



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

October 7, 2021

VIA ELECTRONIC MAIL,
RECEIPT CONFIRMATION REQUESTED

mark.farley@mlfarleypc.com

Mark. L. Farley
Farley & Partners LLP
1725 Hughes Landing Boulevard, 11th Floor
The Woodlands, Texas 77380

Re: Samsung Austin Semiconductor, LLC
Request for Information

Dear Mr. Farley:

Attached is an Information Request issued to Samsung Austin Semiconductor, LLC ("Samsung"). Pursuant to Section 114 of the Clean Air Act ("CAA"), 42 U.S.C. § 7414, the United States Environmental Protection Agency ("EPA"), Region 6, seeks information about the operations of the Samsung facility located at 12100 Samsung Boulevard, Austin, Texas 78754. Pursuant to this authority, EPA may require any person to furnish information for the purpose of determining compliance with related provisions of the CAA. The purpose of this Information Request is to obtain information necessary to determine Samsung's compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and the 40 C.F.R. Part 68 Chemical Accident Prevention Provisions.

Please provide the information requested in Section III, within thirty (30) days of receipt of this letter. The EPA acknowledges that the COVID-19 pandemic may be impacting Samsung's business. If that is the case, please contact us regarding any specific issues Samsung needs to discuss. If you have any questions or need to request an extension, please contact Clarissa Howley Mills, Office of Regional Counsel, at (214) 665-6782 or mills.clarissa@epa.gov.

Thank you for your attention to this matter.

Sincerely,

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division

Attachments: Information Request
CBI Claim Assertion and Substantiation Requirements
Statement of Certification

cc: Via Electronic Mail:
Tim Jones
Manager
Environmental Policy & Regulatory Affairs
Samsung Austin Semiconductor, LLC
t.jones@samsung.com

INFORMATION REQUEST

The U.S. Environmental Protection Agency (“EPA”), Region 6 is issuing this Information Request to Samsung Austin Semiconductor, LLC (“Samsung”) pursuant to Section 114(a) of the Clean Air Act (CAA), 42 U.S.C. § 7414(a), for the purpose of determining compliance with Section 112(r) of the CAA, 42 U.S.C. § 7412(r) and the 40 C.F.R. Part 68, Chemical Accident Prevention Provisions. Section 114(a) authorizes the Administrator of EPA to require the submission of this information. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 6. Therefore, Samsung is required to provide a response to this Request regarding the facility located at 12100 Samsung Boulevard, Austin, Texas 78754 (the “Facility”).

The information requested must be submitted whether or not Samsung regards part or all of it a trade secret or confidential business information. Samsung may, if desired, assert a business confidentiality claim on all or part of the information submitted. Any information subsequently determined to constitute a trade secret will be protected under 18 U.S.C. § 1905. Unless Samsung makes a claim at the time that the information is submitted, it may be made available to the public by EPA without further notice to Samsung. Samsung should read 40 C.F.R. Part 2 carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of a claim. Information subject to a business confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. Part 2, Subpart B. Failure to assert a business confidentiality claim makes all submitted information available to the public without further notice. Additional information can be found in the attached Confidential Business Information (CBI) Claim Assertion and Substantiation Requirements.

Information submitted in response to this Information Request must be certified as true, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of Samsung. We request that a duly authorized officer or agent of Samsung certify its response to this Request by signing the attached Statement of Certification and returning it with the response. A knowing submittal of false information in response to this Information Request may be actionable under 18 U.S.C. § 1001 and 42 U.S.C. § 7413(c). See also 18 U.S.C. §§ 1341 and 1519. Furthermore, failure to fully comply with this Information Request may subject Samsung to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413 and associated civil penalties. EPA may use any information submitted in response to this request in an administrative, civil, or criminal action.

At this time, we ask that Samsung submit its response and requested information electronically to Diana Lundelius of the Chemical Accident Enforcement Section. Please contact Diana at lundelius.diana@epa.gov or (214) 665-7468, to make arrangements to submit the response electronically.

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

SECTION I. GENERAL INSTRUCTIONS

1. Please provide a separate response to each question and subpart of a question set forth in this Information Request and precede each answer with the number of the question to which it corresponds. If Samsung has no responsive information or documents pertaining to a particular question or subpart of a question, submit a statement certifying this, along with a detailed explanation for each such question.
2. For each question, identify each person responding to any question contained in this Information Request on Samsung's behalf, as well as each person consulted in the preparation of a response.
3. For each question, identify documents consulted, examined, or referred to in the preparation of the response or that contain information responsive to the question, and provide a true and correct copy of each such document if not already provided in response to another specific question.
4. For each document produced in response to this Information Request:
 - a. Organize the documents by the number of the question to which it responds and indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds;
 - b. Produce the document in an electronic format, i.e. scanned and legible copies;
 - c. Provide the documents in searchable electronic format when available (*e.g.*, pdf);
 - d. Data should be provided in searchable and editable electronic format (*e.g.*, spreadsheet); and
 - e. If a document is responsive to more than one question, this must be so indicated, and only one copy of the document need be provided.
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. Please submit confidential business information (CBI) and non-confidential information separately and identify as such. Please mark each page that is CBI as such. To make a CBI claim on electronic copy documents, mark each page that is claimed, by cover sheet, stamp, or other suitable form of notice with language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and submitted separately to facilitate identification and handling by EPA.
7. If information or documents not known or not available to Samsung as of the date of submission of a response to this Information Request should later become known or available, the response to EPA must be supplemented. Moreover, should Samsung find at any time after the submission of the response that any portion of the submitted information is

false or misrepresents the truth, Samsung must notify EPA of this fact as soon as possible and provide EPA with a corrected response.

8. If Samsung has no responsive information or documents for a particular question, please submit a statement certifying this, along with a detailed explanation.
9. If information responsive to this Information Request was previously provided to EPA subsequent to a recent EPA CAA inspection, EPA does not require that such information be submitted again. In lieu of resubmitting such information, please indicate which information was already provided, the date that the information was submitted to EPA, and to whom it was provided. If previously submitted information does not fully and completely respond to a question, Samsung is obligated to provide additional information to fully and completely respond to that question. If Samsung has any questions regarding the responsiveness of previously submitted information, please contact Clarissa Howley Mills at (214) 665-6782 or mills.clarissa@epa.gov
10. The attached Statement of Certification must be filled out and signed by a responsible corporate official and submitted along with Samsung response to this Information Request.

SECTION II. DEFINITIONS

All terms in this Information Request shall have their ordinary meaning unless such terms are defined in the CAA, 40 C.F.R. Part 68 regulations, or otherwise defined herein:

1. The term “Samsung Austin Semiconductor, LLC” or “Samsung” includes any officer, director, agent, or employee of Samsung, including any merged, consolidated, or acquired predecessor or parent, subsidiary, division, or affiliate thereof.
2. The terms “you” or “yours” mean all companies or corporations with which Samsung is affiliated, including its subsidiaries, division, affiliates, predecessors, successors, assigns, and its former and present officers, directors, agents, employees, representatives, attorneys, consultants, accountants and all other persons acting on its behalf.
3. The term “Facility” refers to Samsung’s facility located at: 12100 Samsung Boulevard, Austin, Texas 78754.
4. The terms “document,” “documents,” and “documentation” means any object that records, stores, or presents information, and includes writings of any kind, formal or informal, draft or final, whether or not wholly or partially in handwriting, including documentation solely in electronic form, including by way of illustration and not by way of imitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, email, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any hard drive, USB drive, CD, DVD, or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such hard drive, USB drive, CD, DVD, or other type of memory and together with printouts of such hard drive, USB drive, CD, DVD, or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
5. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

SECTION III. CLEAN AIR ACT COMPLIANCE REQUESTS

Using the Instructions and Definitions set forth in Sections I and II, please provide the information and corresponding documentation requested below within 30 days of receipt of this Information Request.

Ammonium Hydroxide Process

Please provide information and corresponding documentation responsive to the following requests concerning the process described as the Ammonium Hydroxide Process in the Risk Management Plan submitted by Samsung on June 4, 2020.

1. Specify the date that the regulated substance ammonia (conc 20% or greater) was first present at the Facility above 20,000 pounds. Include any associated invoices, receipts, bills of lading, or other documentation including the date and total amount purchased and delivered.
2. Describe the activities at the Facility involving ammonia (conc 20% or greater), including any use, storage, manufacturing, handling, or on-site movement of the regulated substance, or combination of these activities. If helpful in explanation, please include a system process flow diagram and/or process and instrumentation drawings.
3. Identify the maximum intended inventory in pounds for ammonia (conc 20% or greater) at the Facility for the past 5 years (October 1, 2016 – Present).
4. Provide complete copies of Tier II chemical inventory reports submitted to the Texas Commission on Environmental Quality for the calendar years 2016 – 2020.
5. Provide the documented analysis of the nearest public receptor and the distance to the toxic worst-case release endpoint, as required pursuant to 40 C.F.R. § 68.12(b)(1).
6. Provide the documentation for the worst-case release scenario, including the rationale for selection of the scenario, any separate modeling completed (e.g., with ALOHA/MARPLOT), and the input data used to calculate the distance to a toxic endpoint.

Silane Tube Trailer Process

Please provide information and corresponding documentation responsive to the following requests concerning the process described as the Silane Tube Trailer Process in the Risk Management Plan submitted by Samsung on June 4, 2020.

1. Specify the date that the regulated substance silane was first present at the Facility above 10,000 pounds. Include any associated invoices, receipts, bills of lading, or other documentation including the date and total amount purchased and delivered.
2. Describe the activities at the Facility involving silane, including any use, storage, manufacturing, handling, or on-site movement of the regulated substance, or combination of these activities. If helpful in explanation, please include a system process flow diagram and/or process and instrumentation drawings.

3. Identify the maximum intended inventory in pounds for silane at the Facility for the past 5 years (October 1, 2016 – Present).
4. Provide complete copies of Tier II chemical inventory reports submitted to the Texas Commission on Environmental Quality for the calendar years 2016 – 2020.
5. Provide the documented analysis of the nearest public receptor and the distance to the flammable worst-case release endpoint, as required pursuant to 40 C.F.R. § 68.12(b)(1).
6. Provide the documentation for the worst-case release scenario, including the rationale for selection of the scenario, any separate modeling completed (e.g., with ALOHA/MARPLOT), and the input data used to calculate the distance to a flammable endpoint.

CONFIDENTIAL BUSINESS INFORMATION (CBI)
CLAIM ASSERTION AND SUBSTANTIATION REQUIREMENTS

Assertion - Samsung may assert a business confidentiality claim covering all or part of the information requested in response to this Information Request, as provided in 40 C.F.R.

§ 2.203(b). Samsung may assert a business confidentiality claim covering such information by placing on (or attaching to) the information Samsung desires to assert a confidentiality claim, at the time it is submitted to EPA, a cover sheet, stamped, or typed legend (or other suitable form of notice) employing language such as “trade secret,” “proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and submitted separately to facilitate identification and handling by EPA. If confidential treatment is desired up until a certain date or until the occurrence of a certain event, the notice should state this. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Clean Air Act (CAA) and 40 C.F.R. Part 2.

EPA will construe the failure to furnish a CBI claim with Samsung’s response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice to Samsung. Samsung should read 40 C.F.R. Part 2 carefully before asserting a confidentiality claim, since certain categories of information are not properly the subject of a claim. Emission data is exempt from claims of confidentiality under Section 114 of the CAA. Any emissions data you provide may be made available to the public. Information subject to a confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. Part 2, Subpart B.

Substantiation - All confidentiality claims are subject to EPA verification in accordance with 40 C.F.R. Part 2, Subpart B. The criteria for determining whether material claimed as confidential is entitled to such treatment are set forth at 40 C.F.R. §§ 2.208(a)-(d) and 2.301. These regulations provide that business information is entitled to confidential treatment if: (a) The business has asserted a business confidentiality claim which has not expired by its terms, nor has been waived nor withdrawn; (b) that the business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and it intends to continue to take such measures; the information is not, and has not been, reasonably obtainable without the business’s consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding); (d) no statute specifically requires disclosure of the information; and either (e)(1) disclosure of the information is likely to cause substantial harm to your business’s competitive position¹; or (e)(2) the information is voluntarily submitted, and its disclosure would be likely to impair the Government’s ability to obtain necessary information in the future. *See* 40 C.F.R. §§ 2.208(a)-(e). Emissions 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* 40 C.F.R. § 2.301(e).

¹ Samsung will not be required to show that disclosure of the information is likely to cause substantial harm to its competitive position, in light of the Supreme Court’s decision in *Food Marketing Institute v. Argus Leader Media*, No. 18-481 (U.S. Supreme Court, June 24, 2019). As a result of that decision, EPA will not consider whether there is substantial competitive harm in evaluating its CBI claim.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send Samsung a substantiation request letter (separate from this Request) asking you to substantiate your CBI claim. If you receive a substantiation request letter, Samsung must provide EPA with a response within the time frame set forth in the letter. Failure to submit a response within that time would be regarded as a waiver of Samsung's claim, and EPA may release the information. If Samsung receives a substantiation request letter, EPA will ask Samsung to specify which portions of the information it considers CBI. Samsung must be specific by page, paragraph, and sentence when identifying and substantiating the information subject to its claim. Any information not specifically identified as subject to a CBI claim may be disclosed without further notice to Samsung. If Samsung receives a substantiation request letter, for each item or class of information that it identifies as being subject, Samsung will be asked to answer the questions below, giving as much detail as possible, in accordance with 40 C.F.R. § 2.204(e):

1. What specific portions of the information does Samsung allege to be entitled to confidential treatment? For what period of time does Samsung request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of an event will eliminate the need for confidentiality, please specify the event.
2. Information submitted to EPA becomes stale over time. Why should the information Samsung claims as confidential be protected for the time period specified in its answer to Question #1?
3. What measures has Samsung taken to protect the information claimed as confidential? Has Samsung disclosed the information to anyone other than a governmental body or someone who is bound by agreement not to disclose it? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. Does Samsung assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for Samsung's assertion. If Samsung asserts that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
7. Any other issue Samsung deems relevant.

If you receive a substantiation request letter from EPA, Samsung bears the burden of substantiating the CBI claim. Conclusory allegations will be given little or no weight in the determination. Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline specified in a substantiation request letter, should you receive such a letter. EPA will construe your failure to furnish a timely response to a substantiation request letter as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1), and EPA may release the information.

STATEMENT OF CERTIFICATION

Samsung Austin Semiconductor, LLC

You are responding to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 114 of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations at 40 C.F.R. Part 68.

Please sign the certification statement below.

I certify under penalty of law that am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations pursuant to Section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

Signature

Printed Name

Title

Date Executed _____