



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2021-0048; FRL-10020-32-OAR]

### Access by EPA Contractors to Information Claimed as Confidential Business Information

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Contractor/Subcontractor Access to Data and Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) plans to authorize various contractors to access information that is submitted to EPA and which may be claimed as, or may be determined to be, confidential business information (CBI). The information is related to EPA's fuel quality programs.

**DATES:** Comments must be received on or before [INSERT FIVE DAYS AFTER THE PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may send comments, identified by Docket ID No EPA-HQ-OAR-2021-0048, by any of the following methods:

- Federal eRulemaking Portal: Submit your comments at <https://www.regulations.gov> (our preferred method). Follow the online instructions for submitting comments.
- E-mail: Email your comments to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2021-0048 in the subject line of the message.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Air & Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand Delivery or Courier (by scheduled appointment only): EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal Holidays).

*Instructions:* All submissions received must include the Docket ID No. for this notice.

Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on this action, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, 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. We encourage the public to submit comments via <https://www.regulations.gov> or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Anne-Marie Pastorkovich, Environmental Protection Agency, telephone number: 202-343-9623; email address: [pastorkovich.anne-marie@epa.gov](mailto:pastorkovich.anne-marie@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Does this Notice Apply to Me?**

This action is directed to the general public. However, this action may be of particular interest to parties who submit information to EPA regarding various fuel standards, such as the standards for reformulated and conventional gasoline, regulated blendstocks, diesel fuel, and detergent under 40 CFR part 1090, and for which a final rule was published in the Federal Register on December 4, 2020.<sup>1</sup> Parties who may be interested in this action include fuel manufacturers (such as refiners and importers), manufacturers of fuel additives, parties in the fuel distribution chain, and all those who submit 40 CFR part 1090 registrations or reports to EPA via any method or system. Such systems include the EPA Central Data Exchange (CDX), DCFUEL, OTAQReg, and the EPA Moderated Transaction System (EMTS). (Please note that

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<sup>1</sup> See "Fuels Regulatory Streamlining" - Final Rule, 85 FR 78412 (December 4, 2020).

EPA recently published a similar notice to this one, announcing the release of information to contractors and relative to various fuels programs under 40 CFR parts 79 and 80. That notice, published on October 26, 2020, is unaffected by today's notice.<sup>2</sup>)

This *Federal Register* notice may be of relevance to parties that submit data under the above-listed programs or systems. Since other parties may also be interested, we have 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 party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

## **II. Public Participation**

Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2021-0048 at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

As mentioned above, EPA is suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket

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<sup>2</sup> See "Access by EPA Contractors to Information Claimed as Confidential Business Information (CBI) Submitted Under Title II of the Clean Air Act and Related Regulations," - Notice, 85 FR 67738 (October 26, 2020).

Center staff will continue to provide remote customer service via email, phone, and webform.

We encourage the public to submit comments via <https://www.regulations.gov> as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

### **III. Description of Programs and Potential Disclosure of Information Claimed as Confidential Business Information (CBI) to Contractors**

EPA's Office of Transportation and Air Quality (OTAQ) has responsibility for protecting public health and the environment by regulating air pollution from motor vehicles, engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. In order to implement various Clean Air Act (CAA) programs, and to permit regulated entities flexibility in meeting regulatory requirements (e.g., compliance on average), we collect compliance reports and other information from them. Parties may claim the submitted information as CBI. 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, including comprehensive system security planning. When EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor 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.

In accordance with 40 CFR 2.301(h), we have determined that the contractors, subcontractors, and grantees (collectively referred to as "contractors") listed below require access to CBI submitted to us under the CAA and in connection with various programs related to

the regulation of fuels under 40 CFR part 1090. OTAQ collects this data in order to monitor compliance with CAA programs and, in many cases, to permit regulated parties flexibility in meeting regulatory requirements. Certain programs under 40 CFR part 1090 are designed to permit regulated parties an opportunity to comply on average, or to engage in transactions using various types of credits. For example, parties that participate in programs that utilize credits (e.g. the gasoline sulfur and gasoline benzene program) submit information related to credit transactions. Data submitted under 40 CFR part 1090 includes information related to reformulated and conventional gasoline, diesel fuel, detergents, and regulated blendstocks. Fuels program data is reviewed and assessed to determine the success of the programs or to plan for regulatory improvements. We are issuing this notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under EPA Contract Number EP-C-16-012 , General Dynamics Information Technology (GDIT) (located at 650 Peter Jefferson Parkway, Suite 300, Charlottesville, VA 22911) provides report processing, program support, technical support and analysis and information technology services that involve access to information claimed as CBI related to 40 CFR part 1090. The following subcontractors of GDIT continue to provide work under this contract:

- CGI Federal, Inc., 12601 Fair Lakes Circle, Fairfax, VA 22033-4902;
- Powersolv, Inc., 1801 Robert Fulton Drive, Suite 550, Reston, VA 20191;
- Premier ITech, Inc., 8869 Grand Ave., Beulah, CO 81023 (a subcontractor of Powersolv, Inc.)
- Potomac Economics, LTD, 9990 Fairfax Blvd., Suite 560, Fairfax, VA 22030

Access to data by GDIT and its subcontractors will begin **[INSERT DATE 10 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** and will continue until June 30, 2021. If the contract is extended, this access will continue for the remainder of the contract without further notice. If the contract expires prior to June 30, 2021, the access will cease at that

time. If GDIT 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 interested parties of the contemplated disclosure and provide them with an opportunity to comment by publishing a notice in the Federal Register.

Under Contract Number EP-C-16-020, ICF Incorporated, LLC (located at 9300 Lee Highway, Fairfax, VA 22031) provides technical support and data analysis services that may involve access to information claimed as CBI related to 40 CFR part 1090. Access to data will begin **[INSERT DATE 10 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** and will continue until September 30, 2021. If the contract is extended, this access will continue for the remainder of the contract without further notice. If the contract expires prior to September 30, 2021, the access will cease at that time. If ICF employs 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 interested parties of the contemplated disclosure and provide them with an opportunity to comment by publishing a notice in the *Federal Register*.

Under Contract Number 68HERD20A0004, Research Triangle Institute (RTI) (PO Box 12194, Research Triangle Park, NC, 27709-2194) and its subcontractors, Dr. Ruiqing Miao (Auburn University, Auburn, AL) and Dr. Madhu Khanna (University of Illinois at Urbana-Champaign, Urbana, IL), provide technical support and data analysis services that may involve access to information claimed as CBI related to 40 CFR part 1090. Access to data will begin **[INSERT DATE 10 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]** and will continue until July 19, 2021. If the contract is extended, this access will continue for the remainder of the contract without further notice. If the contract expires prior to July 19, 2021, the access will cease at that time. If RTI 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 interested parties of the contemplated

disclosure and provide them with an opportunity to comment by publishing a notice in the Federal Register.

EPA uses the services of Senior Environmental Employees (SEEs) whose involve access to information claimed as CBI related to 40 CFR part 1090. These SEEs are provided under the following two grants:

- National Association for Hispanic Elderly (NAHE) (Grant Number 8399701), 234 E Colorado Boulevard, Suite 300, Pasadena, CA 91101; and
- Senior Service America, Inc. (Grant Number 839480001 - Washington, DC; and Grant Number 83967201 - Ann Arbor, MI); 8403 Colesville Road, Suite 200, Silver Spring, MD 20910.

Parties who want further information about this notice or about OTAQ's disclosure of information claimed as CBI to contactors may contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: February 10, 2021

Byron J. Bunker,

Director,

Compliance Division, Office of Transportation & Air Quality.

[FR Doc. 2021-03170 Filed: 2/16/2021 8:45 am; Publication Date: 2/17/2021]