppliers of fuels and industrial gases ("suppliers"). Facilities and suppliers that meet the applicability criteria in 40 CFR part 98, subpart A ("regulated entities" or "reporters") must submit annual GHG reports in accordance with the provisions in 40 CFR 98.3(c).[2] For more detailed background information on the GHGRP, *see* the preamble to the final rule that established the program (74 FR 56260, October 30, 2009).

This rule amends 40 CFR part 98 to include new requirements for reporters to provide information on their U.S. parent company(s), on their primary and additional applicable North American Industry Classification System (NAICS) code(s), and on whether any of their reported emissions are from a cogeneration unit (also called combined heat and power). Facilities and suppliers subject to 40 CFR part 98 must provide this additional information in their annual reports. This action also amends 40 CFR part 98, subpart A to correct a drafting error in the revisions to 40 CFR 98.2(a)(2) published on July 12, 2010 (75 FR 39758).

This preamble is divided into four sections. The first section of the preamble provides background and an overview of the final rule, discusses EPA's legal authority under the Clean Air Act (CAA) for collecting the additional information and summarizes the relationship between this information and the information already collected by other programs. The second section of the preamble describes the new reporting requirements finalized by this action, describes major changes since proposal, discusses public comments and EPA responses, and describes the revisions made to 40 CFR 98.2(a)(2) to correct the editorial error published on July 12, 2010. The third section of the preamble provides a summary of the impacts and costs of the final rule and discusses comments on the regulatory impacts analyses. The fourth and final section of the preamble discusses the various statutory and executive order requirements applicable to the final rule.

[1] GHGRP refers to the implementation of 40 CFR part 98.

[2] Because mobile sources are not covered under 40 CFR part 98, this rule does not apply to them.

B. Summary of the Final Rule

This action amends 40 CFR part 98 by adding several data elements to the list specified in 40 CFR 98.3. These data elements must be included in the annual GHG reports that facilities and suppliers subject to 40 CFR part 98 are required to submit. Specifically, this rule requires each reporter to (1) Provide the names and physical addresses of all of its U.S. parent companies and their respective percentages of ownership; (2) provide its primary NAICS code(s) and all additional applicable NAICS code(s); and (3) indicate whether any of its reported emissions are from a cogeneration unit located at the facility.

This rule applies to all facilities and suppliers required to report under 40 CFR part 98, including those covered by subparts published on October 30, 2009 (74 FR 56260) and on July 12, 2010 (75 FR 39736).[3] Therefore, all facilities and suppliers that meet the applicability criteria in 40 CFR part 98, subpart A are required to report the additional data elements included in this rule.[4]

C. Legal Authority

EPA is finalizing this rule under the existing authority provided in CAA section 114. As noted in the preamble to the Final Rule for Mandatory Reporting of GHGs (Part 98), CAA section 114 provides EPA with broad authority to require the information mandated by this final rule because such information will inform EPA's implementation of various CAA provisions (74 FR 66264). Under CAA section 114(a)(1), the Administrator may require emission sources, persons subject to the CAA, manufacturers of emission control or process equipment, or persons whom the Administrator believes may have necessary information, to monitor and report emissions and to provide such other information as the Administrator requests for the purposes of carrying out any provision of the CAA (except for a provision of title II with respect to motor vehicles).

As discussed in greater detail in Sections I.C and II.Q of the preamble to the final Part 98 rule and in the response to comments for 40 CFR part 98,[5] EPA may gather information for a

[3] If additional categories are finalized in 40 CFR part 98, then this rule applies to those categories as well.

[4] EPA will not be implementing subpart JJ of the Mandatory GHG Reporting Rule using funds provided in its FY2010 appropriations due to a Congressional restriction prohibiting the expenditure of funds for this purpose.

[5] Responses to major comments can be found in the preamble to the final Part 98 (74 FR 56260). Responses to additional comments can be found in

variety of purposes, including for the purpose of assisting in the development of emissions standards under CAA section 111, determining compliance with implementation plans or standards, or more broadly for "carrying out any provision" of the CAA.

In particular, CAA section 103 authorizes EPA to establish a national research and development program, including nonregulatory approaches and technologies, for the prevention and control of air pollution, including GHGs. The data collected under this final rule would be immediately available to EPA and could inform EPA's implementation of CAA section 103(g) regarding improvements in sector-based nonregulatory strategies and technologies for preventing or reducing air pollutants.

The data collected through this final rule would be immediately available to EPA and could be used for the purposes of providing additional information to support more effective research and develop actions to address GHG emissions. For example, corporate parent and NAICS data would assist EPA in developing and improving emission inventories, as well as characterizing emissions data in several different ways. A more detailed understanding of the sources and operational categories of GHG emissions could lead to improvements in air pollution emissions information that is relied upon to develop effective control strategies. For example, EPA could use the NAICS code information gathered by this rule to compare results both within industries and across industry sectors.

Finally, the information gathered through this rule will be immediately available to enhance EPA's implementation of various nonregulatory programs aimed at encouraging voluntary reductions of GHG emissions. Under the authority of CAA section 103, EPA has launched a variety of nonregulatory programs aimed at reducing emissions of GHGs.[6] The additional data will assist EPA by providing more detailed information on possible sources, and facility operations within industrial sectors for EPA to work with in the context of these programs.

Given the broad scope of CAA section 114, it is appropriate for EPA to gather the information required by this final rule because such information is relevant to EPA's implementation of a wide variety of CAA provisions and the burden of submitting such information is low.

D. Relationship to Other Programs

EPA investigated other Federal and non-Federal reporting programs that collect information similar to the information that EPA will collect under this rule to determine if any existing sources of information met all EPA's objectives. These objectives included: Identifying each reporter's highest-level U.S. parent company(s); identifying each reporter's primary and any additional applicable NAICS codes; identifying facilities using cogeneration; covering all reporters subject to 40 CFR part 98; collecting data annually; and having the information available to EPA. This section of the preamble summarizes EPA's findings from our review of other programs. For additional information on reporting requirements for these data elements in existing Federal and non-Federal programs, please *see* Section I.D of the proposal preamble (75 FR 18455, April 12, 2010) and the following memoranda "Review of Non-Federal Existing Greenhouse Gas Reporting Programs Requiring Reporting of Parent Company Ownership" and "Summary of Existing State Greenhouse Gas Reporting Programs" located in Docket EPA–HQ–OAR–2009–0925.

1. EPA and Other Federal Data Collection Programs

Federal voluntary programs, such as Climate Leaders and U.S. Department of Energy's Voluntary Reporting of Greenhouse Gases Program, collect some data elements (such as data related to NAICS codes) that are similar to the data that EPA will collect under this rule. However, none of the voluntary programs collect data from all of the facilities and suppliers subject to 40 CFR part 98. In addition, the voluntary programs that collect these data do not use the same definitions for data elements.

U.S. Parent Company:

Currently, three EPA programs collect parent company information: The Toxics Release Inventory (TRI) under Section 313 of the Emergency Planning and Community Right-to-Know Act; Risk Management Plans under CAA section 212(r); and the Inventory Update Rule under the Toxic Substances Control Act (TSCA). Of these three programs, TRI is the only one that requires reporters to submit information on their highest-level U.S. parent company.[7] TRI requires reporters to report the name of their one parent company with the largest ownership interest in the facility. TRI also requires the parent company's Dun & Bradstreet Data Universal Numbering System (DUNS)[8] identifier to be reported annually. This amendment to 40 CFR part 98 differs from TRI parent company reporting requirements in that it requires reporting of: (1) All parent companies, rather than just one parent company; (2) the physical address of each parent company, but not the DUNS identifier; and (3) the percentage of ownership interest for each parent company. EPA estimates that approximately two-thirds of the reporters subject to 40 CFR part 98 are also required to report to TRI.

Several EPA programs under the CAA, including the GHGRP,[9] require reporters to identify the "owner or operator" of each affected facility. Although in some cases, the owner or operator is also the highest-level U.S. parent company, the information currently collected under the majority of CAA programs is not designed to specifically identify the highest-level U.S. parent company, because that information is not necessary to determine compliance with particular regulatory requirements.

Primary and Other NAICS Codes:

The final rule also requires facilities and suppliers reporting under 40 CFR part 98 to report their primary and all additional applicable NAICS codes.[10] In the large majority of cases, facilities and suppliers will submit a single NAICS

volumes 1 through 42 of the response to comments document entitled "Mandatory Greenhouse Gas Reporting Rule: EPA's Response to Public Comments" in docket EPA–HQ–OAR–2008–0508 (*see http://www.regulations.gov/search/Regs/home.html#docketDetail?R=EPA-HQ-OAR-2008-0508*).

[6] For example, Climate Leaders, Combined Heat and Power Partnership, and Energy Star.

[7] For purposes of TRI reporting, a reporter's parent company is defined as the highest-level company located in the U.S. that directly owns at least 50 percent of the voting stock of the company. When a facility is owned by more than one company and none of the owners directly owns 50 percent or more of the voting stock, the facility reports the name of either the facility operator or the owner with the largest ownership interest in the facility as its U.S. parent company. (Toxic Chemical Release Inventory Reporting Forms and Instructions, EPA 260–R–09–006, October 2009. page 34).

[8] The Data Universal Numbering System (DUNS) is a unique 9-digit numerical identifier used to identify individual business entities in databases maintained by Dun & Bradstreet.

[9] GHGRP refers to the implementation of 40 CFR part 98.

[10] North American Industry Classification System (NAICS) code(s) are defined as the six-digit code(s) that represents the product(s)/activity(s)/service(s) at a facility or supplier as listed in the **Federal Register** and defined in "North American Industrial Classification System Manual 2007," available from the U.S. Department of Commerce, National Technical Information Service. A reporter's primary NAICS code is the NAICS code that most accurately describes the reporter's primary product/activity/service based on revenue. Additional NAICS codes describe the product(s)/activity(s)/service(s) at the facility that are not related to the principal source of revenue.

code. However, infrequently a facility/supplier may have two distinct products/activities/services providing comparable revenue. In these cases the facility/supplier may also report a second primary NAICS code. Among all EPA programs, only TRI requires reporters to submit primary NAICS codes as well as other relevant NAICS codes. As noted above, EPA estimates that approximately two-thirds of the reporters required to report under the GHGRP are also required to report to TRI.

EPA collects some NAICS code information through routine compliance reporting in multiple programs,[11] but those programs either do not require primary and other NAICS codes be designated as such, or they do not define a primary NAICS code as it is defined in this rule. In addition, none of the compliance databases provide complete coverage of the facilities and suppliers subject to 40 CFR part 98.

Cogeneration:

There are currently no EPA programs that require facilities or suppliers to identify and report the use of cogeneration units located at the facility. EPA's Combined Heat and Power Partnership, a voluntary program, requires that partners agree to provide data on existing cogeneration projects to help EPA determine climate benefits.[12] However, this is a voluntary program and does not provide coverage of all cogeneration units. The Energy Information Administration collects information on cogeneration from utility and non-utility power generators greater than 1 megawatt,[13] but does not collect this information from all facilities and suppliers subject to 40 CFR part 98.

2. Non-Federal Data Collection Programs

EPA reviewed State and other reporting initiatives or protocols to determine whether they contain information on U.S. parent companies, NAICS code(s), or cogeneration that is comparable in terms of coverage (of facilities and suppliers), and whether the specific information collected is comparable in data quality and timeliness to that required under this rule. EPA also considered whether the Agency had access to and could itself release the data collected under these programs.

In general, the State and voluntary initiatives do not collect information on U.S. parent company, NAICS code(s), or cogeneration that is comparable to that required under this final rule regarding coverage (of facilities and suppliers), specific information collected, and data quality and timeliness. For additional information on the collection of parent company, NAICS codes, and cogeneration information by States, and other programs or initiatives, please *see* Section I.D. of the proposal preamble (75 FR 18455) and the following memoranda "Review of Non-Federal Existing Greenhouse Gas Reporting Programs Requiring Reporting of Parent Company Ownership" and "Summary of Existing State Greenhouse Gas Reporting Programs," located in Docket EPA–HQ–OAR–2009–0925.

II. The Final Rule and Reponses to Public Comments

This section of the preamble explains the requirements for the final rule, describes the major changes to the proposed rule, and summarizes the public comments and responses.

A. U.S. Parent Company

In the proposed rule published on April 12, 2010 (75 FR 18455), EPA defined United States parent company(s) as the highest-level United States company(s) with an ownership interest in the reporting entity as of December 31 of the reporting year. Although the proposed rule language included the requirements for only one option, EPA proposed two options in the preamble for reporting U.S. parent company information. As proposed, Option 1 would require all facilities and suppliers subject to 40 CFR part 98 to provide the legal name and physical address of their highest-level U.S. parent company. Reporters would then select the appropriate ownership status from a list of three types of ownership:

"Single ownership" for entities owned by a single company that is itself not owned by another company.

"Wholly owned" for entities owned by a single company that is itself owned by another company.

"Multiple ownership" for entities owned by more than one company).

Alternatively, in the proposed Option 2, reporters would provide the names and physical addresses of all of their U.S. parent companies and their respective percentages of ownership.

1. Summary of U.S. Parent Company Reporting Requirements

After considering all the comments received, EPA has selected Option 2. Option 2 requires reporters to report the name(s) and physical address(es) of all of their U.S. parent companies and their respective percentages of ownership. For the final rule, EPA has defined U.S. parent company(s) as highest-level U.S. company(s) with an ownership interest in the reporting entity as of December 31 of the year for which data are being reported. The physical address of a U.S. parent company is defined as the street address, city, state and zip code of the U.S. parent company's physical location. Table 2 of this preamble provides instructions for how facilities or suppliers should report based on various ownership structures.

TABLE 2—INSTRUCTIONS FOR REPORTING U.S. PARENT COMPANY(IES)

Reporting scenario	How to report U.S. parent company
The reporting entity is entirely owned by a single U.S. company that is not owned by any other company (*e.g.,* it is not a subsidiary or division of another company).	Provide that company's legal name and physical address as the U.S. parent company and report 100 percent ownership.
The reporting entity is entirely owned by a single U.S. company which is, itself, owned by another company (*e.g.,* it is a division or subsidiary of a higher-level company).	Provide the legal name and physical address of the highest-level company in the ownership hierarchy as the U.S. parent company and report 100 percent ownership.
The reporting entity is owned by more than one U.S. company (*e.g.,* company A owns 40 percent, company B owns 35 percent, and company C owns 25 percent).	Provide the legal names and physical addresses of all of the highest-level companies with an ownership interest as U.S. parent companies, and report the percent ownership of each company.

[11] List of Programs Collecting NAICS: AIR Facility System (AFS); Facility Response Plan (FRP); Integrated Compliance Information System (ICIS); National Emissions Inventory (NEI); National Pollutant Discharge Elimination System (NPDES); Resource Conservation and Recovery Act Information (RCRAInfo); Risk Management Plan (RMP); and Toxics Release Inventory System (TRIS).

[12] *http://www.epa.gov/chp.*

[13] Energy Information Agency-860, Annual Electric Generator Report *http://www.eia.doe.gov/cneaf/electricity/page/eia860.html* and, Energy Information Agency-861, Annual Electric Power Industry Report *http://www.eia.doe.gov/cneaf/electricity/page/eia861.html.*

TABLE 2—INSTRUCTIONS FOR REPORTING U.S. PARENT COMPANY(IES)—Continued

Reporting scenario	How to report U.S. parent company
The reporting entity is entirely owned by a foreign company	Provide the legal name and physical address of the foreign company's highest-level company based in the U.S. as the U.S. parent company and report 100 percent ownership.
The reporting entity is partially owned by a foreign company and partially owned by one or more U.S. companies.	Provide the legal name and physical address of the foreign entity's highest-level company based in the U.S., along with the legal names and physical addresses of the other U.S. parent companies, and report the percent ownership of each company.
The reporting entity is owned by a joint venture or cooperative	The joint venture or cooperative is its own U.S. parent company. Provide the joint venture or cooperative's legal name and physical address as the U.S. parent company and report 100 percent ownership.
The reporting entity is a federally owned facility	Enter U.S. Government, and do not report physical address or percent ownership.[14]

2. Summary of Major Changes Since Proposal

There are no major changes to the proposed rule for U.S. parent company reporting requirements for Option 2. That option requires facilities to report the name(s) and physical address(es) of all of their U.S. parent companies and their respective percentages of ownership. The rationale for the selection of Option 2 can be found in Section II.A.3 of this preamble.

3. Summary of Public Comments and Responses

This section provides a summary of the comments and responses on EPA's proposal to require reporting of U.S. parent company and ownership information. Also summarized in this section are public comments and responses on EPA's consideration of reporting numeric identifiers for parent companies, in addition to parent company names.

General Comments on Reporting of U.S. Parent Company and Ownership Information:

Comments: One commenter noted that collecting corporate identifier information only from those facilities that emit 25,000 metric tons or more of CO_2 per year would provide only a partial picture of a company's overall emissions, as some companies may own facilities with emissions below the 25,000 metric ton threshold. This same commenter suggested that EPA should encourage company-level data reporting and require companies to report the relative emissions of each of their facilities subject to the reporting rule as compared to total company emissions.

Response: Regarding the first issue, when EPA established the GHGRP last year, we completed a comprehensive threshold analysis and determined that a 25,000 metric ton threshold generally suited the needs of the Agency by providing comprehensive coverage of emissions with a reasonable number of reporters, thereby creating the robust data set necessary for the quantitative analyses of the range of likely GHG policies, programs and regulations. For additional background on thresholds, please *see* Section II.E. of the preamble of the final Part 98 (74 FR 56271, October 30, 2009). We did not reopen that decision in the April 12, 2010 proposal to add U.S. parent company, NAICS codes, and cogeneration as data elements to the annual report required under 40 CFR 98.3.

Regarding the second issue, EPA interprets the commenter's remarks to indicate that companies, rather than individual facilities, should report emissions. This issue was also addressed when EPA established the GHGRP and was not revisited in the April 12, 2010 proposal. As described in Section II.F of the preamble of the final Part 98, the Agency elected to require reporting at the facility level in 40 CFR part 98 because the purpose of this rule is to collect data from suppliers and from facilities with direct GHG emissions above selected thresholds for use in analyzing, developing, and implementing current and potential future CAA GHG policies and programs. Facility-level data are needed to support analyses of some types of potential GHG reduction programs, such as New Source Performance Standards. Corporate-level reporting was not selected because corporate reporting without facility-specific details would not provide sufficient data to assess many potential CAA GHG policies and programs. For additional discussion of the level of reporting, please *see* Section II.F of the preamble of the final Part 98 (74 FR 56273, October 30, 2009).

Moreover, as explained in the proposal and earlier in this preamble, EPA determined that reporting of all U.S. parent companies and their percent ownership will provide the Agency with necessary data to develop and improve emission inventories and to enhance EPA's implementation of various nonregulatory programs aimed at encouraging voluntary reductions of GHG emissions. Requiring individual facilities to report how their emissions compare to the total emissions of their parent companies would be burdensome, because it would require each facility to obtain information from all the other facilities (including those located overseas) owned by their parent company(ies) in order to make this type of comparison. EPA has concluded that the benefit of this information does not outweigh the additional burden to the regulated entity because the Agency and the public can compile similar information at a much lower burden by analyzing all GHG reports submitted by facilities with the same reported U.S. parent company. Furthermore, as stated above, the GHGRP is a facility and supplier level program designed to inform future programs and policies under the CAA. EPA does not consider a full corporate footprint analysis to be necessary to meet the goals of this program at this time.

Comment: A commenter from the offshore operations sector requested that EPA clearly define the parent company reporting requirements specific to offshore petroleum and natural gas facilities. In particular, the commenter noted that while the offshore facility itself may have a single or multiple owners, each development and/or production field associated with the facility may have multiple owners. The commenter added that this situation could complicate the determination of

[14] Federally owned facilities are not required to report percent ownership because all federally owned facilities are 100 percent owned by the Federal government. Additionally, the highest-level U.S. "parent" for federally owned facilities is the U.S. Government, and a physical address is not required to establish a unique identity for the U.S. Government.

percentage of ownership interest for each reporting entity.

Response: Reporting entities (facilities or suppliers) are required to report information on their own parent company or companies, as described in Table 2 of this preamble. Parent company reporting is limited to information on the parents of the reporting entity itself, and does not include parent company information on any associated entities or customers that are not part of the reporting entity. The facility definition for an offshore petroleum/natural gas operator in the proposed 40 CFR part 98, subpart W: Petroleum and Natural Gas Systems rulemaking (75 FR 18608, April 12, 2010) is limited to the offshore platform. Production fields and development fields that produce oil or gas sent to the platform are not considered part of the facility. Therefore, the facility reports the parent company or companies for the platform and secondary platform structures connected to the platform via walkways, storage tanks associated with the platform structure and floating production and offloading equipment, and does not include company information for any associated entities, such as production or development fields.

To further clarify, the rule language was modified to include the phrase, "of the reporting entity" in paragraph 98.3(c)(11), which requires that reporting entities report "Legal name(s) and physical address(es) of the highest-level United States parent company(s) of the reporting entity and the percentage of ownership interest for each listed parent company as of December 31 of the year for which data are being reported * * *."

EPA understands that operations at facilities in the oil and natural gas sector can be complex with many partners working together to explore for, produce, process, transport, and distribute oil and natural gas products. Given the commenter's use of the term "owner", EPA clarifies here that requirements to identify the "owner" of an affected facility are different from the requirements to report U.S. parent company. For example, "owner" refers to the person or legal entity that owns the facility and its productive infrastructure. Under this final rule, U.S. parent company means the highest-level U.S. company(s) with an ownership interest in the reporting entity. A regulated entity may report "owner" differently than U.S. parent company in some cases. For example, a facility may report "owner" and U.S. parent company differently if the legal entity that owns the facility is a subsidiary to a U.S. parent company. A facility may also report "owner" and U.S. parent company differently if an individual with no company affiliation has an ownership interest in a facility, since "owner" covers persons while U.S. parent company does not.

Proposed Options 1 and 2:

Comments: EPA received comments supporting both options. Comments favoring Option 1 (*i.e.,* requiring reporting the legal name and physical address of the reporter's highest-level U.S. parent company with the largest ownership share and the selection of the ownership type that best describes the ownership structure for the reporter), noted that Option 1 is the less burdensome option and questioned whether the potential benefits of Option 2 outweighed the burden of collecting the information. Furthermore, the comments stated that complex ownership structures make it unlikely the person completing the form would be able to provide the information on all parent companies. The comments also noted that identifying the general corporate structure (as proposed in Option 1) should provide the information required by EPA and that submission of the name of the highest-level U.S. company with the largest ownership interest is consistent with TRI reporting requirements.

Commenters favoring Option 2 (*i.e.,* requiring reporting of the legal names, physical addresses and respective percent ownership of all companies with an ownership stake in the regulated entity), noted that Option 1 would overstate the GHG contribution of the largest ownership interest and omit the contribution of the smaller ownership interest(s). The commenters stated that this bias could limit the usefulness of the parent company data and that Option 2 provides a more complete picture of reporters' ownership, thereby providing greater transparency regarding corporate GHG emissions. Some commenters added that Option 2 would be more effective in terms of corporate accountability. In addition, commenters noted that Option 2 complements recent Securities and Exchange Commission (SEC) Interpretive Guidance on certain existing disclosure rules that requires public companies to disclose the impact that climate change or regulation related to climate change may have on their business. An industry commenter stated that reporters should not have difficulty completing the reporting under either option.

Response: After reviewing the comments received, EPA selected Option 2 because it provides more complete information on parent company ownership for reporters with multiple parent companies, thereby providing greater accuracy in aggregating emissions to the parent company level.

EPA acknowledges that there is a modest additional burden associated with Option 2 for those reporters with multiple owners and that Option 1 would be the lower cost Option.[15] The additional total national cost of Option 2 however, was estimated to be less than two percent greater than Option 1. The burden estimate for Option 2 incorporates the additional effort associated with reporters asking legal or management staff for information regarding complex ownership structure. Option 1 supporters neither offered supporting information or estimates of the additional burden nor refuted EPA's burden estimates. EPA concluded that the additional benefits of Option 2 compared to Option 1 outweigh the potential costs of collecting more comprehensive parent company information because the additional cost of Option 2 is minimal while the additional benefit is substantial.

Legal Authority to Collect Parent Company Information:

Comments: Two commenters questioned the need for EPA to collect parent company information. One commenter stated that company affiliation should not be used as a factor in policy development. The other commenter's primary objection was that EPA had been vague and non-specific in justifying collection of parent company information. The commenter stated that EPA's authority to collect information under CAA section 114 is limited by the requirements of the Paperwork Reduction Act (5 CFR 1320), under which EPA must demonstrate that the requested information has "practical utility." The commenter stated that EPA had not met the definition of "practical utility" in its justification for collecting parent company information. The commenter added that because practical utility is necessary for the Office of Management and Budget (OMB) to grant an Information Collection Request (ICR), EPA should not finalize this requirement until it has identified and solicited comment on a practical use.

Response: As explained in the Section I.C of this preamble, CAA section 114 is

[15] EPA's estimate of the burden of Option 1 versus Option 2 was presented in the Economic Impact Analysis for the proposed rule. An updated estimate of the burden associated with Option 2 was included in the Economic Impact Analysis for the final rule. These documents are available at *http://www.regulations.gov* under Docket ID No. EPA–HQ–OAR–2009–0925.

sufficiently broad for EPA to collect this information. Section 114 of the CAA generally authorizes EPA to gather information from any person who owns or operates an emissions source, who is subject to a requirement of the CAA, who manufacturers control or process equipment, or who the Administrator believes has information necessary for the purposes of CAA section 114(a). EPA may gather information for purposes of establishing implementation plans or emissions standards, determining compliance, or "carrying out any provision" of the CAA. For these reasons, the Administrator may request that a person, on a one-time, periodic or continuous basis, establish and maintain records, make reports, install and operate monitoring equipment and, among other things, provide such information the Administrator may reasonably require. This language has been interpreted to grant EPA broad authority. *See, e.g., Dow Chemical Co.* v. *U.S.,* 467 U.S. 227, 233 (1986) ("Regulatory and enforcement authority generally carries with it all modes of inquiring and investigation traditionally employed or useful to execute the authority granted"). This information is included in the existing ICR.

It is reasonable for EPA to request the parent company information. Once EPA has this information, EPA will be able to immediately use it to assist in implementation of agency policy and program goals including developing and improving emission inventories and enhancing the implementation of programs aimed at reducing emissions of GHGs. For more information, refer to Section I.C of this preamble, where EPA has further explained the immediate usefulness of this information under the CAA.

Definition of U.S. Parent Company:

The proposed rule included a definition of "United States parent company(s)" as follows: "United States parent company(s) means the highest-level United States company(s) with an ownership interest in the reporting entity as of December 31 of the reporting year."

Comment: One commenter requested that EPA clarify that "reporting year" means the year for which emissions data are being reported and not the year when the report is submitted to EPA.

Response: The intent in the proposal was for "reporting year" to be interpreted as the year during which GHG data are monitored and collected. The language has been clarified in the final rule. The revised definition of U.S. parent company in the final rule reads: "*United States parent company(s)* means the highest-level United States company(s) with an ownership interest in the reporting entity as of December 31 of the year for which data are being reported."

Reporting by Foreign Owned Companies:

EPA solicited comments on whether facilities and suppliers owned by foreign companies always have a U.S.-based parent company as defined in the proposed rule. EPA was interested in receiving comments, data, and analysis on whether there may be instances in which foreign-owned facilities and suppliers do not have a U.S. parent company because we wanted to determine if U.S. parent company reporting would be appropriate for all reporters subject to 40 CFR part 98.

No comments were received on this topic, but some minor clarifying changes were made in the final rule requirements for parent company reporting for foreign corporations. For consistency, some of these minor clarifying changes were also made in the final rule requirements for parent company reporting for multiple U.S. companies. In the final rule, if the reporting entity is entirely owned by a foreign company, reporters must provide the legal name and physical address of the foreign company's highest-level company based in the U.S. as the U.S. parent company, and report 100 percent ownership. If the reporting entity is partially owned by a foreign company and partially owned by one or more U.S. companies, reporters provide the legal name and physical address of the foreign owner's highest-level company based in the U.S. as the U.S. parent company, along with the legal names and physical addresses of the other U.S. parent companies and the percent ownership of each of these companies.

Reporting of Numeric Corporate Identifiers:

In the preamble for the proposed rule, we discussed a requirement to report a numeric identifier for parent company(s) in addition to the parent company name. EPA requested comments on corporate identifiers and whether there are any additional numeric identifiers that should be considered for this final rule. Ultimately, EPA chose not to require reporting of a corporate numeric identifier, upon review of comments received and in recognition of the limitations of the possible private and public sources for such identifiers.

Comments: Numerous comments stated that requiring a unique numeric identifier for each parent company would facilitate aggregation of the data and would achieve the most accurate reporter-to-parent linkages. These commenters noted that inconsistencies in reporting corporate parent names ("E.I. Du Pont De Nemours" versus "Du Pont Inc.") increases the difficulty of the reporter-to-parent aggregation and that numerical identifiers would increase the accuracy and consistency of the reported data. While commenters acknowledged the significant limitations in the numeric identifiers discussed in the preamble to the proposed rule, including Data Universal Number System (DUNS), Committee on Uniform Security Identification Procedures (CUSIPs), Federal Employer Identification Numbers (FEINs), and stock tickers, some commenters recommended using these identifiers, or using new, EPA-generated identifiers. Commenters noted that using numeric identifiers could provide consistent and accurate reporting that minimizes the potential of data entry errors. Several comments supported EPA's decision not to include a requirement to report numeric corporate identifiers because existing and available identifiers do not meet EPA's objective of collecting comprehensive corporate identifier information for all facilities and suppliers subject to 40 CFR part 98.

Response: Based on a review of the comments received and on prior research, EPA decided to retain its position as stated in the proposal, and the final rule does not include reporting of a corporate identifier for the reasons described in this section of the preamble.

EPA agrees with the comments that numeric identifiers could potentially facilitate data aggregation, however, the currently available numeric identifiers considered by EPA and proposed by commenters have shortcomings such that they would not enable EPA to adequately aggregate data. As noted in Section II.A of the preamble and in the memorandum "Summary of Existing Company Identifier System" (located in docket EPA–HQ–OAR–2009–0925), some of the identifiers considered (*e.g.,* stock tickers, CUSIP, SEC central index key, and LexisNexis) cover only public companies. EPA expects that reporters under the GHGRP will cover both public and privately-held companies and does not want to exclude a portion of reporters from Agency analyses. Furthermore, limiting the reporting of a numeric identifier to only public companies would place an additional burden on only this subset of reporters. The privately held databases, such as DUNS and CUSIPs, require licensing agreements, which potentially restrict the public use of that data. Finally, in

accordance with Internal Revenue Code 6103, FEINs can only be collected and released on a voluntary basis and EPA would have no means to ensure that all facilities/suppliers would report their FEINs.

Additionally, the final rule requires both the reporter's parent company name and the parent company's headquarters physical address, which is intended to improve considerably on EPA's ability to uniquely identify corporate parents. To address comments related to difficulties in aggregating data using the reported parent company name, EPA plans to implement methods to standardize the parent company names reported. Standardizing the parent company names will improve the accuracy of aggregating data by parent company name by limiting human errors (*e.g.,* typing entry errors), and removing inconsistent abbreviations (*e.g.,* Co. vs. Company).

In response to comments suggesting EPA assign new numeric identifiers to parent companies, that task is outside the scope of this rulemaking. However, the Agency is broadly exploring future development of unique, EPA-generated numeric identifiers for parent companies. These comments reinforce EPA's understanding that such identifiers would be valuable for aggregating facility level data to the corporate level. Any development of these identifiers would be a future effort, and submission of such identifiers is not included in this final rule.

B. NAICS Code(s)

The proposed rulemaking (75 FR 18455) includes a requirement to report the primary NAICS code applicable to each reporter, as well as any additional NAICS codes in order of largest revenue to smallest. The proposal defined NAICS code as the six-digit code(s) that represents the product(s)/activity(s)/service(s) at a facility or supplier as defined in "North American Industrial Classification System Manual 2007," available from the U.S. Department of Commerce, National Technical Information Service.

Inclusion of NAICS code reporting was proposed to provide information to assist EPA in aggregating and analyzing the data collected under 40 CFR part 98 at the sector level.

1. Summary of NAICS Code Reporting Requirements

After considering all of the comments received, this final rule requires that each facility or supplier required to report under 40 CFR part 98 report its primary NAICS code and any additional applicable NAICS codes. For the purposes of this rule, EPA considers a reporter's primary NAICS code to be the six-digit code (or codes) that most accurately describes the reporter's primary product/activity/service, as defined in "North American Industry Classification System Manual 2007," available from the U.S. Department of Commerce, National Technical Information Service.[16] The primary NAICS code (or codes) is the product/activity/service that is the principal source of revenue for the facility or supplier. For the purposes of this rule, EPA considers additional NAICS codes to be those codes that describe the product(s)/activity(s)/service(s) at the facility, but that are not related to the principal source of revenue.

The following instructions apply to reporters regarding the reporting of NAICS codes: Enter the six-digit NAICS code that most accurately describes the reporter's principal product/activity/service and designate it as "primary." Each reporter must provide one primary NAICS code, but may also designate a second code as primary if the reporter has two distinct products/activities/services providing comparable revenue. Provide all additional NAICS codes that describe the reporter's products/activities/services but that are not related to the principal source of revenue. Federal facilities should report the NAICS code that most closely represents the activities taking place at the site. For example, a Federally-owned, fossil fuel-fired electric power plant would be classified as NAICS 221112 — Fossil Fuel Electric Power Generation. For additional guidance on how to determine the proper NAICS code(s), go to *http://www.census.gov/eos/www/naics/*.

The use of the term "primary NAICS code" in this rule and the methodology for determining the primary NAICS code are consistent with the NAICS code use and methodology used by the U.S. Census Bureau and other government agencies. In addition, the instructions for reporting NAICS codes in the final rule are similar to those used by EPA's TRI and other EPA information collections.

[16] The Office of Management and Budget has proposed revisions to the North American Industry Classification System for 2012 onward. *See* "North American Industry Classification System—Updates for 2012" 75 FR26855, May 12, 2010. These revisions will not affect this rulemaking, which requires reporters to use the NAICS codes defined in the North American Industry Classification System Manual 2007, regardless of whether these codes are updated in the future.

2. Summary of Major Changes Since Proposal

The major changes since proposal are identified in the following list. The rationale for these changes can be found in Section II.B.3 of this preamble:

- In the final rule, reporters must provide one primary NAICS code and may also provide a second primary NAICS code if they have two distinct products/activities/services providing comparable revenue. The proposed rule did not specify the number of primary NAICS codes that should be reported.
- In this final rule, no ordering of the additional (*i.e.,* non-primary) NAICS codes is required. The proposed rule required that additional NAICS codes be entered in order of largest revenue to smallest.

3. Summary of Public Comments and Responses

This section provides a summary of the comments and responses on EPA's proposal to require reporting of primary and all additional NAICS codes by facilities and suppliers subject to 40 CFR part 98.

Primary NAICS Code Reporting Requirements:

Comments: Many commenters supported the NAICS codes reporting requirements as proposed. Commenters stated that requiring the full six-digit NAICS code(s) will allow data users to connect reported GHG data with other information on U.S. industries, facilitating comparisons within and across industry sectors. Other commenters noted that collection of NAICS codes greatly expands the utility of 40 CFR part 98 data, and provides important data relevant to industry sector analyses. One industry source added that NAICS codes are easily obtained.

Two commenters requested that EPA allow reporting of more than one primary NAICS code. These commenters stated that this is particularly important for large facilities that consist of separate economic units, such as a petroleum refinery and a chemical plant. The commenters added that this could be important if any future climate change legislation differentiates regulatory requirements according to industry sector or NAICS codes, where requirements for refineries and chemical plants could differ. Accordingly, the commenters concluded, EPA should ensure that the final rule and any required electronic reporting tool allow for entering more than one primary NAICS code per reporter.

Finally, one commenter stated that EPA should obtain primary NAICS codes from the Census Bureau.

Response: EPA agrees with the commenters that the NAICS code information will provide a valuable data element for sector-level analyses. EPA considered using three- and four-digit NAICS codes, but proposed and is requiring reporting of the six-digit NAICS codes because they provide more detailed information for analyses. In addition, use of the six-digit NAICS codes is consistent with TRI and other EPA databases, allowing sector-level data to be compared across EPA data sets.

Upon consideration of the comments received regarding multiple primary NAICS, EPA requires reporting in the final rule of one primary NAICS code that most accurately describes the reporting entity's primary product/activity/service. A reporting entity that has two distinct products/activities/services providing comparable revenue may report a second primary NAICS code. Allowing a second NAICS code to be designated as a primary NAICS code gives facilities and suppliers that have two distinct lines of business with comparable revenue the ability to more accurately reflect the nature of their operations.

In response to the commenters' statement that the electronic reporting tool for the GHGRP should allow entry of more than one primary NAICS code per reporter, EPA's reporting tool will require the reporters to designate one NAICS code as primary, and will allow up to two NAICS codes to be designated as primary.

EPA also considered whether primary NAICS codes could be obtained from the Census Bureau, as suggested by one commenter. However, the facility-level Census Bureau data are confidential as specified in U.S. Code Title 13 [17], and cannot be accessed by EPA. Therefore, the final rule requires primary and all additional NAICS codes to be reported to EPA by the reporting entity.

Additional NAICS Codes Reporting Requirements:

Comments: Several commenters opposed EPA's proposal that the additional (*i.e.,* non-primary) NAICS codes reported be listed in the order of the largest source of revenue to the smallest. Comments in opposition stated this ranking: (1) Would add an additional and unnecessary burden and expense; (2) does not add value to the emissions information being reported; (3) is an arbitrary exercise, where different companies, or different employees within a company, could derive different ranking of the additional NAICS codes; (4) is inconsistent with TRI requirements where non-primary NAICS codes are reported, but not ranked; and (5) could disclose CBI that could be accessed by foreign or domestic competitors. One commenter suggested that reporting of NAICS codes beyond the primary NAICS codes should be voluntary.

Response: EPA carefully considered the information provided by commenters on reporting additional (*i.e.,* non-primary) NAICS codes in descending order based on revenue. As a result of this review, the final rule does not require that the additional NAICS codes be reported in a particular order. After reviewing the comments received, EPA agrees that ordering the additional NAICS codes by revenue could result in added burden that may not provide additional benefit compared to a list of additional NAICS codes that is not ordered, because emissions are not necessarily related to revenue. Ranking of additional NAICS codes, therefore, is not required in the final rule. The comments regarding the ranking of additional NAICS codes, including the possibility of different rankings by different employees, the need for consistency with TRI, and the possibility of divulging CBI are not addressed because EPA has determined that requiring ranking will not provide the Agency with useful additional data when compared to the burden.

In response to the comment suggesting that reporting of additional NAICS codes be voluntary, EPA retains the proposed approach that requires mandatory reporting of all additional NAICS codes. To conduct analyses of the GHG emissions associated with different sectors or different types of operations, it is critical that these data be reported consistently among reporters. If reporting of additional (*i.e.,* non-primary) NAICS were voluntary, it would not be possible to distinguish if a reporter entered only one NAICS code because only one type of operation is conducted, or if only one NAICS code was entered due to a voluntary decision not to enter additional NAICS codes. This inconsistency in reporting additional NAICS codes would limit the value of analyses characterizing non-primary operations. To maintain the ability to conduct robust analyses using the reported NAICS codes, reporting of additional NAICS codes is required in the final rule.

Definition of NAICS Codes:

In the proposed rule, EPA provided a definition for "North American Industry Classification System (NAICS) codes" as follows: "North American Industry Classification System (NAICS) code(s) means the six-digit code(s) that represents the product(s)/activity(s)/service(s) at a facility or supplier as defined in "North American Industrial Classification System Manual 2007," available from the U.S. Department of Commerce, National Technical Information Service." No comments were received on this definition, and no changes were made in the final rule to the definition of "North American Industry Classification System (NAICS) codes."

C. Cogeneration

In the proposed rulemaking (75 FR 18455), EPA proposed requirements for reporting the use of cogeneration by indicating (*i.e.,* checking yes or no) whether some or all of the reported GHG emissions are from one or more cogeneration units. EPA also solicited comment on whether this reporting should be mandatory or voluntary. In the proposal, EPA defined a cogeneration unit as a unit that produces electrical energy and useful thermal energy for industrial, commercial, or heating or cooling purposes, through the sequential or simultaneous use of the original fuel energy.

1. Summary of Cogeneration Reporting Requirements

The final rule requires reporters to indicate whether reported emissions include emissions from a cogeneration unit (yes or no) located at the facility. Cogeneration units can result in net reductions (*i.e.,* across facilities) of GHG emissions compared to separate power and heat generation.

Information on the types and characteristics of facilities that employ cogeneration technologies and the performance of cogeneration units could be important to future development of GHG mitigation strategies. EPA recognizes that the information required under this rule may not, by itself, be sufficient to determine the actual quantity of GHG emissions occurring from cogeneration units at individual reporting facilities, companies or NAICS sectors. It also does not provide the degree to which those cogeneration emissions displace fossil fuel or other fuel source emissions from central station generation plants. However, the information reported will allow EPA and States to identify facilities using cogeneration. In addition, EPA recognizes that not all emissions at

[17] U.S. Code Title 13 guarantees the confidentiality of census information and establishes penalties for disclosing this information. *See http://www.census.gov/geo/www/luca2010/luca_title13.html.*

individual reporting facilities with cogeneration are attributable to the cogeneration unit(s). As such, it should not be inferred that all emissions at an individual reporting facility with cogeneration are attributed to the cogeneration unit(s).

2. Summary of Major Changes Since Proposal

The final rule retains the proposed rule language and requires reporters to indicate whether reported emissions include emissions from a cogeneration unit. Reporting of this information is mandatory.

3. Summary of Public Comments and Responses

This section provides a summary of the comments and responses on EPA's proposal to require reporters to identify use of a cogeneration unit located at the facility.

Cogeneration Reporting Requirements:

Comments: Numerous comments strongly supported EPA's proposal to require reporters to indicate whether some or all of the reported GHG emissions are from a cogeneration unit. Commenters stated that collecting the information on cogeneration use will help EPA understand where the practice is being used, and how to encourage its use where appropriate. None of the comments opposed EPA's proposal to collect cogeneration information.

One commenter requested that EPA provide in the rule additional discussion of the benefits of cogeneration technology as an efficient method to reduce net GHG emissions. This commenter also requested that EPA require power production facilities to report GHG emissions on a net GHG per usable energy produced basis to ensure that the benefits of total system efficiency are recognized.

Another commenter recommended EPA consider whether additional information on cogeneration units should be required in the future, such as their capacity or how frequently they are used.

Finally, a commenter recommended that EPA clarify and/or modify the rule to state that: (1) Local Distribution Companies (LDCs) should be required to report only the presence of cogeneration units at facilities owned and operated by the LDC; and (2) as suppliers, LDCs are not responsible for reporting cogeneration units owned and operated by the LDC's individual customers.

Response: EPA agrees with comments that the cogeneration information will be informative, enabling EPA to identify the types and characteristics of facilities that employ cogeneration technologies. By collecting this information annually, EPA will also be able to track changes in the use of this technology in individual sectors and across the U.S. economy.

EPA agrees with the comment that there are efficiencies related to the use of cogeneration. However, the regulatory framework for the GHGRP is not the appropriate place to describe the benefits of a technology.

In response to the comment requesting that power production facilities report GHG emissions on a net GHG per usable energy produced, the information the commenter asks EPA to collect is well beyond the intended scope of this rule. The scope of this rule is to obtain general information on cogeneration use for future development of GHG mitigation strategies and not to support the development of standards of performance for industrial facilities or to amend the units in which data are required to be reported in 40 CFR part 98.

In response to the comments requesting EPA collect more detailed information on reporters' cogeneration units, EPA recognizes that the information required under this rule will not, by itself, be sufficient to determine the actual quantity of GHG emissions occurring from cogeneration units at individual reporting facilities, companies or NAICS sectors. The cogeneration information required under the final rule will improve EPA's understanding of the current implementation of cogeneration while minimizing burden on reporters; therefore, EPA is not currently exploring expansion of the cogeneration reporting requirements.

EPA agrees with the comment regarding the requirements for LDCs to report cogeneration. It was not our intent to require LDCs to collect cogeneration information on their customers. EPA is clarifying in this response that LDCs are required to report the presence of cogeneration facilities owned and operated by the LDC, but are not required to report whether units owned and operated by the LDC's customers have cogeneration units.

Comments on Making Cogeneration Reporting Voluntary:

EPA requested comments on whether the cogeneration reporting in the final rule should be mandatory or voluntary. No comments supported voluntary reporting of the cogeneration information; however, many commenters stated their support for EPA's proposal to require that reporters indicate whether or not any of their reported emissions are from a cogeneration unit at the facility. As in the proposed rule, the final rule includes mandatory reporting to indicate if any reported emissions are from cogeneration units located at the facility.

Definition of Cogeneration:

The proposed rule included a definition of "cogeneration unit" as follows: "Cogeneration unit means a unit that produces electrical energy and useful thermal energy for industrial, commercial, or heating or cooling purposes, through the sequential or simultaneous use of the original fuel energy." EPA based this definition of cogeneration on the Agency's Acid Rain Program to promote consistency and comparable data collection across EPA regulatory programs. No comments were received on this definition, and no changes were made in the final rule to the definition of "cogeneration" included in the proposed rule.

D. Frequency of Reporting

In the proposed rulemaking (75 FR 18455), EPA proposed that facilities and suppliers subject to 40 CFR part 98 be required to submit information regarding their U.S. parent company(s), their NAICS code(s), and whether or not any of their reported emissions are from a cogeneration unit, on an annual basis, as part of their annual reports. EPA further proposed that regulated entities be required to report this information as it exists on December 31 of the year for which data are being reported, to be consistent with other EPA reporting programs, such as TRI.

1. Summary of the Final Rule Requirements

Under the final rule, facilities and suppliers subject to 40 CFR part 98 are required to annually submit information regarding their U.S. parent company(s), their NAICS code(s), and whether or not any of their reported emissions are from a cogeneration unit, as part of their annual GHG reporting. Regulated entities report this information as it exists on December 31 of the year for which data are being reported. Facilities will be required to report this data beginning in 2011 for the 2010 reporting year.

2. Summary of Major Changes Since Proposal

There have been no changes since proposal.

3. Summary of Public Comments and Responses

This section provides a summary of the comments and responses on EPA's

proposal to require annual reporting for the data elements added to 40 CFR part 98 in the final rule (*i.e.,* U.S. parent company(s), NAICS code(s), and cogeneration by facilities and suppliers). While EPA was interested in receiving comments on the proposal in its entirety, EPA specifically solicited comments on the utility and burden of updating the additional information required by the proposed rule on a more frequent basis than annually, for example, whenever changes occur with respect to a reporter's U.S. parent company or NAICS code(s).

Comments: The comments received largely supported EPA's proposal to require reporting of U.S. parent company(s), NAICS code(s), and cogeneration units on an annual basis, rather than more frequently. One commenter supporting annual reporting stated a concern with the potential burden and complexity of updating corporate parent information more often than annually. For more frequent reporting, the commenter added, EPA would need to identify a specific need for the increased level of detail.

One commenter noted that if reporting were required quarterly, data could be aggregated to each parent company's fiscal year. Another commenter stated that requiring updates to be reported whenever a change occurs in the reporter's parent company or NAICS code should not be a problem. This commenter added that the annual reporting requirement, however, may be sufficient.

Response: EPA recognizes that a reporter's U.S. parent company(s) and/or NAICS code(s) may change during the course of the year. In some instances this information may even change multiple times throughout the year. However, EPA agrees with the commenters that requiring updates to these data elements more than once a year, such as every time there is a change in a reporter's U.S. parent company(s) or NAICS code(s), would result in an increased burden for minimal additional information. In addition, requiring annual reporting would be consistent with the requirements of 40 CFR part 98. Therefore, the final rule requires annual reporting of reporters' U.S. parent company(s), NAICS code(s), and whether or not any of their reported emissions are from a cogeneration unit, as part of their regularly scheduled annual reports, as proposed. More frequent reporting, such as when a change in parent company or NAICS occurs, is not required.

E. Applicability of the Reporting Requirements

1. Summary of Applicability of the Reporting Requirements

The final rule applies to all reporters; it requires all facilities and suppliers subject to 40 CFR part 98 to report the additional information included in this rule. The descriptions of the terms "primary NAICS code(s)," and "additional NAICS code(s)," and the definitions of "United States parent company" and "cogeneration unit" in the final rule apply only to this rule, which adds these data elements to the list of items that must be reported under 40 CFR 98.3(c). The definitions and descriptions of terms in this final rule do not change the applicability of any subpart in the promulgated 40 CFR part 98. They also do not change the level of reporting or who is required to submit reports.

The definition of United States parent company does not override or change the meaning of similar terms that refer to company level or corporate level requirements. Many subparts (including 40 CFR part 98, subparts A, C, G, K, P, Q, R, Y, GG, and HH) use the term "company records," which is defined in 40 CFR part 98, subpart A. The term "corporate level" is used in 40 CFR part 98, subpart MM to require importers and exporters to report at the corporate level, rather than the facility level. "Corporate documents" are referred to in 40 CFR part 98, subpart A. None of these terms, definitions, or associated requirements are affected by the definition of "United States parent company" in the final rule.

In addition, the definition of United States parent company in the final rule does not affect the definitions of "importer" and "exporter" in 40 CFR part 98, subpart A, or the applicability of the suppliers source categories. The definition in the final rule also does not affect the term "local distribution company" as described in 40 CFR part 98, subpart NN. These terms retain their meaning in 40 CFR part 98.

2. Summary of Major Changes Since Proposal

There have been no changes since the proposal.

3. Summary of Public Comments and Responses

No comments were received on the applicability of the reporting requirements.

F. Miscellaneous Public Comments and Responses

EPA also received comments of a more general nature that did not relate specifically to reporting of parent company, NAICS codes, cogeneration, frequency of reporting, or applicability. These comments and EPA's responses are summarized in this section.

Comments: Two commenters voiced general support for this rule. The commenters asserted that the inclusion of the requirements to report NAICS codes and corporate information will enable researchers to conduct analyses of corporate GHG emissions. Another commenter voiced opposition to the rule, stating that the government already has enough rules and regulations.

Response: EPA thanks the commenters for their input. The focus of this rule is to collect accurate data on U.S. GHGs from suppliers and facilities above specified thresholds for use in analyzing and developing potential GHG policies and environmental programs. This rule will help EPA carry out its duties under the CAA while adding a very minimal burden to reporting entities.

Comment: One commenter requested that EPA make the information collected under this rule available to the public and easily accessible to all interested parties.

Response: EPA published a proposed confidentiality determination on July 7, 2010 (75 FR 39094), which addressed the confidentiality of data reported under 40 CFR part 98. In that action, EPA proposed which specific data elements would be treated as CBI and which data elements must be available to the public under CAA section 114. EPA has received several comments on the proposal, and is in the process of considering these comments. A final determination will be issued before any data are released, and data that are not determined to be confidential will be published in a way that will be easily accessible to the public.

Comment: One commenter suggested that EPA should develop a comprehensive company-level GHG inventory.

Response: While the development of a comprehensive company-level GHG inventory is outside the scope of this rulemaking, EPA notes the commenter's suggestion and thanks the commenter for their input. For a discussion of why EPA chose to require facility-level reporting, please *see* Section II.F of the preamble of the final Part 98 (74 FR 56273, October 30, 2009) as well as Section II.A of the preamble to this final rule. For a discussion of why EPA chose

a 25,000 metric ton CO_2e reporting threshold for most sources, please *see* Section *II.E.* of the preamble of the final Part 98 (74 FR 56271, October 30, 2009) as well as Section II.A of the preamble to this final rule.

G. Correction to Subpart A

We also are correcting a drafting error in the revision to 40 CFR 98.2(a)(2) that was published on July 12, 2010 (75 FR 39758). In the July 12, 2010 notice, we restructured 40 CFR 98.2(a) to move the lists of source categories that are subject to the rule from the text into tables. This restructuring revision made no substantive change to the applicability provisions of the rule, but just reformatted that section of the rule to better accommodate the addition of new source categories for which reporting would become effective in future years. To make this change required conforming changes to the text of 40 CFR 98.2(a) to refer to the tables. The July 12, 2010 change to 40 CFR 98.2(a)(2) reads that the rule applies to:

A facility that contains any source category that is listed in Table A–4 of this subpart that emits 25,000 metric tons CO_2e or more per year in combined emissions from stationary fuel combustion units, miscellaneous uses of carbonate, and all applicable source categories that are listed in Table A–3 and Table A–4 of this subpart.

The published clause inadvertently omitted the word "and" prior to the clause "* * * that emits 25,000 metric tons CO_2e * * *" Despite this omission, the regulatory text as it appears in the July 12, 2010 final rule can and should be interpreted to apply to a facility that contains any source category listed in Table A–4 of this subpart if combined emissions from all applicable source categories at the facility are 25,000 metric tons CO_2e per year or more. Nonetheless, restoring the inadvertently omitted word "and" to the paragraph makes it absolutely clear that the 25,000 metric tons CO_2e threshold applies at the facility level and not at the source category level. This interpretation is clear from the original rule and from the preamble to the proposal for the subpart A restructuring (75 FR 12451 and 75 FR 12489) and the preamble to the final rule for the restructuring (75 FR 39739). As published, 40 CFR 98.2(a)(2) is technically correct, but reinserting the "and" makes it clearer and less subject to misinterpretation, and makes the sentence structure parallel to that of the original rule text. Therefore, we are revising 40 CFR 98.2(a)(2) by restoring the word "and" to read as follows (emphasis added):

A facility that contains any source category that is listed in Table A–4 of this subpart *and* that emits 25,000 metric tons CO_2e or more per year in combined emissions from stationary fuel combustion units, miscellaneous uses of carbonate, and all applicable source categories that are listed in Table A–3 and Table A–4 of this subpart.

III. Economic Impacts of the Final Rule

This section of the preamble examines the costs and economic impacts of the final rulemaking and the estimated economic impacts of the rule on affected entities, including estimated impacts on small entities. Complete detail on the economic impacts of the final rule can be found in the text of the Economic Impact Analysis (EIA) for the final rule (located in docket EPA–HQ–OAR–2009–0925).

A. How were compliance costs estimated?

1. Summary of Method Used To Estimate Compliance Costs

The cost analysis estimates the incremental contributions to total reporting burden expected under 40 CFR part 98 and compliance costs associated with reporting the data elements described above. EPA estimated compliance costs based on the time reporters spend meeting the requirements and the associated labor wage rates. EPA's estimated costs of compliance are discussed in this section of the preamble and in greater detail in Section 4 of the EIA.

Labor Costs. All of the reporting cost estimates include the time of managers, lawyers, and technical staff in both the private sector and the public sector. To reflect that both management and technical staff will be involved in reporting the above data elements, an overall blended wage rate was developed based on estimates from the TRI program for similar data element reporting at similar facilities. Management staff is estimated to be involved in approximately 0.8 percent of the reporting, while technical staff is likely to be needed for the remaining 99.2 percent. Thus, the blended wage rate used in this analysis is $60.22 per hour. The amount of time required for facilities with one owner is 80 minutes per facility in the first year and 40 minutes per facility in subsequent years; time estimated for facilities with more than one owner is 125 minutes per facility in the first year and 85 minutes per facility in subsequent years.

Cost basis. The cost analysis is based on facilities and suppliers currently subject to 40 CFR part 98, including subparts that were finalized after EPA proposed the rule to require reporting of corporate parent information, NAICS codes and cogeneration.[18] Specifically, the finalization of 40 CFR part 98, subparts T (Magnesium Production), FF (Underground Coal Mines), TT (Industrial Waste Landfills), and II (Industrial Wastewater Treatment) resulted in a higher number of facilities and suppliers subject to this final rule. The analysis does not account for those expected to be added to 40 CFR part 98 through upcoming actions. The methods and assumptions used to estimate the compliance costs for facilities and suppliers currently subject to the rule would likewise apply to those facilities and suppliers that may be added to the 40 CFR part 98 reporting program in the future. The addition of new facilities or suppliers would therefore increase the total compliance costs in proportion to the increase of the reporting universe. Accordingly, EPA does not expect the burden for newly added industries to change the conclusions of this economic analysis.

B. What are the costs of the rule?

1. Summary of Costs

As shown in Table 3 of this preamble, the total national cost under this final rule is approximately $944,000 in the first year and about $470,000 in subsequent years (all estimates are in $2006). Costs include a public sector burden estimate of $90,000 in the first year and $40,000 in subsequent years for program implementation and data verification activities. *See* Table 3 in Section IV.A of this preamble for a summary of the costs.

C. What are the economic impacts of the rule?

1. Summary of Economic Impacts

EPA prepared an economic analysis to evaluate the impacts of the final rule. The analysis estimates the private direct compliance costs per facility and provides a national burden estimate, which includes public costs associated with program implementation and verification activities. Reporting costs were estimated to be less than $100 per facility. As a result, the rule is unlikely to result in significant changes in firms' production decisions or economic choices.

[18] *See Mandatory Reporting of Greenhouse Gases from Magnesium Production, Underground Coal Mines, Industrial Wastewater Treatment, and Industrial Waste Landfills; Final Rule* (75 FR 39736, July 12, 2010).

D. What are the impacts of the rule on small businesses?

1. Summary of Impacts on Small Businesses

As required by the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA assessed the potential impacts of the rule on small entities (small businesses, governments, and non-profit organizations). (*See* Section IV.C of this preamble for definitions of small entities.)

EPA conducted a screening assessment comparing compliance costs for affected industry sectors to industry-specific receipts data for establishments owned by small businesses. This ratio constitutes a "sales" test that computes the annualized compliance costs of this rule as a percentage of sales and determines whether the ratio exceeds some level (*e.g.,* 1 percent or 3 percent).

The average ratio of annualized reporting program costs to revenues of small entities would be less than 0.01 percent. As a result, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

Although this is not a significant economic rule, EPA prepared an analysis of the potential costs and benefits associated with the final rule to provide insights on the potential effects. This analysis is contained in the Economic Impact Analysis. A copy of the analysis is available in the docket (EPA–HQ–OAR–2009–0925) for this action and is briefly summarized here. In the economic analysis, EPA identified the final rule's compliance burden and the costs. The cost analysis, presented in Section III.B of this preamble, estimates the total annualized burden, which is presented in Table 3 of this preamble.

TABLE 3—COST SUMMARY UNDER THE FINAL RULEMAKING (IN THOUSANDS, $2006)

Cost	Year 1	Subsequent years
National compliance	$854	$430
Public	90	40
Total	944	470

Note: Numbers may not add due to rounding.

Overall, EPA has concluded that the costs of collecting U.S. parent company(s), NAICS codes, and cogeneration information as part of 40 CFR part 98 are outweighed by the potential benefits of more comprehensive information about GHG emissions.

B. Paperwork Reduction Act

The information collection requirements for this final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An ICR document was previously prepared for 40 CFR part 98 and was assigned EPA ICR number 2300.03. The information collection requirements of this amendment to 40 CFR part 98 are documented in an additional ICR document, which was assigned EPA ICR number 2374.02.

The data collected through this final rule would be immediately available to EPA and could be used for the purposes of providing additional information to support more effective research and develop actions to address GHG emissions. For example, corporate parent and NAICS data would assist EPA in developing and improving emission inventories, as well as characterizing emissions data in several different ways. A more detailed understanding of the sources and operational categories of GHG emissions could lead to improvements in air pollution emissions information that is relied upon to develop effective control strategies. For example, EPA could use the NAICS code information gathered by this rule to compare results both within industries and across industry sectors.

In addition, the information gathered through this rule will be immediately available to enhance EPA's implementation of various nonregulatory programs aimed at encouraging voluntary reductions of GHG emissions. Under the authority of CAA section 103, EPA has launched a variety of nonregulatory programs aimed at reducing emissions of GHGs. The additional data will assist EPA by providing more detailed information on possible sources, and facility operations within industrial sectors for EPA to work with in the context of these programs.

This information collection is mandatory and will be carried out under CAA section 114. EPA published a proposed confidentiality determination on July 7, 2010 (75 FR 39094) that specified which data reporting elements in 40 CFR part 98 would be treated as CBI and which data elements must be available to the public under CAA section 114. A final determination will be issued before any part 98 data are released.

As outlined in ICR number 2374.02, the projected average annual cost and hour burden for non-Federal respondents is about $571,000 and 9,500 hours. The estimated average annual burden per response is 0.15 hour; the frequency of response is annual for all respondents that must comply with the final rule; and the estimated average number of likely respondents per year is 10,551. The cost burden to respondents resulting from the collection of information includes the total capital cost annualized over the equipment's expected useful life (averaging $0), a total operation and maintenance component (averaging $0 per year), and a labor cost component (averaging $571,000). Burden is defined at 5 CFR 1320.3(b). These cost numbers differ from those shown elsewhere in the EIA (EPA–HQ–OAR–2009–0925) because ICR costs represent the average cost over the first three years of the rule, whereas the EIA reports costs separately for the first and subsequent years of the rule. Also, the total cost estimate of the rule in the EIA includes the cost to the Agency to administer the program. The ICR differentiates between respondent burden and cost to the Agency.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of the final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The additional per-entity costs under the final rule are substantially smaller (less than $81 in year 1 and $41 in subsequent years) than the burden for the overall rule. The costs are therefore not enough to constitute a significant economic impact on a substantial number of small entities. The small entities directly regulated by the final rule include small businesses across all sectors encompassed by the rule, small governmental jurisdictions and small non-profits. We have determined that some small businesses will be affected because their production processes emit GHGs that must be reported, or because they have stationary combustion units on site that emit GHGs that must be reported. Small governments and small non-profits are generally affected because they have regulated landfills or stationary combustion units on site, or because they own a local distribution company subject to 40 CFR part 98, subpart NN (natural gas suppliers).

At promulgation of 40 CFR part 98, EPA examined the impact on small entities (74 FR 56369, October 30, 2009). In addition, EPA described the steps taken by EPA to reduce the impact of 40 CFR part 98 on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

The final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. As shown in the EIA (EPA–HQ–OAR–2009–0925), EPA estimated the several national cost estimates and found annual expenditures were below $100 million threshold. Thus, the final rule is not subject to the requirements of UMRA sections 202 or 205.

The final rule is also not subject to the requirements of UMRA section 203 because it contains no regulatory requirements that might significantly or uniquely affect small governments. The final new rule requires facilities and suppliers already subject to 40 CFR part 98 to provide additional data in each annual GHG report, and the additional data elements required are the same for all reporters (private and public). In addition, EPA's small entity analysis shows the average ratio of annualized reporting program costs to revenues would be less than 0.01 percent.

This final rule amends 40 CFR part 98 and applies directly to reporters that supply fuel or industrial gases that when used emit GHGs, and to reporters that directly emit GHGs. The final rule does not apply to governmental entities unless the government entity owns a facility that directly emits GHGs above threshold levels such as a landfill or large stationary combustion source. In addition, the final rule does not impose any implementation responsibilities on State, local, or Tribal governments and it is not expected to increase the cost of existing regulatory programs managed by those governments. Thus, the impacts on governments affected by the final rule are expected to be minimal.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. However, for a more detailed discussion about how 40 CFR part 98 relates to existing State programs, please *see* Section II of the preamble to the final Part 98 (74 FR 56266, October 30, 2009).

This final rule applies directly to reporters that supply fuel or chemicals that when used emit GHGs or facilities that directly emit GHGs. It does not apply to governmental entities unless the government entity owns a facility that directly emits GHGs above threshold levels such as a landfill or large stationary combustion source, so relatively few government facilities would be affected. This final rule also does not limit the power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, EO 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final rule is not expected to have Tribal implications, as specified in EO 13175 (65 FR 67249, November 9, 2000). The final rule applies directly to entities that supply fuel or chemicals that when used emit GHGs or facilities that directly emit GHGs. This final rule does not pose significant costs on either a per-entity or national basis; few, if any, facilities or suppliers that are expected to be affected by the final rule are anticipated to be owned by Tribal governments. This final rule also does not limit the power of Tribes to collect GHG data and/or regulate GHG emissions. Thus, EO 13175 does not apply to the final rule.

Although EO 13175 does not apply to this final rule, EPA sought opportunities to provide information to Tribal governments and representatives during development of the rule, as documented in the preamble to the promulgated final Part 98 (74 FR 56371).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to EO 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under EO 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The final rule does not affect the level of protection provided to human health or the environment because it addresses information collection and reporting.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective November 22, 2010.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Suppliers, Reporting and recordkeeping requirements.

Dated: September 16, 2010.

Lisa P. Jackson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 98—[AMENDED]

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—[Amended]

■ 2. Section 98.2 is amended by revising paragraph (a)(2) to read as follows:

§ 98.2 Who must report?

(a) * * *

(2) *A facility that contains any source category that is listed in Table A–4 of this subpart and that emits 25,000 metric tons CO_2e or more per year in combined emissions from stationary fuel combustion units, miscellaneous uses of carbonate, and all applicable source categories that are listed in Table A–3 and Table A–4 of this subpart.* For these facilities, the annual GHG report must cover stationary fuel combustion sources (subpart C of this part), miscellaneous use of carbonates (subpart U of this part), and all applicable source categories listed in Table A–3 and Table A–4 of this subpart.

* * * * *

■ 3. Section 98.3 is amended as follows:

■ a. By adding paragraph (c)(4)(v).

■ b. By adding paragraph (c)(10).

■ c. By adding paragraph (c)(11).

§ 98.3 What are the general monitoring, reporting, recordkeeping and verification requirements of this part?

* * * * *

(c) * * *

(4) * * *

(v) Indicate (yes or no) whether reported emissions include emissions from a cogeneration unit located at the facility.

* * * * *

(10) *NAICS code(s) that apply to the reporting entity.* (i) *Primary NAICS code.* Report the NAICS code that most accurately describes the reporting entity's primary product/activity/service. The primary product/activity/service is the principal source of revenue for the reporting entity. A reporting entity that has two distinct products/activities/services providing comparable revenue may report a second primary NAICS code.

(ii) *Additional NAICS code(s).* Report all additional NAICS codes that describe all product(s)/activity(s)/service(s) at the reporting entity that are not related to the principal source of revenue.

(11) Legal name(s) and physical address(es) of the highest-level United States parent company(s) of the reporting entity and the percentage of ownership interest for each listed parent company as of December 31 of the year for which data are being reported according to the following instructions:

(i) If the reporting entity is entirely owned by a single United States company that is not owned by another company, provide that company's legal name and physical address as the United States parent company and report 100 percent ownership.

(ii) If the reporting entity is entirely owned by a single United States company that is, itself, owned by another company (*e.g.,* it is a division or subsidiary of a higher-level company), provide the legal name and physical address of the highest-level company in the ownership hierarchy as the United States parent company and report 100 percent ownership.

(iii) If the reporting entity is owned by more than one United States company (*e.g.,* company A owns 40 percent, company B owns 35 percent, and company C owns 25 percent), provide the legal names and physical addresses of all the highest-level companies with an ownership interest as the United States parent companies, and report the percent ownership of each company.

(iv) If the reporting entity is owned by a joint venture or a cooperative, the joint venture or cooperative is its own United States parent company. Provide the legal name and physical address of the joint venture or cooperative as the United States parent company, and report 100 percent ownership by the joint venture or cooperative.

(v) If the reporting entity is entirely owned by a foreign company, provide the legal name and physical address of the foreign company's highest-level company based in the United States as the United States parent company, and report 100 percent ownership.

(vi) If the reporting entity is partially owned by a foreign company and partially owned by one or more U.S. companies, provide the legal name and physical address of the foreign company's highest-level company based in the United States, along with the legal names and physical addresses of the other U.S. parent companies, and report the percent ownership of each of these companies.

(vii) If the reporting entity is a federally owned facility, report "U.S. Government" and and do not report physical address or percent ownership.

* * * * *

■ 3. Section 98.6 is amended by adding definitions of "Cogeneration unit," "North American Industry Classification System (NAICS) code(s)," "Physical address," and "United States parent company(s)" in alphabetical order to read as follows:

§ 98.6 Definitions.

* * * * *

Cogeneration unit means a unit that produces electrical energy and useful thermal energy for industrial, commercial, or heating or cooling purposes, through the sequential or simultaneous use of the original fuel energy.

* * * * *

North American Industry Classification System (NAICS) code(s) means the six-digit code(s) that represents the product(s)/activity(s)/service(s) at a facility or supplier as listed in the **Federal Register** and defined in "North American Industrial Classification System Manual 2007," available from the U.S. Department of Commerce, National Technical Information Service, Alexandria, VA 22312, phone (703) 605–6000 or (800) 553–6847. *http://www.census.gov/eos/www/naics/.*

* * * * *

Physical address, with respect to a United States parent company as defined in this section, means the street address, city, state and zip code of that company's physical location.

* * * * *

United States parent company(s) means the highest-level United States company(s) with an ownership interest in the reporting entity as of December 31 of the year for which data are being reported.

* * * * *

[FR Doc. 2010–23674 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R05–RCRA–2010–0758; FRL–9201–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: The EPA (also, "the Agency" or "we") is amending the exclusion for the American Steel Cord facility in Scottsburg, Indiana to reflect changes in ownership and name.

DATES: This amendment is effective on September 22, 2010.

FOR FURTHER INFORMATION CONTACT: Todd Ramaly, Land and Chemicals Division, Region 5, Mail Code LR–8J, Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604; *telephone number:* (312) 353–9317; *fax number:* (312) 582–5190; *e-mail address: ramaly.todd@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

In this document EPA is amending appendix IX to part 261 to reflect a change in the status of a particular exclusion and, as such, will apply to a single facility.

B. How can I get copies of related information?

EPA has established a docket for this action under Docket ID No. EPA–R05–2010–0758. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Records Center, 7th floor, U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. We recommend you telephone Todd Ramaly at (312) 353–9317 before visiting the Region 5 office. The public may copy material from the regulatory docket at $0.15 per page.

C. Why is EPA taking this action?

The petition process under Title 40 Code of Federal Regulations (40 CFR) 260.20 and 260.22 allows facilities to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste. Based on waste-specific information provided by the petitioner, EPA granted an exclusion for up to 3,000 cubic yards of F006, wastewater treatment sludges from electroplating operations, annually to American Steel Cord, Scottsburg (64 FR 3869, January 26, 1999).

On April 22, 2010, the Agency was notified that ownership of the Scottsburg facility had been transferred to Tokusen U.S.A., Inc. Scottsburg <JFS America> (Tokusen). Tokusen certified it will meet all terms and conditions set forth in the delisting and will not change the characteristics of the waste at the Scottsburg facility without prior Agency approval. This notice documents the change by updating appendix IX to incorporate a change in name.

There are also a number of minor typographical errors identified in the existing exclusion that will be fixed by this amendment. The sentences containing the list of verification constituents in condition 1 of the exclusion are combined with a colon and the list of allowable concentrations with semicolons. The constituent "benzo butyl phthlate" is corrected to "benzylbutylphthalate". A zero is added before the decimal for concentrations that are less than 1. The description of the waste is corrected from "wastewater treatment plant (WWTP) sludge" to "wastewater treatment sludges" (description based on the listing). Confusing timing language in condition 4(d) of the exclusion is corrected from "* * * (if no information is presented under paragraph (c) the initial receipt of information described in paragraph (a) * * *" to "* * * if no information is presented under paragraph (c) * * *"

These changes to appendix IX of part 261 are effective September 22, 2010. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of the Resource Conservation and Recovery Act (RCRA) to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. As described above, the facility has certified that it is prepared to comply. Therefore, a six-month delay in the effective date is not necessary in this case. This provides the basis for making this amendment effective immediately upon publication under the Administrative Procedures Act pursuant to 5 United States Code (U.S.C.) 5531(d).