

# Fact Sheet



## Final Confidentiality Determinations for Nine Subparts and Amendments to Subparts A and I under the Mandatory Reporting of Greenhouse Gases Rule

### Action

- In this action, the U.S. Environmental Protection Agency (EPA) is finalizing confidentiality determinations for most data elements to be reported under nine subparts of the Greenhouse Gas Reporting Program. For these nine subparts, this action delineates which data elements can be released to the public and which ones will be treated as business confidential.
- In addition, this action defers the deadline for reporting certain recently added data elements that are inputs to emission equations in the following subparts: Underground Coal Mines (subpart FF), Industrial Waste Landfills (subpart TT) and Petroleum and Natural Gas Systems (subpart W).
- In today's action, EPA is not making final confidentiality determinations for data elements that are categorized as inputs to emission equations.
- Lastly, the EPA is finalizing amendments to Electronics Manufacturing (subpart I) to remove the requirement for a facility to recalculate the previous reporting years' emissions and resubmit them to EPA where the use of best available monitoring methods (BAMM) is allowed.

### 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.
- On May 26, 2011, EPA finalized confidentiality determinations for greenhouse gas data for 34 subparts.
- On August 25, 2011 EPA deferred the deadline for reporting data elements that are inputs to emission equations so that EPA can obtain and review additional information related to reporting and public availability of data elements that are inputs to emission equations.
- Confidentiality determinations were proposed for the remaining subparts on January 26, 2012, February 22, 2012, and February 24, 2012. EPA also proposed to defer reporting of recently added inputs to emissions equations in those actions. EPA received 12 comment letters on the 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 reporters under the Greenhouse Gas Reporting Program (approximately 9000) and the large number of data reporting elements (over 1,900), EPA concluded that case-by-case determinations would inhibit timely release of non-confidential data.
- In this action, EPA grouped data elements into data categories and generally made confidentiality determinations on a categorical basis. This is the same approach that was used in the May 26, 2011 action to make confidentiality determinations for data elements in 34 subparts of part 98.
- EPA evaluated the data reporting elements to determine which data elements are “emission data” and, therefore, are not eligible for confidential treatment. The Clean Air Act precludes “emission data” from being considered business confidential.
- 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 public comment period and has 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 the 2012 Final CBI Rule” at: <http://www.epa.gov/climatechange/emissions/CBI.html>.

## Subparts Covered by this Final Action

- Subpart I - Electronics Manufacturing
- Subpart W - Petroleum and Natural Gas Systems
- Subpart DD - Use of Electric Transmission and Distribution Equipment
- Subpart FF - Underground Coal Mines
- Subpart II - Industrial Wastewater Treatment
- Subpart QQ - Imports and Exports of Equipment Pre-charged with Fluorinated GHGs or Containing Fluorinated GHGs in Closed-cell Foams
- Subpart RR - Geologic Sequestration of Carbon Dioxide
- Subpart SS - Manufacture of Electric Transmission and Distribution Equipment
- Subpart TT - Industrial Waste Landfills

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

- Subpart UU - Injection of Carbon Dioxide

## **Next Steps and Implementation**

- The final confidentiality determinations will be published in the *Federal Register* 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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