



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2012-0978; FRL-10012-47-OECA]

Access by United States Environmental Protection Agency (EPA) Subcontractor to Information Claimed as Confidential Business Information (CBI) Submitted under Clean Air Act (CAA), Title I, Programs and Activities Air, and Title II Emission Standards for Moving Sources, and Act to Prevent Pollution from Ships (APPS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency's (EPA's) Office of Enforcement and Compliance Assurance (OECA) plans to authorize a subcontractor to access information that will be submitted to EPA under the Clean Air Act (CAA) Titles I and II and the Act to Prevent Pollution from Ships (APPS) that may be claimed as, or may be determined to be, confidential business information (CBI).

DATES: Comments must be received on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The subcontractor's access to information collected under the CAA Titles I and II, and the APPS, will begin on **[INSERT DATE 6 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA HQ-OECA-2012-0978, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).
Follow the online instructions for submitting comments.
- E-mail: docket.oeca@epa.gov. Include Docket ID No. EPA-HQ-OECA-2012-0978 in the

subject line of the message.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jeffrey Kimes, Air Enforcement Division, Office of Enforcement and Compliance Assurance (Mail Code 8MSU), Environmental Protection Agency, 1595 Wynkoop St., Denver, CO 80202; telephone number: (303) 312-6445; email address: kimes.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Document Apply to Me?

This action is directed to the general public. However, this action may be of particular interest to certain parties, including: motor vehicle manufacturers and importers; engine manufacturers and importers; motor vehicle fuel and fuel additive producers and importers; manufacturers, importers and distributors of motor vehicle and engine emission control equipment and parts; and any other parties subject to the regulations found in 40 CFR parts 79, 80, 85, 86, 89-92, 94, 1033, 1036, 1037, 1039, 1042, 1043, 1045, 1048, 1051, 1054, 1060, 1065, and 1068.

This *Federal Register* document may be of particular relevance to parties that have submitted data to EPA under the above-listed regulations. Because other parties may also be interested, EPA has not attempted to describe all the specific parties that may be affected by this action. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Copies of this Document and Other Related Information?

A. Electronically

EPA has established a public docket for this *Federal Register* document under Docket ID No. EPA-HQ-OECA-2012-0978.

All documents in the docket are identified in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, such as CBI or other information for which disclosure is restricted by statute.

B. EPA Docket Center

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

III. Description of Programs and Potential Disclosure of Information Claimed as CBI to Contractors and Subcontractors.

EPA's OECA has responsibility for protecting public health and the environment by enforcing standards for air pollution. In order to implement various Clean Air Act and APPS programs, OECA collects compliance reports and other information from the regulated industry. Occasionally, the information submitted to, or obtained by, EPA, is claimed to be CBI by persons submitting data to EPA. Information submitted under such a claim is handled in accordance with EPA's regulations at 40 CFR part 2, subpart B, and in accordance with EPA procedures that are consistent with those regulations. When EPA has determined that disclosure of information claimed as CBI to EPA contractors or subcontractors is necessary, the

corresponding contract must address the appropriate use and handling of the information by the EPA contractor and subcontractor and the EPA contractor and subcontractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

On May 29, 2019 and January 15, 2020, EPA provided notice in the *Federal Register* of, and an opportunity to comment on, EPA's determination that subcontractors to EPA contractor Eastern Research Group, Incorporated, (ERG) 14555 Avion Parkway, Suite 200, Chantilly, VA, 20151, required access to CBI submitted to EPA under section 114 of the CAA, section 208 of the CAA, and the APPS for the work ERG subcontractors would be conducting under Contract Number 68HERH19C0004. *See* Access by United States Environmental Protection Agency (EPA) Subcontractors to Information Claimed as Confidential Business Information (CBI) Submitted under Clean Air Act (CAA), Title I, Programs and Activities Air, and Title II Emission Standards for Moving Sources, and Act To Prevent Pollution From Ships (APPS), May 29, 2019 (84 FR 24781); Access by United States Environmental Protection Agency (EPA) Subcontractor to Information Claimed as Confidential Business Information (CBI) Submitted Under Clean Air Act (CAA), Title I, Programs And Activities Air, and Title II Emission Standards for Moving Sources, and Act To Prevent Pollution From Ships (APPS), January 15, 2020 (85 FR 2422). In accordance with 40 CFR 2.301(h), EPA has now determined that the subcontractor HSG, LLC (DBA Herndon Solutions Group) also requires access to CBI submitted to EPA under section 114 of the CAA, section 208 of the CAA, and the APPS, and we are providing notice and an opportunity to comment on HSG, LLC's access to information claimed as CBI. We are issuing this *Federal Register* document to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the

subcontractor HSG, LLC on a need-to-know basis.

Under Contract Number 68HERH19C0004, ERG provides enforcement support for EPA's regulatory and enforcement activities, including field inspections, investigations, audits, and other CAA regulatory and enforcement support that involve access to information claimed as CBI. ERG also employs subcontractors, who support these activities, under the above-listed contract. The subcontractor HSG, LLC requires access to information claimed as CBI to support EPA enforcement activities described above. Access to data, including information claimed as CBI, will commence six days after the date of publication of this document in the *Federal Register*, and will continue until March 1, 2024. If the contract and associated subcontracts are extended, this access will continue for the remainder of the ERG contract without further notice. If the contract expires prior to March 1, 2024, the access will cease at that time. If ERG employs additional subcontractors to support EPA on a regular basis or on a limited or one-time basis under the above-listed contract, and those subcontractors require access to CBI, EPA will notify affected companies of the contemplated disclosure and provide them with an opportunity to comment by either sending them a letter or by publishing an additional document in the *Federal Register*.

Parties who wish to obtain further information about this *Federal Register* document, or about OECA's disclosure of information claimed as CBI to subcontractors, may contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: July 15, 2020.

Evan Belser,
Acting Director, Air Enforcement Division.

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