



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 27 2013

REPLY TO THE ATTENTION OF:

Kristin Hart
Chief
Permits and Stationary Source Modeling Section
Bureau of Air Management
Wisconsin Department of Natural Resources
PO Box 7921
Madison, Wisconsin 53707-7921

Dear Ms. Hart:

The U.S. Environmental Protection Agency has the following comments on the Wisconsin Department of Natural Resources' (WDNR) draft of the operational permit renewal for the 3M Company Wausau Plant (#737009460-P20). The facility manufactures colored roofing granules.

In order to ensure that the project meets Clean Air Act requirements, that the permit will provide necessary information so that the basis for the permit decision is transparent and readily accessible to the public, and that the permit record provides adequate support for the decision, EPA has the following comments:

1. There are several claims made in the Preliminary Determination document that information necessary to determine the potential to emit is confidential business information. Notably, it is claimed that the method used to determine the emission rates of fugitive Particulate Matter (PM) and greenhouse gases are confidential. When asked to make confidential business information determinations, EPA relies 40 CFR 2 Subpart B. These regulations provide that information may be claimed as a trade secret but it is also specified in section 2.301 that emission data may not be withheld as confidential. EPA also refers to a Federal Register notice published on February 21, 1991 (56 FR 7042) which provides clarification of what is meant by emission data and examples of what may constitute emissions data. EPA recognizes that states may have their own confidential business information determination process, but EPA would like to encourage WDNR to review the attached February 21, 1991 Federal Register Notice and aforementioned regulations when considering if the withheld information should be considered confidential.
2. The draft permit states that when compliance testing is required for PM of less than 10 micrometers (PM₁₀) either Method 201 or 201A should be used. However, for PM₁₀ sources are required to consider the condensable fraction of PM₁₀ which is not measured using Method 201 or 201A. Please include the requirement to use Method 202 to account for the condensable portion of PM₁₀.

We look forward to working with you to address all of our comments. If you have any further questions, please feel free to contact Andrea Morgan, of my staff, at (312) 353-6058.

Sincerely,

A handwritten signature in cursive script that reads "Genevieve Damico". The signature is written in dark ink and is positioned above the printed name.

Genevieve Damico
Chief
Air Permits Section

Attachment

[AD-FRL-3906-3]

Disclosure of Emission Data Claimed as Confidential Under Sections 110 and 114(c) of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of policy on public release of certain emission data submitted under sections 110 and 114(c) of the Clean Air Act (CAA).

SUMMARY: Section 114(c) of the CAA excludes emission data from the general definition of trade secret information. Certain classes of data submitted to the EPA under sections 110 and 114(a) of the CAA are emission data, and, as such, cannot be withheld from disclosure as confidential pursuant to section 1905 of title 18 of the United States Code. This notice clarifies EPA's current policy, and solicits comment regarding that policy and categories of data which it considers excluded from a trade secret definition.

DATES: Written comments pertaining to this notice are requested by April 22, 1991.

ADDRESSES: Submit comments to: Nancy D. Riley, U.S. Environmental Protection Agency, Emission Standards Division, Pollutant Assessment Branch (MD-13), Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION

CONTACT: Timothy Mohin (telephone: (919) 541-5349 commercial/FTS 629-5349) or Karen Blanchard (telephone: (919) 541-5503 commercial/FTS 629-5503), Pollutant Assessment Branch (MD-13), Emission Standards Division; or Thomas Rosendahl (telephone: (919) 541-5404 commercial/FTS 629-5404), National Air Data Branch (MD-14), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The EPA routinely uses the authority of sections 110 and 114(a) of the CAA to gather technical information from industries

involved in operations that lead to emission of pollutants to the ambient air. This information has been used, among other things, to better characterize emitting facilities and to evaluate the need for and impacts of potential regulation.

Information requests under sections 110 and 114(a) of the CAA typically include questions on uncontrolled and controlled emission rates and emission parameters of the pollutant or group of pollutants of concern. The respondents sometimes claim that its response constitutes trade secret information, and thus, should be treated as confidential. Claims of confidentiality may be made under section 114(c) of the CAA, which states " * * * upon a showing satisfactory to the Administrator by any person that records, reports, or information, or a particular part thereof, (other than emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such * * * confidential in accordance with the purposes of section 1905 of title 18 of the United States Code * * *." If the Administrator so determines, the information is not disclosable to the public.

However, section 114(c) of the CAA provides that information claimed to be a trade secret but which constitutes emission data may not be withheld as confidential. Although typically the EPA evaluates whether information constitutes emission data on a case-by-case basis, it believes that some kinds of data will always constitute emission data within the meaning of section 114(c). The purpose of this notice is to describe, without attempting to be comprehensive, that information which the EPA generally considers to be emission data, and which cannot qualify as confidential under either section 114(c) or section 110 (as set forth in 41 CFR 51.321, 51.322, and 51.323) of the CAA. The EPA is issuing this notice to clarify its policy and procedures, to facilitate the use of these data in automated data systems and computer-based simulation models, and to expedite processing of claims for confidentiality or requests for disclosure.

The EPA presently determines that data submitted to it as emission data does not qualify as confidential if it meets the following definition under 40 CFR 2.301(a)(2)(i):

a. Definitions. For the purpose of this section, (1) *Act* means the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (2)(i)

Emission data means, with reference to any source of emission of any substance into the air—

(A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emission which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source), or any combination of the foregoing.

(C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

The table below lists the specific data fields which the EPA presently considers to constitute emission data and provides a brief description of what each data field describes. The descriptions are intended to provide general information. This list is not exhaustive, and, therefore, other data might be found, in a proper case, to constitute emission data.

Emission Data Fields

Facility Identification: The following data fields are needed to establish the identity and location of emission sources. This shall also include a description or an identifier of the device, installation, or operation constituting the source. These data are used to locate sources for dispersion evaluation and exposure modeling.

Plant Name and related point identifiers
Address
City
County
AQCR (Air Quality Control Region)
MSA, PMSA, CMSA (Metropolitan Statistical Areas)
State
Zip Code
Ownership and point of contact information
Locational Identifiers:

| | |
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| Latitude & Longitude, or UTM Grid Coordinates | (e.g., the percent of fuel used for space heating) |
| SIC (Standard Industrial Classification) | Hourly maximum design rate |
| Emission point, device or operation description information | (e.g., the greatest operating rate that would be expected for a source in a 1-hour period) |
| SCC (Source Classification Codes) | |
| Emission Parameters: The following data fields are needed to establish the characteristics of the emissions. This information is needed for the analyses of dispersion and potential control equipment. Emission type (e.g., nature of emissions such as CO ₂), particulate or a specific toxic compound, and origin of emissions such as process vents, storage tanks or equipment leaks) | The EPA has determined that these data are emission data and releasable upon request. This determination applies to data currently held by EPA as well as to information submitted to EPA in the future. Future requests for information under sections 110 and 114 of the CAA will indicate that these emission data will not be held confidential. This determination applies only to the data listed in the table. Determinations will continue to be made on a case-by-case basis for data not specified in this generic determination. |
| Emission rate (e.g., the amount released to the atmosphere over time such as kg/yr or lbs/yr) | After consideration of comments on this policy, a revised policy/determination may be published. Dated: February 8, 1991. |
| Release height (e.g., height above ground level where the pollutant is emitted to the atmosphere) | Michael Shapiro, Acting Assistant Administrator for Air and Radiation. |
| Description of terrain and surrounding structures (e.g., the size of the area associated with adjacent structures in square meters and terrain descriptions such as mountainous, urban, or rural) | [FR Doc. 91-4114 Filed 2-20-91; 8:45 am] |
| Stack or vent diameter at point of emissions (e.g., the inside diameter of vent at the point of emission to the atmosphere in meters) | |
| Release velocity (e.g., velocity of release in m/sec) | |
| Release temperature (e.g., temperature of release at point of release in degrees Kelvin) | |
| Frequency of release (e.g., how often a release occurs in events per year) | |
| Duration of release (e.g., the time associated with a release to the atmosphere) | |
| Concentration (e.g., the amount of an emission stream constituent relative to other stream constituents expressed as parts per million (ppm), volume percent, or weight percent) | |
| Density of the emissions stream or average molecular weight (e.g., density expressed as fraction or multiple of the density of air; molecular weight in g/g-mole) | |
| Boiler or process design capacity (e.g., the gross heating value of fuel input to a boiler at its maximum design rate) | |
| Emission estimation method (e.g., the method by which an emission estimate has been calculated such as material balance, source test, use of AP-42 emission factors, etc.) | |
| Percent space heat | |