contractor shall be made only in accordance with the procedures and requirements of §2.301(h)(2) (ii) through (iv).

(3) Information to which this section applies may be disclosed by EPA to an advisory committee in accordance with section 406(d) of the Act, 21 U.S.C. 346a(d).


§ 2.309 Special rules governing certain information obtained under the Marine Protection, Research and Sanctuaries Act of 1972.

(a) Definitions. For the purposes of this section:


(2) Permit means any permit applied for or granted under the Act.

(3) Application means an application for a permit.

(b) Applicability. This section applies to all information provided to or obtained by EPA as a part of any application or in connection with any permit.

(c) Basic rules which apply without change. Sections 2.201 through 2.207 and 2.209 through 2.215 apply without change to information to which this section applies.

(d) Substantive criteria for use in confidentiality determinations. Section 2.208 does not apply to information to which this section applies. Pursuant to section 104(f) of the Act, 33 U.S.C. 1414(f), no information to which this section applies is eligible for confidential treatment.


(a) Definitions. For purposes of this section:


(2) Person has the meaning given it in section 101(21) of the Act, 42 U.S.C. 9601(21).

(3) Facility has the meaning given it in section 101(9) of the Act, 42 U.S.C. 9601(9).

(4) Hazardous substance has the meaning given it in section 101(14) of the Act, 42 U.S.C. 9601(14).

(5) Release has the meaning given it in section 101(22) of the Act, 42 U.S.C. 9601(22).

(b) Applicability. This section applies only to information provided to or obtained by EPA under section 104 of the Act or under regulations which implement the Act (including the issuance of administrative orders under section 106 of the Act and cost recovery pre-litigation settlement negotiations under sections 107 or 122 of the Act), any cost recovery litigation under section 107 of the Act, or any administrative determination made under section 104 of the Act, but not including determinations under this subpart.

(c) Basic rules which apply without change. Sections 2.201 through 2.207 and...
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(d) [Reserved]

(e) Substantive criteria for use in confidentiality determinations. Section 2.208 applies without change to information to which this section applies; however, no information to which this section applies is voluntarily submitted information.

(f) [Reserved]

(g)(1) Under section 104(e)(7)(A) of the Act (42 U.S.C. 9604(e)(7)(A)) any information to which this section applies may be disclosed by EPA because of the relevance of the information in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made only in accordance with this paragraph (g).

(2) The provisions of § 2.301(g)(2) are to be used as paragraph (g)(2) of this section.

(3) In connection with any proceeding involving a decision by a presiding officer after an evidentiary or adjudicatory hearing, except with respect to litigation conducted by a Federal court, information to which this section applies which may be entitled to confidential treatment may be made available to the public, or to one or more parties of record to the proceeding, upon EPA’s initiative, under this paragraph (g). An EPA office proposing disclosure of information under this paragraph (g)(3) shall so notify the presiding officer in writing. Upon receipt of such a notification, the presiding officer shall notify each affected business that disclosure under this paragraph (g)(3) has been proposed, and shall afford each such business a period for comment found by the presiding officer to be reasonable under the circumstances. Information may be disclosed under this paragraph (g)(3) only if, after consideration of any timely comments submitted by the affected business, the presiding officer determines in writing that, for reasons directly associated with the conduct of the proceeding, the contemplated disclosure would serve the public interest, and the presiding officer determines in writing that the information is relevant to a matter in controversy in the proceeding. The presiding officer may condition disclosure of the information to a party of record on the making of such protective arrangements and commitments as he finds to be warranted. Disclosure to one or more parties of record, under protective arrangements or commitments, shall not, of itself, affect the eligibility of information for confidential treatment under the other provisions of this subpart. Any affected business shall be given at least 5 days notice by the presiding officer prior to making the information available to the public or to one or more of the parties of record to the proceeding.

(4) In connection with any proceeding involving a decision by a presiding officer after an evidentiary or adjudicatory hearing, except with respect to litigation conducted by a Federal court, information to which this section applies which may be entitled to confidential treatment may be made available to one or more parties of record to the proceeding, upon request of a party, under this paragraph (g)(4). A party of record seeking disclosure of information shall direct his request to the presiding officer. Upon receipt of such a request, the presiding officer shall notify each affected business that disclosure under this paragraph (g)(4) has been requested, and shall afford each such business a period for comment found by the presiding officer to be reasonable under the circumstances. Information may be disclosed to a party of record under this paragraph (g)(4) only if, after consideration of any timely comments submitted by the affected business, the presiding officer determines in writing that:

(i) The party of record has satisfactorily shown that with respect to a significant matter which is in controversy in the proceeding, the party’s ability to participate effectively in the proceeding will be significantly impaired unless the information is disclosed to him; and

(ii) Any harm to an affected business that would result from the disclosure is likely to be outweighed by the benefit...
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to the proceeding and the public interest that would result from the disclosure.
The presiding officer may condition disclosure of the information to a party of record on the making of such protective arrangements and commitments as he finds to be warranted. Disclosure to one or more parties of record, under protective arrangements or commitments, shall not, of itself, affect the eligibility of information for confidential treatment under the other provisions of this subpart. Any affected business shall be given at least 5 days notice by the presiding officer prior to making the information available to one or more of the parties of record to the proceeding.

(5) In connection with cost recovery pre-litigation settlement negotiations under sections 107 or 122 of the Act (42 U.S.C. 9607, 9622), any information to which this section applies that may be entitled to confidential treatment may be made available to potentially responsible parties pursuant to a contractual agreement to protect the information.

(6) In connection with any cost recovery proceeding under section 107 of the Act involving a decision by a presiding officer after an evidentiary or adjudicatory hearing, any information to which this section applies that may be entitled to confidential treatment may be made available to one or more parties of record to the proceeding, upon EPA’s initiative, under this paragraph (g)(6). Such disclosure must be made pursuant to a stipulation and protective order signed by all parties to whom disclosure is made and by the presiding officer.

(a) Definitions. For the purposes of this section:


(2) Average fuel economy has the meaning given it in section 501(4) of the Act, 15 U.S.C. 2001(4).

(3) Fuel economy has the meaning given it in section 501(6) of the Act, 15 U.S.C. 2001(6).

(4) Fuel economy data means any measurement or calculation of fuel economy for any model type and average fuel economy of a manufacturer under section 503(d) of the Act, 15 U.S.C. 2003(d).

(5) Manufacturer has the meaning given it in section 501(9) of the Act, 15 U.S.C. 2001(9).


(b) Applicability. This section applies only to information provided to or obtained by EPA under Title V, Part A of the Act, 15 U.S.C. 2001 through 2012. Information will be considered to have been provided or obtained under Title V, Part A of the Act if it was provided in response to a request from EPA made for any purpose stated in Title V.