

USEPA to Propose New CBI Determinations under GHG Reporting Rule for Eight Industry Sectors

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On July 13, 2011, USEPA submitted to the White House Office of Management & Budget (OMB) for review a proposal containing revised determinations for eight industry sectors on the categories of data submitted under the Greenhouse Gas (GHG) Reporting rule that may be claimed as confidential. These industry sectors include: (1) petroleum and natural gas systems; (2) electronics manufacturing; (3) electric transmission and distribution equipment manufacturing; (4) electric transmission and distribution equipment use; (5) fluorinated gas production; (6) importation and exportation of fluorinated GHGs; (7) geologic sequestration of carbon dioxide; and (8) injection of carbon dioxide for enhanced oil and gas recovery. (See [OMB summary of USEPA proposal](#).)

The GHG Reporting rule was finalized in October 2009 and requires that facilities meeting certain GHG emission thresholds provide USEPA with data related to GHG emissions. This data is generally available to the public unless the data qualifies as confidential business information (CBI). Because of the large number of entities expected to report under the GHG Reporting rule and the large number of data elements that such entities would be required to report, USEPA determined that the usual case-by-case approach to determining CBI would be inappropriate, inefficient, and would not result in a timely release of non-confidential data. Therefore, USEPA concluded that it would evaluate all data elements to be submitted by various industrial sectors under the rule and then universally determine which categories would qualify as CBI. CBI determinations were originally proposed in July 2010, but since that time EPA has finalized the source categories that will need to report under the rule, finalized reporting requirements, and, in response to public comments, made significant substantive revisions to measurement and calculation methodologies within the rule, which affected the data elements that must be submitted under the rule for those industry sectors listed above. These eight industrial sectors are due to submit first-time GHG reports in March 2012.

CBI determinations for the other 34 industrial sectors covered by the GHG Reporting rule were finalized on May 26, 2011 and are effective on July 25, 2011. (See [76 Fed. Reg. 30782 \(May 26, 2011\)](#).)

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