



## **ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 2, 98, and 99**

**[EPA-HQ-OAR-2023-0434; FRL-12723-01-OAR]**

**RIN 2060-AW54**

### **Congressional Review Act Revocation of Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; CRA revocation.

**SUMMARY:** Congress has passed and the President has signed a joint resolution of disapproval under the Congressional Review Act (CRA) of the Environmental Protection Agency's (EPA) final rule titled, "Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions" (2024 WEC Final Rule). The 2024 WEC Final Rule implemented and facilitated compliance with the requirements of the Waste Emissions Charge in the Clean Air Act's (CAA) Methane Emissions Reduction Program. Under the joint resolution and by operation of the CRA, the 2024 WEC Final Rule now has no legal force or effect. Because the rule has been nullified, the EPA is removing it from the Code of Federal Regulations (CFR). This action is exempt from notice-and-comment rulemaking because it is ministerial in nature.

**DATES:** This final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2023-0434. Publicly available docket materials are available either electronically at <https://www.regulations.gov> or in hard copy at Air and Radiation Docket and Information

Center, EPA Docket Center, EPA/DC, EPA WJC West Building, 1301 Constitution Ave. NW, Room 3334, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Claudia Menasche, Climate Change Division, Office of Atmospheric Protection (MC-6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-3391; e-mail address: *merp@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Does this action apply to me?**

This action may be relevant to you if you are an owner or operator of a facility in certain segments of the petroleum and natural gas systems industry that reports – or will report – more than 25,000 metric tons (mt) of carbon dioxide equivalent (CO<sub>2</sub>e) pursuant to the requirements codified at 40 CFR part 98 and report emissions under subpart W (Petroleum and Natural Gas Systems) (hereafter referred to as “part 98, subpart W”). The industry segments, as they are defined under part 98, subpart W, to which the 2024 WEC Final Rule may have applied are offshore petroleum and natural gas production, onshore petroleum and natural gas production, onshore natural gas processing, onshore gas transmission compression, underground natural gas storage, liquefied natural gas storage, liquefied natural gas import and export equipment, onshore petroleum and natural gas gathering and boosting, and onshore natural gas transmission pipeline. Revisions to part 98, subpart A, also contained in the 2024 WEC Final Rule, may have applied to all of the aforementioned segments and natural gas distribution, as defined in part 98, subpart W. These categories and entities include, but are not limited to, those listed in table 1 of this preamble:

**Table 1. Examples of Affected Entities by Category**

<b>Category</b>	<b>North American Industry Classification System (NAICS)</b>	<b>Examples of affected facilities</b>
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.
	221210	Natural gas processing and transmission compression.
	211120	Crude petroleum extraction.
	211130	Natural gas extraction.

Table 1 of this preamble is not intended to be exhaustive but rather provides a guide for readers regarding facilities that may have been affected by the 2024 WEC Final Rule. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

## **II. Background and Rationale for This Final Action**

On January 26, 2024, the EPA published in the *Federal Register* (FR) a notice of proposed rulemaking to facilitate implementation of the provisions of the WEC, following the requirements of CAA section 136(c)-(g) (89 FR 5318). The EPA published the 2024 WEC Final Rule in the FR on November 18, 2024 (89 FR 91094) and codified associated regulations at 40 CFR parts 2, 98 (subpart A), and 99.

The United States House of Representatives passed a joint resolution (H.J. Res. 35) on February 26, 2025, disapproving the 2024 WEC Final Rule under the CRA (5 U.S.C. 801 *et seq.*). The United States Senate passed H.J. Res. 35 on February 27, 2025. President Donald J. Trump signed the joint resolution of disapproval into law as Public Law (Pub. L.) 119-2 on March 14, 2025. Under the joint resolution and by operation of the CRA, the 2024 WEC Final Rule has no legal force or effect.

## **III. Final Action**

This final action revises the CFR to remove the now null amendments that were codified under the 2024 WEC Final Rule. This action removes 40 CFR part 99 (Waste Emissions Charge)

and reverts to the text in effect immediately prior to the effective date of the 2024 WEC Final Rule for the amended paragraphs of 40 CFR part 2, subpart B (Public Information – Confidentiality of Business Information) and 40 CFR part 98, subpart A (Mandatory Greenhouse Gas Reporting–General Provisions). The amendments to 40 CFR part 2, subpart B included revisions to 40 CFR 2.301(d) to include references to part 99. The amendments to 40 CFR part 98, subpart A included the addition of 40 CFR 98.3(c)(14), which required additional reporting for facilities subject to part 98, subpart W; the addition of 40 CFR 98.4(o), which specified alternative provisions for responsibility for part 98 report submissions and revisions related to changes in owners and operators for facilities that report under subpart W; revisions to 40 CFR 98.4(g) and (h) to include cross-references to paragraph 98.4(o); and revisions to 40 CFR 98.4(n)(2) to clarify responsibilities following certain types of facility acquisitions.

The EPA is taking this action as a final rule without providing an opportunity for public comment or a public hearing because the EPA finds that the Administrative Procedure Act (APA) “good cause” exemption applies. The EPA has determined that there is good cause here because the correction of the CFR is a ministerial act to effectuate H.J. Res. 35 and the operation of the CRA. The CRA joint resolution was signed on March 14, 2025, at which point the 2024 WEC Final Rule ceased to have any legal force or effect. As such, public notice and comment is unnecessary and would serve no useful purpose.

For these reasons, the EPA finds good cause to issue a final rulemaking without undergoing public notice and comment, in conformance with 5 U.S.C. 553(b)(B).

#### **IV. Statutory and Executive Order Review**

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### *A. Executive Order 12866: Regulatory Planning and Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

This action is considered an Executive Order 14192 deregulatory action that results in \$7,540,709 in cost savings associated with information collection and EPA implementation. Details on the estimated cost savings of this final rule can be found in the Information Collection Request (ICR) as part of the final WEC rule (89 FR 91094).

*C. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA. This final action is ministerial in nature and does not contain any information collection activities.

*D. Regulatory Flexibility Act (RFA)*

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the Agency has invoked the APA “good cause” exemption under 5 U.S.C. 553(b)(B).

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments.

*F. 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.

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

This action does not have Tribal implications as specified in Executive Order 13175. This action is ministerial in nature. Thus, Executive Order 13175 does not apply to this action.

*H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA’s Policy on Children’s Health also does not apply.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under EO 12866.

*J. National Technology Transfer and Advancement Act*

This rulemaking does not involve technical standards.

*K. Congressional Review Act*

As discussed above, this action reflects the effect of the joint resolution to disapprove the 2024 WEC Final Rule under the CRA.

*L. Judicial Review*

Under CAA section 307(b)(1), any petition for review of this final rule must be filed in the U.S. Court of Appeals for the District of Columbia Circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**List of Subjects**

**40 CFR Part 2**

Environmental protection, Administrative practice and procedure, Confidential business information, Courts, Freedom of information, Government employees.

## **40 CFR Part 98**

Environmental protection, Greenhouse gases, Incorporation by reference, Reporting and recordkeeping requirements.

## **40 CFR Part 99**

Environmental protection, Greenhouse gases, Natural gas, Penalties, Petroleum, Reporting and recordkeeping requirements.

**Lee Zeldin,**

Administrator.

Under the authority of the Congressional Review Act and Pub. L. 119–2, 139 Stat. 3, the EPA amends title 40, chapter I, of the Code of Federal Regulations as follows:

### **PART 2—PUBLIC INFORMATION**

1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552a, 553; 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717.

#### **Subpart B—Confidentiality of Business Information**

2. Amend § 2.301 by reinstating paragraph (d) to read as follows:

#### **§ 2.301 Special rules governing certain information obtained under the Clean Air Act.**

\* \* \* \* \*

(d) *Data submitted under 40 CFR part 98.* (1) Sections 2.201 through 2.215 do not apply to data submitted under 40 CFR part 98 that EPA has determined, pursuant to sections 114(c) and 307(d) of the Clean Air Act, to be either of the following:

(i) Emission data.

(ii) Data not otherwise entitled to confidential treatment pursuant to section 114(c) of the Clean Air Act.

(2) Except as otherwise provided in paragraphs (d)(2) and (d)(4) of this section, §§ 2.201 through 2.215 do not apply to data submitted under 40 CFR part 98 data that EPA has determined, pursuant to sections 114(c) and 307(d) of the Clean Air Act, to be entitled to confidential treatment. EPA shall treat that information as confidential in accordance with the provisions of § 2.211, subject to paragraph (d)(4) of this section and § 2.209.

(3) Upon receiving a request under 5 U.S.C. 552 for data submitted under 40 CFR part 98 that EPA has determined, pursuant to sections 114(c) and 307(d) of the Clean Air Act, to be entitled to confidential treatment, the EPA office shall furnish the requestor a notice that the information has been determined to be entitled to confidential treatment and that the request is therefore denied. The notice shall include or cite to the appropriate EPA determination.

(4) Modification of prior confidentiality determination. A determination made pursuant to sections 114(c) and 307(d) of the Clean Air Act that information submitted under 40 CFR part 98 is entitled to confidential treatment shall continue in effect unless, subsequent to the confidentiality determination, EPA takes one of the following actions:

(i) EPA determines, pursuant to sections 114(c) and 307(d) of the Clean Air Act, that the information is emission data or data not otherwise entitled to confidential treatment under section 114(c) of the Clean Air Act.

(ii) The Office of General Counsel issues a final determination, based on the criteria in § 2.208, stating that the information is no longer entitled to confidential treatment because of change in the applicable law or newly discovered or changed facts. Prior to making such final determination, EPA shall afford the business an opportunity to submit comments on pertinent issues in the manner described by §§ 2.204(e) and 2.205(b). If, after consideration of any timely comments submitted by the business, the Office of General Counsel makes a revised final determination that the information is not entitled to confidential treatment under section 114(c) of the Clean Air Act, EPA will notify the business in accordance with the procedures described in § 2.205(f)(2).

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## **PART 98—MANDATORY GREENHOUSE GAS REPORTING**

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

**Authority:** 42 U.S.C. 7401-7671q.

### **Subpart A—General Provision**

#### **§ 98.3 [Amended]**

4. Amend § 98.3 by removing paragraph (c)(14).

5. Amend § 98.4 by reinstating paragraphs (g), (h), and (n)(2) and removing paragraph (o) to read as follows:

#### **§ 98.4 Authorization and responsibilities of the designated representative.**

\* \* \* \* \*

(g) *Changing a designated representative or alternate designated representative.* The designated representative or alternate designated representative identified in a complete certificate of representation under this section for a facility or supplier received by the Administrator may be changed at any time upon receipt by the Administrator of another later signed, complete certificate of representation under this section for the facility or supplier. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous designated representative or the previous alternate designated representative of the facility or supplier before the time and date when the Administrator receives such later signed certificate of representation shall be binding on the new designated representative and the owners and operators of the facility or supplier.

(h) *Changes in owners and operators.* Except as provided in paragraph (n) of this section, in the event an owner or operator of the facility or supplier is not included in the list of owners and operators in the certificate of representation under this section for the facility or supplier, such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the designated

representative and any alternate designated representative of the facility or supplier, as if the owner or operator were included in such list. Within 90 days after any change in the owners and operators of the facility or supplier (including the addition of a new owner or operator), the designated representative or any alternate designated representative shall submit a certificate of representation that is complete under this section except that such list shall be amended to reflect the change. If the designated representative or alternate designated representative determines at any time that an owner or operator of the facility or supplier is not included in such list and such exclusion is not the result of a change in the owners and operators, the designated representative or any alternate designated representative shall submit, within 90 days of making such determination, a certificate of representation that is complete under this section except that such list shall be amended to include such owner or operator.

\* \* \* \* \*

(n) \* \* \*

(2) If the entire facility is acquired by an owner or operator that already has a reporting facility in the same industry segment and basin (for onshore petroleum and natural gas production or onshore petroleum and natural gas gathering and boosting) or state (for natural gas distribution), the new owner or operator shall merge the acquired facility with their existing facility for purposes of the annual greenhouse gas (GHG) report. The owner or operator shall also follow the provisions of § 98.2(i)(6) to notify EPA that the acquired facility will discontinue reporting and shall provide the e-GGRT identification number of the merged, or reconstituted, facility. The owner or operator of the merged facility shall be responsible for submitting the annual report for the merged facility for the entire reporting year beginning with the reporting year in which the acquisition occurred.

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**PART 99—[Removed and Reserved]**

6. Remove and reserve part 99.

