

**Final Rule:
Confidentiality Determinations
for Data Required under the
Mandatory Greenhouse Gas
Reporting Rule
and
Amendments to Special
Rules Governing Certain
Information Obtained under the
Clean Air Act**



**Climate Change Division
US EPA**

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Outline



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Background



- On October 30, 2009, EPA published 40 CFR Part 98, known as the Greenhouse Gas Reporting Program (GHGRP).
- Requires reporting of greenhouse gases (GHGs) by:
 - Facilities that directly emit GHGs from industrial processes and stationary fuel combustion; and
 - Upstream suppliers of fuels and industrial GHGs.

Background (2)



- On July 7, 2010, EPA issued a proposal that included:
 - Confidentiality determinations for data elements reported under the GHGRP; and
 - Amendments to regulations for handling GHGRP data (e.g. eliminating notifications to facilities prior to release of emission and non-CBI data once final determinations are made).
- On July 27, 2010, EPA issued a supplemental proposal to address new and revised data elements added to the GHGRP.

Background (3)



- In the proposal, EPA categorized data elements into 22 categories and generally made determinations on a category basis. EPA proposed one of the following determinations:
 1. Data meets the definition of “emission data” at 40 CFR 2.301(a)(2)(i)
 - Clean Air Act Section 114(c) precludes emission data from being considered confidential and requires that such data be available to the public.

For data elements that are not “emission data”:

2. Not CBI
 - Data is not likely to cause substantial harm to business’ competitive position or data is already publicly available (40 CFR 2.208)
3. CBI
 - Data is entitled to confidential treatment unless subsequently determined to be emission data or otherwise not qualified as CBI.

Scope of this Final Action



- Today's action includes:
 - Final confidentiality determinations for data elements reported under 34 subparts of the GHGRP; and
 - Amendments to the regulations for handling GHGRP data (e.g. eliminating notifications to facilities prior to release of emission and non-CBI data once final determinations are made).

Scope of this Final Action (2)



- EPA *is not* making final determinations in this action for data elements that are inputs to emission equations.
- Commenters raised concerns regarding potential harmful consequences from public availability of these data elements.
- EPA concluded that comments warranted more evaluation.
- On December 27, 2010, EPA published the following:
 - Call for information to solicit additional information to help with the more in-depth evaluation.
 - Interim final notice to defer reporting on a short-term basis and a proposal to defer reporting of these data elements until March 31, 2014.

ScOpe of this Final Action (3)



- EPA *is not* making final determinations in this action for data collected under the following 8 subparts:
 - Subpart I, Electronics Manufacturing;
 - Subpart L, Fluorinated Gas Production;
 - Subpart W, Petroleum and Natural Gas Systems;
 - Subpart DD, Sulfur Hexafluoride (SF₆) and Perfluorocarbons (PFCs) from Electrical Equipment at an Electric Power System;
 - Subpart QQ, Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-Charged Equipment or Closed-Cell Foams;
 - Subpart RR, Geologic Sequestration of Carbon Dioxide;
 - Subpart SS, Sulfur Hexafluoride and PFCs from Electrical Equipment Manufacture or Refurbishment; and
 - Subpart UU, Injection of Carbon Dioxide.
- EPA has decided to re-propose determinations for these subparts as the number and substance of data elements have changed significantly since the July 2010 CBI proposal.

Final Determinations



- EPA made several changes in response to comments received on the proposal.
 - These changes are described in detail in the preamble to the final rule.
- EPA made final determinations on a category basis for 16 categories and by data element basis for 5 categories.
- In a handful of circumstances, EPA did not make final determinations by category or by data element, because circumstances impacting the determinations may vary by facility.
- EPA prepared a memo to the docket that lists the data elements included in this final action and the final determination for each element.

Direct Emitters



- Instead of category-wide determinations, EPA decided to make individual determinations for data elements in the following two direct emitter data categories:
 - Unit/Process Static Characteristics that are not Inputs to Emission Equations
 - Unit/Process Operating Characteristics that are not Inputs to Emission Equations
- EPA moved 69 data elements from the inputs to emission equation category to other data categories.
 - These data elements are related to emission calculations but are not the actual inputs specified in any Part 98 emissions calculation.

Direct Emitters (2)



This table summarizes the final determinations for direct emitters.

Meets definition of “emission data” <i>(Available to public)</i>	Not “emission data”, Not CBI <i>(Available to public)</i>	Not “emission data”, CBI <i>(Not available to public ¹)</i>
<ul style="list-style-type: none"> • Facility & Unit Identifier Information • Emissions • Calculation Methodology & Methodological Tier • Data Elements Reported for Periods of Missing Data 	<ul style="list-style-type: none"> • Test and Calibration Methods 	<ul style="list-style-type: none"> • Production/Throughput Data That are Not Inputs to Equations • Raw Materials Consumed That are Not Inputs to Equations • Process-specific and Vendor Data Submitted in BMM Extension Requests
	<ul style="list-style-type: none"> • Unit/process “Static” Characteristics That are Not Inputs to Equations² • Unit/process “Operating” Characteristics That are Not Inputs to Equations² 	

¹Data will be released in aggregated format, as appropriate.

²Some data elements within this category are CBI and some are non-CBI.

Suppliers



This table summarizes the final determinations for suppliers.

Meets definition of “emission data” <i>(Available to public)</i>	Not “emission data”, Not CBI <i>(Available to public)</i>	Not “emission Data”, CBI <i>(Not available to public³)</i>
None	<ul style="list-style-type: none"> • Calculation, Test, and Calibration Methods • Identification Information • Data elements Reported for Periods of Missing Data Not Related to Production/Throughput or Materials Received 	<ul style="list-style-type: none"> • Emission factors • Supplier Customer & Vendor information • Amount & Composition of Materials Received • Data Elements Reported for Periods of Missing Data That are related to Production/Throughput or Materials Received • Process-Specific and Vendor Data Submitted in BAMB Extension Request
	<ul style="list-style-type: none"> • GHGs reported⁴ • Production/Throughput Quantities & Composition⁴ • Unit/Process Operating Characteristics⁴ 	

³ Data will be released in aggregated format, as appropriate.

⁴ Some data elements within this category are CBI and some are not CBI.

For Further Information



- www.epa.gov/climatechange/emissions/CBI.html
 - Fact sheet
 - Final rule
 - Memo to the docket
 - Response to comments document
- Email: GHGMRR@epa.gov