



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VI
1201 ELM STREET
DALLAS, TEXAS 75270

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September 28, 1982

CERTIFIED MAIL - RETURN RECEIPT REQUESTED P 333 725 584

Mr. James E. Wyche, III
Coordinator Environmental Systems
PPG Industries, Inc.
Industrial Chemical Division
P. O. Box 1000
Lake Charles, Louisiana 70602

*Do you have any info
to a EPA Contractor regarding
our SAV record document?
If so, let us know ASAP.*

Dear Mr. Wyche:

The purpose of this letter is to notify you, in accordance with 40 CFR 2.301(h), of our proposal to disclose the information in your response to our letter of June 16, 1982, as well as the information in our files on your plant, to a contractor so that the contractor can assist us in its evaluation. We have a contract (No. 68-01-6312, Assignment 69) with Engineering-Science for this purpose.

The contract requires the contractor to protect confidential business information, including proprietary trade secrets, from unauthorized use or disclosure. Disclosure to the contractor of this information is necessary in order that the contractor may carry out the work required by the contract.

By providing you with prior notice of this disclosure, we are giving you the opportunity to comment on EPA's use of this private contractor. If your company objects to the particular contractor named above, or wishes to comment on disclosure of confidential business information, please advise me by letter within ten (10) working days of receipt of this letter. Your response should be sent to the following address:

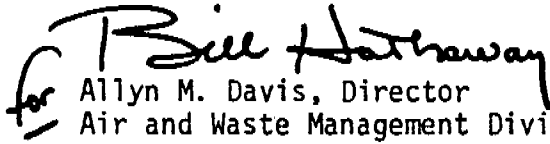
Director, Air and Waste Management Division (6AW)
U. S. Environmental Protection Agency, Region 6
1201 Elm Street
Dallas, Texas 75270

Disclosure of this information will be made ten (10) working days from your receipt of this letter, unless you have objections.

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In closing, I would like to thank you in advance for your cooperation. If you have any questions concerning this letter, please feel free to call Mr. Stan R. Burger, of my staff, at (214) 767-9868.

Sincerely,


for Allyn M. Davis, Director
Air and Waste Management Division

Enclosure

cc: Mr. William E. Piske, P.E.
Engineering-Science
4950 Westgrove Drive
Suite 111
Dallas, Texas 75248

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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 in which it appears that a decision will be made on the record after an opportunity for a hearing, information to which this section applies may be made available to one or more parties of record to the proceeding, 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 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 to the proceeding and to 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 to confidential treatment under the other provisions of this sub-

part. 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.

(h) *Disclosure to authorized representatives.* (1) Under sections 114, 208 and 307(a) of the Act, EPA possesses authority to disclose to any authorized representative of the United States any information to which this section applies, notwithstanding the fact that the information might otherwise be entitled to confidential treatment under this subpart. Such authority may be exercised only in accordance with paragraph (h)(2) or (h)(3) of this section.

(2) (i) A person under contract or subcontract to EPA to perform work for EPA in connection with the Act or regulations which implement the Act may be considered an authorized representative of the United States for purposes of this paragraph (h). Subject to the limitations in this paragraph (h)(2), information to which this section applies may be disclosed to such a person if the EPA program office managing the contract or subcontract first determines in writing that such disclosure is necessary in order that the contractor or subcontractor may carry out the work required by the contract or subcontract.

(ii) No information shall be disclosed under the paragraph (h)(2), unless this contract or subcontract in question provides:

(A) That the contractor or subcontractor and the contractor's or subcontractor's employees shall use the information only for the purpose of carrying out the work required by the contract or subcontract, shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request by the EPA program office, whenever the information is no longer required by the contractor or subcontractor for the performance of the work required under the contract or subcontract, or

upon completion of the contract or subcontract;

(B) That the contractor or subcontractor shall obtain a written agreement to honor such terms of the contract or subcontract from each of the contractor's or subcontractor's employees who will have access to the information, before such employee is allowed such access; and

(C) That the contractor or subcontractor acknowledges and agrees that the contract or subcontract provisions concerning the use and disclosure of business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having an interest in information concerning it supplied to the contractor or subcontractor by EPA under the contract or subcontract.

(iii) No information shall be disclosed under this paragraph (h)(2) until each affected business has been furnished notice of the contemplated disclosure by the EPA program office and has been afforded a period found reasonable by that office (not less than 5 working days) to submit its comments. Such notice shall include a description of the information to be disclosed, the identity of the contractor or subcontractor, the contract or subcontract number, if any, and the purposes to be served by the disclosure.

(iv) The EPA program office shall prepare a record of each disclosure under this paragraph (h)(2), showing the contractor or subcontractor, the contract or subcontract number, the information disclosed, the date(s) of disclosure, and each affected business. The EPA program office shall maintain the record of disclosure and the determination of necessity prepared under paragraph (h)(2)(i) of this section for a period of not less than 36 months after the date of the disclosure.

(3) A state or local governmental agency which has duties or responsibilities under the Act, or under regulations which implement the Act, may be considered an authorized representative of the United States for purposes of this paragraph (h). Information to which this section applies may

be furnished to such an agency at the agency's written request, but only if—

(i) The agency has first furnished to the EPA office having custody of the information a written opinion from the agency's chief legal officer or counsel stating that under applicable state or local law the agency has the authority to compel a business which possesses such information to disclose it to the agency, or

(ii) Each affected business is informed of those disclosures under this paragraph (h)(3) which pertain to it, and the agency has shown to the satisfaction of an EPA legal office that the agency's use and disclosure of such information will be governed by state or local law and procedures which will provide adequate protection to the interests of affected businesses.

[41 FR 36902, Sept. 1, 1976, as amended at 43 FR 40002, Sept. 8, 1978; 43 FR 42251, Sept. 20, 1978]

§ 2.302 Special rules governing certain information obtained under the Clean Water Act.

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

(1) "Act" means the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

(2) (i) "Effluent data" means, with reference to any source of discharge of any pollutant (as that term is defined in section 502(6) of the Act, 33 U.S.C. 1362 (6))—

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

(B) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source); and

SUGGESTED MEMO FOR FURTHER DISTRIBUTION OF INFORMATION COVERED
IN MR. BURRELL'S DECEMBER 5, 1980 MEMO:

We at PPG are subject to many laws and regulations under the various environmental and occupational safety and health statutes. It is appropriate to express the Company's historical and fundamental commitment to strict compliance with these and all laws of the United States.

Under the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act, a large number of activities that could pollute the environment are prohibited. This applies to all employees as well as management and penalties can be imposed on any person who knowingly commits a prohibited act.

There can be no misconception about the Company's commitment to compliance with applicable laws and regulations. It is the obligation of every employee to perform his or her responsibilities in a manner consistent with this commitment. The Company not only expects this but demands it.

PPG's reputation of integrity in dealing honestly with its employees and its regulatory agencies is to be maintained.

dl

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