

Enclosure 1.

STATEMENT ON CLAIMS OF CONFIDENTIALITY

1. Section 114(c) of the Clean Air Act [42 U.S.C. 7414(c)] provides that any records, reports or information obtained by the Environmental Protection Agency under the authority of Section 114(a) shall be made available to the public. However, that section further provides that, EXCEPT FOR EMISSION DATA, access to such records, reports or information, or particular part thereof, will be denied to the public under the following circumstances. If any person makes a showing satisfactory to the Administrator of the Environmental Protection Agency that the records, reports or information, or any particular part thereof, would, if made public, divulge methods or processes entitled to protection as trade secrets of such person, then the Environmental Protection Agency (EPA) is required to consider such record, report or information, or particular part thereof, as confidential in accordance with the purposes of 18 U.S.C. 1905. Nevertheless, Section 114(c) further provides that even though access to the public is denied, such record, report or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out the Clean Air Act or when relevant in any proceeding under the Clean Air Act.
2. Public availability is also required by the Freedom of Information Act, 5 U.S.C. 552. That Act requires public availability generally of all documents in the possession of the government, with certain very narrow exceptions. One of these exceptions is for trade secrets and commercial or financial information if they have been obtained from a person and if they are privileged or confidential.
3. The regulations under which EPA handles requests by the public for information and requests by persons for confidential treatment of information are found in Part 2 of Title 40 of the Code of Federal Regulations. These regulations were published in the Federal Register, pages 36902 to 36918, on September 1, 1976. Subpart B of Part 2, beginning on page 36906, specifically addresses "Confidentiality of Business Information."
4. If you wish, you may assert a business confidentiality claim covering part or all of the records, reports, or information which you provide to EPA. Such a claim of confidentiality should be made at the time the record, report, or information is provided to EPA. If no claim has been made when the material is received by EPA, the records, reports or information may be made available to the public without further notice to you. If you do make a claim of confidentiality when providing the material to EPA, the records, reports or information covered by the claim will not be disclosed to the public, except to the extent and by means of the procedures set forth in Subpart B of Part 2 of Title 40 of the Code of Federal Regulations.

5. You should give clear NOTICE at the time you provide the material --

(a) That you claim confidentiality and

(b) Which specific records, reports or information, or part thereof, you claim to be confidential. No particular form of words is required as long as it is clear that a claim is being made and the confidential portion is so marked; for example, each page of a document on which confidential information is found should be marked. To the extent feasible, a justification should be provided with every claim of confidentiality.

6. "Emission data," which cannot be considered confidential, 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 emissions 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); and

(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).