

# Fact Sheet



## Final Confidentiality Determinations for Data Collected Under the Greenhouse Gas Reporting Program and Amendments to Special Rules Governing Certain Information Obtained Under the Clean Air Act.

### Action

- In this action, the U.S. Environmental Protection Agency (EPA) is finalizing confidentiality determinations for data elements to be reported under 34 subparts of the Greenhouse Gas Reporting Program.
- This action delineates which data elements can be released to the public and which ones will be treated as confidential.
- EPA is also amending the regulations that govern EPA's handling of information obtained under the Clean Air Act. The amendments allow EPA to release or withhold as CBI data elements according to these final confidentiality determinations.
- In today's action, EPA *is not* making final confidentiality determinations for data elements that are "Inputs to Emission Equations." In December 2010, EPA proposed to defer reporting of "Inputs to Emissions Equations" so that EPA can obtain and review additional information to resolve issues related to reporting and public availability of data elements that are "Inputs to Emission Equations."
- EPA *is not* making final confidentiality determinations for the data elements to be reported under eight subparts. EPA plans to re-propose confidentiality determinations for the data collected under these eight subparts.

### Background

- On October 30, 2009, EPA launched the Greenhouse Gas Reporting Program, which requires reporting from facilities that directly emit greenhouse gases to the atmosphere as well as suppliers of fuels and industrial gases.
- Data collected under the Greenhouse Gas Reporting Program must be available to the public unless the data qualify for confidential treatment under the Clean Air Act. The Clean Air Act precludes "emission data" from being considered confidential.
- On July 7, 2010, EPA issued proposed confidentiality determinations for greenhouse gas data as well as the proposed amendment to the CBI handling procedures. EPA issued a supplemental proposal on July 27, 2010. EPA received over 40 sets of comments on these proposals.

## Final Confidentiality Determinations

- EPA typically makes confidentiality determinations under the Clean Air Act (CAA) on a case-by-case basis. Due to the large numbers of entities expected to report under the Greenhouse Gas Reporting Program (over 13,000) and the large number of data reporting elements (over 1,900), EPA concluded that case-by-case determinations would not result in a timely release of non-confidential data.
- EPA grouped data elements into data categories and generally made confidentiality determinations on a category basis.
- EPA evaluated the data reporting elements to determine which data elements are “emission data” and, therefore, are not eligible for confidential treatment.
- For the remaining data elements, EPA evaluated whether the data elements qualify for confidential treatment. In particular, EPA evaluated whether the data are already publicly available and whether the release of the data would be “likely to cause substantial harm to the reporting business’s competitive position.”<sup>1</sup>
- EPA solicited comment on the proposed determinations during a 60-day public comment period and addressed those comments in this final action.
- For a list of the data elements along with the corresponding final confidentiality determinations, see the memorandum “Final Data Category Assignments and Confidentiality Determinations for Part 98 Reporting Elements” at: <http://www.epa.gov/climatechange/emissions/CBI.html>.

## Subparts Covered By This Final Action

- Subpart A, General Provisions
- Subpart C, General Stationary Fuel Combustion Sources
- Subpart D, Electricity Generation
- Subpart E, Adipic Acid Production
- Subpart F, Aluminum Production
- Subpart G, Ammonia Manufacturing
- Subpart H, Cement Production
- Subpart K, Ferroalloy Production
- Subpart N, Glass Production
- Subpart O, HCFC-22 Production and HFC-23 Destruction
- Subpart P, Hydrogen Production
- Subpart Q, Iron and Steel Production

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<sup>1</sup> 40 CFR 2.208(e)

- Subpart R, Lead Production
- Subpart S, Lime Manufacturing
- Subpart T, Magnesium Production
- Subpart U, Miscellaneous Uses of Carbonate
- Subpart V, Nitric Acid Production
- Subpart X, Petrochemical Production
- Subpart Y, Petrochemical Production
- Subpart Z, Phosphoric Acid Production
- Subpart AA, Pulp and Paper Manufacturing
- Subpart BB, Silicon Carbide Production
- Subpart CC, Soda Ash Manufacturing
- Subpart EE, Titanium Dioxide Production
- Subpart FF, Underground Coal Mines
- Subpart GG, Zinc Production
- Subpart HH, Municipal Solid Waste Landfills
- Subpart II, Wastewater Treatment
- Subpart LL, Suppliers of Coal-based Liquid Fuels
- Subpart MM, Suppliers of Petroleum Products
- Subpart NN, Suppliers of Natural Gas and Natural Gas Liquids
- Subpart OO, Suppliers of Industrial Greenhouse Gases
- Subpart PP, Suppliers of Carbon Dioxide
- Subpart TT, Industrial Landfills

## **Next Steps and Implementation**

- The final confidentiality determinations and amendment to 40 CFR 2.301 will be published in the *Federal Register* shortly and will be available at: [www.regulations.gov](http://www.regulations.gov).
- A prepublication copy of the preamble and rule is available on our Web site at: <http://www.epa.gov/climatechange/emissions/CBI.html>

## **More Information**

For more information on the Greenhouse Gas Reporting Program including guidance and a schedule of training opportunities, please visit EPA's GHGRP Web site: [www.epa.gov/climatechange/emissions/ghgrulemaking.html](http://www.epa.gov/climatechange/emissions/ghgrulemaking.html).

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