



REGION 3

PHILADELPHIA, PA 19103

May 21, 2024

VIA ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

ATTENTION:

Richard J. Shaffer
SVP Asset Manager & Environmental Lead
Stronghold Digital Mining
2151 Lisbon Rd.
Kennerdell, PA-16374
rj.shaffer@scrubgrass.com

Request for Information under § 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a) and Section 3007(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6927(a)
RCRA Reference #: C24-008

Dear Mr. Shaffer:

The United States Environmental Protection Agency ("EPA"), Region 3 hereby requires Stronghold Digital Mining ("Stronghold Digital Mining") located at various field sites in EPA Region 3 ("Facilities") to provide certain information as part of an EPA investigation to determine the Facilities' compliance with applicable standards and requirements under the federal Clean Air Act, 42 U.S.C. § 7401 et seq., ("CAA" or "the Act") and the Resource Conservation and Recovery Act, 42 U.S.C. § 6927(a) et seq., ("RCRA").

In order for EPA to determine whether a violation has occurred, you are hereby required, pursuant to Section 114(a) of the CAA and Section 3007(a) of RCRA, to provide responses to the following questions and requests for information regarding your Facilities. Therefore, you are hereby required to respond to questions and requests for information in Appendix B (see Appendix A for instructions and definitions). All information submitted in response to this request must be certified as true, correct, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of Stronghold Digital Mining. On the last page of your response(s) to this questionnaire, please include the certification contained in Appendix C.

The EPA issues this Request for Information under Section 114(a) of the CAA, 42 U.S.C. § 7414(a). Under Section 114(a), Part A – Air Quality and Emission Limitations, 42 U.S.C. §§ 7414 – Recordkeeping, Inspection, Monitoring, and Entry, the Administrator of the EPA may require any person who is subject to the CAA to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Division Director, of the Enforcement and Compliance Assurance Division, in EPA Region 3.

Failure to provide the required information may result in the issuance of an Order requiring compliance with the requirements, or the initiation of a civil action pursuant to Section 113(b) of the Act, 42 U.S.C. §7413(b) and Section 9006 of RCRA, 42 U.S.C. 6991e. In addition, Section 113(c)(2) of the Act provides that any person who knowingly makes any false statement, representation, or certification in, or omits material information from any document required pursuant to this Act shall upon conviction be punished by a fine pursuant to Title 18 of the United States Code, or by imprisonment for not more than two years, or both. The information you provide may be used by EPA in administrative, civil, and criminal proceedings. The provisions of Section 3008 of RCRA, 42 U.S.C. § 6928, authorize EPA to pursue penalties for failure to comply with or respond adequately to an information request under Section 3007(a) of RCRA. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

EPA requires Stronghold Digital Mining to submit the requested information electronically no later than **thirty (30) calendar days** from the date of your receipt of this letter. You may submit your response using one of the following options: A) via email to yanos.scott@epa.gov and dearden.jeremy@epa.gov or B) by requesting a link from yanos.scott@epa.gov for a secure EPA file transfer site where you may upload your response. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B above. Regarding any documents that you claim as confidential business information (“CBI”) (See more information regarding CBI claims below), please identify the statute you are claiming the CBI under (CAA or RCRA). For CAA CBI, you can send the electronic files through the EPA’s secure file transfer site (option B) to yanos.scott@epa.gov. For RCRA CBI, please notify Jeremy Dearden at dearden.jeremy@epa.gov after which you will receive further instructions on how to submit the electronic files utilizing the file transfer site. Prior to submitting your response, please send an email to yanos.scott@epa.gov and dearden.jeremy@epa.gov indicating which option you have selected to submit your response to this request.

Failure to provide all the requested information, and in the format requested, may result in additional inquiries, and may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). It is important that your responses be clear, accurate, organized, and complete. We will regard any submitted information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes.

You must submit all requested information under an authorized signature with the following certification (provided in Appendix C):

"I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), Section 3008 of RCRA, 42 U.S.C. § 6928, and 18 U.S.C. §§ 1001 and 1341."

Finally, you are entitled to assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your CBI claim. Appendix D of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks the collection of information from specific individuals or entities as part of an administrative action or investigation.

If you have any questions regarding this information request, please contact Scott Yanos and Jeremy Dearden, of the Enforcement and Compliance Assurance Division at (215) 814-2128 (Scott) and (215) 814-5351 (Jeremy) or yanos.scott@epa.gov and dearden.jeremy@epa.gov. Additionally, please visit the small business resources information sheet for assistance and information at <https://www.epa.gov/compliance/small-business-resources-information-sheet>.

Sincerely,

Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 3

Appendices

- Appendix A: Instructions and Definitions
- Appendix B: Request for Information
- Appendix C: Statement of Certification
- Appendix D: Confidential Business Information

Re: *Information Request for Stronghold Digital Mining*

cc: Cliff Heistand, Panther Creek, cheistand@panthercreekenergy.com
Matt Cochran, Stronghold Digital Mining, matt.cochran@strongholddigitalmining.com
Shawn Smith, Scrubgrass, shawn.smith@scrubgrass.com
Jeff Campbell, Scrubgrass, jeff.campbell@scrubgrass.com
David Gates, Scrubgrass, dave.gates@scrubgrass.com
Susan Foster, PADEP sufoster@pa.gov
Melissa Gross, PADEP, melgross@pa.gov
Scott Yanos, EPA
Jeremy Dearden, EPA

Appendix A

INSTRUCTIONS AND DEFINITIONS

A. Instructions

1. Please provide a separate narrative response to each question and subpart of a question set forth in this Information Request. Please provide the **requested non-narrative information in spreadsheet format, preferably in Excel.**
2. Indicate on each document produced in response to this Information Request, or in some other reasonable manner, the number of the question to which it corresponds.
3. Provide as much information possible to completely answer each question. This includes all supporting documentation, such as performance test reports, inspection records, memorandums, facility records, etc. Failure to completely respond to any questions may increase the time necessary to determine compliance with all applicable regulations.
4. For each document provided in response to these questions, provide an accurate and legible copy, which can be used to determine completeness of this request. For any information submitted electronically, clearly label to which question(s) the data is responsive.
5. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
6. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information is not available or in your possession and identify any source that either possesses or is likely to possess such information.

B. Definitions

1. All terms used in the Information Request will have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C Section 7410 or 40 C.F.R. Part 60, Part 61, or Part 63.
2. The term “Facility” shall mean the Stronghold Digital Mining facility, located at various field sites in EPA Region 3 (Facilities), Kennerdell, PA.
3. EPA Region 3 includes the states of Maryland, Pennsylvania, Virginia, West Virginia, Delaware, and the District of Columbia.
4. For definitions of terms used in Appendix B, reference 40 CFR Subchapter C.

Appendix B

REQUEST FOR INFORMATION

For all sites:

CAA & RCRA

1. Explain the corporate structure of Stronghold Digital Mining, including the owner(s) of the company, whether the company is public or private, a list of any subsidiaries and/or partners and locations of operation of those subsidiaries or partners.
2. For each site owned, jointly owned, leased, operated, or where Stronghold Digital Mining or its affiliates operates any type of energy production for data/cryptocurrency mining (or other purpose) in each Region 3 state, provide a list of the sites, including the physical address and latitude and longitude.
3. For each site identified in response to Question 2, provide a copy of the most current deed for the property upon which the site is located.
4. For each site listed in response to Question 2, provide a description of the operations that take place at each site. In addition, provide a copy of a site plot plan and process flow diagram.
5. For each site listed in response to Question 2, provide copies of any contract and/or agreement with the electrical utility to provide electricity.
6. For each site listed in response to Question 2, provide actual amount of electricity generated in MWe, monthly, broken down by how much was provided to the electrical grid and how much was used on-site, from January 2019 to March 2024.
7. For each site listed in response to Question 2, provide the following information:
 - a. The original owner and/or operator;
 - b. The original NAICS code and the NAICS code the site currently falls under;
 - c. The relationship between Stronghold Digital Mining and the original owner;
 - d. The status of the site, i.e. leased or owned;
 - e. The receiving and use of waste coal for each facility at the site on a monthly basis since January 2019 to the present; please specify the quantity in pounds or other appropriate unit of measurement;
 - f. A description of the ownership/custody of the waste coal, and how much waste coal is used per energy unit produced for the grid.
 - g. The date that the site began operation as a cryptocurrency mining or other related industry site, even if the start date was not the full capacity of the site.

CAA

8. For each site listed in response to Question 2, provide the following information for the boiler(s) at the site:
 - a. Current number of boilers present;
 - b. The installation date, manufacturer, model, serial number, rated heat input capacity, steam production rating;

- c. For each boiler, provide the hours of operation on a monthly basis for each boiler at the site(s) from January 2019 to March 2024;
 - d. For each boiler, provide the hourly fuel usage on a daily basis for each boiler at the site(s) from January 2019 to January 2019 to March 2024; and
 - e. For each boiler, provide a description of any emission controls that have been installed to reduce emissions of any pollutant (e.g., NOx, PM, VOC, etc.) to the atmosphere.
9. For each site listed in response to Question 2, and boiler, provide the following for the previous five years:
 - a. A copy of each air permit application submitted to the state or local permitting authority, or EPA;
 - b. A copy of each construction permit, plan approval, operating permit, Title V permit, or other type of air permit issued by the state or EPA;
 - c. A copy of each letter, request for permitting determination, or other correspondence between Stronghold Digital Mining and the state or local permitting and enforcement agency, regarding the applicability of any air permit program, state or federal rule, including notices of violation or other enforcement documents;
 - d. A full and complete set of emissions calculations (actual and potential) for each site, inclusive of all criteria pollutants (NOx, CO, SO2, PM, VOC and HAP).
10. For each site listed in response to Question 2 provide the following:
 - a. Current number of nonemergency generators onsite;
 - b. The installation date, manufacturer, model, serial number, and the electrical output capacity

For the Panther Creek Site:

CAA

1. For the Stronghold Digital Mining Panther Creek facility, documentation of the daily pressure drops for the following handling systems:
 - a. Ash Loading System
 - b. Ash Silo
 - c. Bottom Ash Conveyor
 - d. Fly Ash Filter Separator #1 & #2
 - e. Fuel Silo/Reversing Conveyor
 - f. Fuel Truck Unloading
 - g. Limestone Bin
 - h. Reclaim Hopper
2. For any of emission source subject to 40 CFR Part 63 Subpart ZZZZ – National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engine and is classified as an emergency source under the subpart, provide documentation for the hours of operation, periodic tune-ups, oil changes and general maintenance for the equipment.
3. Documentation of why the boilers at the Panther Creek facility are not subject to the Acid Rain program as detailed in 40 CFR Part 75, Subparts A-H and the regulations 40 CFR Part 97 Subparts AAAAA, CCCCC, EEEEE: CSAPR NOx & SOx Trading Program.

4. Provide copies of any Initial Notifications, Notifications of Compliance Status, or Periodic Reports (semiannual or annual since 2019) that were sent to either PA DEP or EPA for the following regulations:

- a. 40 CFR 60 Subpart Da
- b. 40 CFR 63 Subpart ZZZZ
- c. 40 CFR 63 Subpart UUUUU
- d. 40 CFR 97 Subpart AAAAA
- e. 40 CFR 97 Subpart CCCCC
- f. 40 CFR 97 Subpart EEEEE

RCRA

Regarding the Panther Creek Site ("PC Facility"):

1. Provide a detailed description of the PC Facility's manufacturing and waste generation processes.
2. During the period from January 1, 2018 to the present, has the PC Facility generated electricity that is provided to electric power transmission systems or to electric power distribution systems?
 - a. If yes, indicate the frequency (e.g. daily, weekly, monthly) in which generated electricity is provided to electric transmission systems or to electric power distribution systems.
 - b. If yes, Indicate the quantity of electricity that is typically provided to electric transmission systems or to electric power distribution systems.
3. Provide any and all records, from January 1, 2018 to the present, pertaining to the distribution of generated electricity to electric transmission systems or electric power distribution systems.
4. What agreements are in place to sell electricity to electric transmission systems or electric power distribution systems?
5. Provide copies of each agreement that is in place to sell electricity to electric transmission systems or electric power distribution systems.
6. Does the PC Facility burn coal to generate electricity?
 - a. If yes, does the burning of the coal generate fly ash, bottom ash, boiler slag, and/or flue gas desulfurization materials ("coal combustion residuals" or "CCR")?
7. If coal combustion residuals are generated, for the period of January 1, 2018, to the present, describe in detail how the CCR has been/is managed from the point of generation until disposal and any changes in management of the CCR throughout this time frame. Provide any and all SOPs regarding the management of CCR including the date the SOP went into effect and any revision dates of the SOP.
 - a. Please provide records (including manifests, shipping documents, bills of lading) from January 1, 2018 to the present documenting the offsite shipments of coal combustion residuals.
8. Does the PC Facility maintain a CCR landfill, pile, or impoundment on site?
 - a. If yes, explain the length of time a CCR landfill, pile, or impoundment has been maintained at the PC Facility.

- b. If yes, indicate if any fly ash, bottom ash, boiler slag, and/or flue gas desulfurization materials, or any CCR generated on site, are transferred to other locations for other uses, providing the names and addresses of the recipients of such waste materials generated on-site, along with any sales or purchase agreements, bills of lading or any other documentation that exists that is connected to the transfer of the waste materials from the site to the recipient, and for what purposes the waste material is to be used by the recipient.
9. Are there water run-on measures in place for CCR landfills, piles, and/or impoundments on the site?
 - a. If yes, please describe the measures in detail for each CCR landfill, pile, and/or impoundment on the site.
10. Are there water run-off measures in place for CCR landfills, piles, and/or impoundments on the site?
 - a. If yes, please describe the measures in detail for each CCR landfill, pile, and/or impoundment on the site.
11. Can CCR landfill, pile, and/or impoundments be approached by non-PC Facility personnel? Are there any perimeter protection measures in place to prevent access by non-PC Facility personnel to CCR landfills, piles, and/or impoundments?

For the Scrubgrass Site:

CAA

1. Provide copies of monthly emission calculations (lb/MMBtu or lb/hr) for each criteria pollutant (Nox, SOX, CO, PM, VOC) and hazardous air pollutant (HAP) for the period January 2019–March 2024. For pollutants where CEMS are used to monitor emissions provide CEMS data for each pollutant in the units of the appropriate emission limit for each combustion unit.
2. Provide copies of annual emission statements/certifications sent to PADEP for the years 2019-2023.
3. Provide a list of each combustion unit that is currently onsite. For each unit provide:
 - a. Make and model;
 - b. Capacity (MMBtu/hr, kW/hr, lb/hr, etc.);
 - c. Date of construction;
 - d. Date unit commenced operation.
4. Provide monthly hours of operation for each combustion unit from January 2019-March 2024.
5. Provide the type and quantity (gallons, tons, etc.) of each fuel combusted in each combustion unit monthly from January 2019–March 2024.
6. Provide the daily visible emission inspection logs of the exhaust stream for the Auxiliary Boiler.
7. Provide copies of tune-up reports for all boilers.
8. Provide copies of all performance testing and RATAs for all units from January 2018 – December 2023
9. Provide all Title V Annual Compliance Certifications for 2019 to present.

10. Provide hourly records of steam loads in pounds per hour from January 2019 to March 2024.
11. Provide all Startup, Shutdown, and Malfunction Reports from January 2019 to March 2024.
12. Provide quarterly opacity reports from January 2019 to March 2024.
13. Provide quarterly Excess Emissions Reports from January 2019 to March 2024.
14. Provide all daily inspection records for all magnetohelic gauges on all bag houses from January 2018 to December 2023.
15. Provide all daily inspection records for the Limestone Pulverizers and dryers from January 2019 to March 2024.

RCRA

Regarding the Scrubgrass Site ("SG Facility"):

1. Provide a detailed description of the SG Facility's manufacturing and waste generation processes.
2. During a period from January 1, 2018 to the present, has the SG Facility generated electricity that is provided to electric power transmission systems or to electric power distribution systems.
 - a. If yes, indicate the frequency (e.g. daily, weekly, monthly) in which generated electricity is provided to electric transmission systems or to electric power distribution systems.
 - b. If yes, indicate the quantity of electricity that is typically provided to electric transmission systems or to electric power distribution systems.
3. Provide any and all records, from January 1, 2018 to the present, pertaining to the distribution of generated electricity to electric transmission systems or electric power distribution systems.
4. What agreements are in place to sell electricity to electric transmission systems or electric power distribution systems?
5. Provide copies of each agreement that is in place to sell electricity to electric transmission systems or electric power distribution systems.
6. Does the SG Facility burn coal to generate electricity?
 - a. If yes, does the burning of the coal generate fly ash, bottom ash, boiler slag, and/or flue gas desulfurization materials (coal combustion residuals or CCR)?
7. If coal combustion residuals are generated, for the period of January 1, 2018, to the present, describe in detail how the CCR has been/is managed from the point of generation until disposal and any changes in management of the CCR throughout this time frame. Provide any and all SOPs regarding the management of CCR including the date the SOP went into effect and any revision dates of the SOP.
 - a. Please provide records (including manifests, shipping documents, bills of lading) from January 1, 2018 to the present documenting the offsite shipments of coal combustion residuals.
8. Does the SG Facility maintain a CCR landfill, pile, or impoundment on site?
 - a. If yes, explain the length of time a CCR landfill, pile, or impoundment has been maintained at the SG Facility.

- b. If yes, indicate if any fly ash, bottom ash, boiler slag, and/or flue gas desulfurization materials, or any CCR generated on site, are transferred to other locations for other uses, providing the names and addresses of the recipients of such waste materials generated on-site, along with any sales or purchase agreements, bills of lading or any other documentation that exists that is connected to the transfer of the waste materials from the site to the recipient, and for what purposes the waste material is to be used by the recipient.
- 9. Are there water run-on measures in place for CCR landfills, piles, and/or impoundments on the site?
 - a. If yes, please describe the measures in detail for each CCR landfill, pile, and/or impoundment on the site.
- 10. Are there water run-off measures in place for CCR landfills, piles, and/or impoundments on the site?
 - a. If yes, please describe the measures in detail for each CCR landfill, pile, and/or impoundment on the site.
- 11. Can CCR landfill, pile, and/or impoundments be approached by non-SG Facility personnel? Are there any perimeter protection measures in place to prevent access by non-SG Facility personnel to CCR landfills, piles, and/or impoundments?

Appendix C

STATEMENT OF CERTIFICATION

This Certification is for signature by the president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or another executive with authority to perform similar policy or decision-making functions of the corporation.

Stronghold Digital Mining is submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") request for information, issued pursuant to Section 114(a) of the Clean Air Act and Section 3007(a) of the Resource Conservation and Recovery Act, to determine whether the facility is in compliance with the Clean Air Act and the Resource Conservation and Recovery Act.

I certify that I am fully authorized by Stronghold Digital Mining to provide the above information on its behalf to EPA.

I certify under penalty of law that I have personally examined and am familiar with the statements and information submitted in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, correct, accurate and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), Section 3008 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928, and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

Appendix D

CONFIDENTIAL BUSINESS INFORMATION

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414(c), section 3007(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(a), and 40 C.F.R. Part 2, Subpart B (which governs treatment of CBI under both the CAA and RCRA). Under section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 114(c) of the Act, section 3007(a) of RCRA, and 40 C.F.R. §§ 2.201-2.311. **If you fail to furnish a business confidentiality claim with your response to this information request, the EPA will construe your failure as a waiver of that claim, and the information may be made available to the public without further notice to you.** See 40 C.F.R. § 2.203(c).

Pursuant to Section 114 of the Act, Section 3007(a) of RCRA, and 40 C.F.R. § 2.301(h), the EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. In order to assist in its review and analysis, and in accordance with the requirements of 40 C.F.R. § 2.301(h)(2), the EPA may disclose information provided in response to this and other information requests to any person under contract or subcontract to the United States government to perform work in support of EPA in connection with the Act, regulations which implement the Act, or RCRA. In accordance with the requirements of 40 C.F.R. § 2.301(h)(3), the EPA may also disclose such information to State and/or local governmental agencies which have duties or responsibilities under the Act, or under regulations which implement the Act.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this information request.

Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying the information subject to your claim. Where your claim, as originally made or as modified by your response to this letter, does not include all information on a page, please attach a copy of each such page with brackets around the text that you claim to be CBI. Please note that if a page, document, group, or class of documents claimed by you to be CBI contains a significant amount of information which our Office of Regional Counsel determines is not CBI, your CBI claim regarding that

page, document, group, or class of documents may be denied. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event. All confidentiality claims are subject to EPA verification. If the EPA reviews your CBI claim(s) then the EPA may send notice to your business and ask you to submit additional information to substantiate the CBI claim(s). See 40 C.F.R. § 2.204(e).

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. § 2.208(a)-(d), as well as the U.S. Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media* (*Argus*), 139 S. Ct. 2356 (2019), which evaluated the definition of "confidential" as used in Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552. In the *Argus* decision, the Court held that at least where "[1] commercial or financial information is both customarily and actually treated as private by its owner and [2] provided to the government under an assurance of privacy, the information is 'confidential' within the meaning of Exemption 4." *Argus*, 139 S. Ct. at 2366.

Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).