



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2012-0978; FRL-9994-34-OECA]

Access by EPA Subcontractors to Information Claimed as Confidential Business Information (CBI) Submitted under Titles I and II of the Clean Air Act (CAA) and the Prevent Pollution from Ships Act (APPS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Clean Air Act (CAA), Act to Prevent Pollution from Ships (APPS) and regulations require that the United States Environmental Protection Agency (EPA) provide notice to interested parties before any contractor may be provided access to confidential business information (CBI). EPA is providing notice that several subcontractors of a previously identified contractor will be given access to CBI. This permits the CBI owners and any other interested parties to comment on the subcontractors' proposed access to CBI so that EPA's Office of Enforcement and Compliance Assurance can utilize the named subcontractors to provide compliance assistance and enforcement services without providing individualized notice to CBI owners.

DATES: Comments must be received on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Subcontractors' 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; fax number (303) 312-7208; email address: kimes.jeffrey@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 certain parties, including: vehicle manufacturers and importers; engine manufacturers and importers; motor vehicle fuel and fuel additive producers and importers; manufacturers, importers, distributors and installers of vehicle and engine emission control equipment and parts; and any other parties subject to the CAA, APPS and 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 notice 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* notice 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. Certain materials, such as copyrighted material, will only be available in hard copy at the EPA Docket Center.

B. EPA Docket Center

Materials listed under Docket ID No. EPA-HQ-OECA-2012-0978 will be available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

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

EPA's OECA 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

programs, and to give regulated entities flexibility in meeting regulatory requirements (e.g., compliance on average), 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 March 12, 2019, EPA provided notice in the Federal Register of, and an opportunity to comment on, EPA's determination that its 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 would be conducting under Contract Number 68HERH19C0004. *See* Access by United States Environmental Protection Agency (EPA) Contractors 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), 84 FR 8859 (March 12, 2019). In accordance with 40 CFR § 2.301(h), EPA has now determined that the subcontractors listed below also require 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 EPA subcontractors'

access to information claimed as CBI. OECA collects this data in order to monitor compliance with regulations promulgated under the CAA Title II Emission Standards for Moving Sources, the APPS, and the International Convention for the Prevention of Pollution from Ships (MARPOL), Annex VI. We are issuing this Federal Register notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the subcontractors identified below on a need-to-know basis.

Under Contract Number 68HERH19C0004, ERG provides enforcement support for EPA's CAA mobile source 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. These subcontractors include: Sunblock Systems, Inc.; PG Environmental, LLC; BDO USA, LLP; Dr. James J. Carroll; Dr. Yiqun Huang; Dr. Maureen Kaplan; and Capital Reporting Company. Access to data, including information claimed as CBI, will commence six days after the date of publication of this notice 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 notice in the Federal Register.

Parties who wish to obtain further information about this Federal Register notice, or about OECA's disclosure of information claimed as CBI to subcontractors, may contact the

person listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: May 16, 2019.

Phillip A. Brooks,

Director, Air Enforcement Division.

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