



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

RECEIVED

OCT 03 1983

SEP 29 1983

Mr. Joseph C. Ledvina
Director, Environmental Activities
Conoco Chemicals Company
P. O. Box 2197
Houston, Texas 77001

ROUTE TO:	
COPIES TO:	
FILE:	CAM, NES/APS VCM/Amund

Dear Mr. Ledvina:

As you are aware, the U. S. Environmental Protection Agency (EPA) is currently reviewing its national emission standard for vinyl chloride. Technical services for this review were formerly provided by TRW Inc. (Contract No. 68-02-3063), but have been reassigned to Radian Corporation (Contract No. 68-02-3816). The purpose of this letter is to inform you of the contract reassignment.

Radian Corporation has thus been designated by the EPA as an authorized representative of the EPA as noted in Enclosure 1. As a designated representative of the EPA, Radian Corporation is subject to the provisions of 42 U.S.C. 7414(c) respecting confidentiality of methods or processes entitled to protection as trade secrets. Moreover, Radian must adhere to EPA procedures for safeguarding privileged information, as defined in Enclosure 2. These procedures require that access to classified information be limited to contractor personnel with a "need to know."

The EPA plans disclosure to Radian personnel of source file information supplied by Conoco Chemicals Company, concerning vinyl chloride. It is expected that transfer of the information to Radian will take place within the next few weeks. If you have any questions regarding this transfer, please contact Mr. Leslie B. Evans of the Chemicals and Petroleum Branch, telephone number (919) 541-5671 within five working days.

Sincerely yours,

Jack R. Farmer
Director
Emission Standards and
Engineering Division

Enclosures

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 9 1983

ENCLOSURE 1

OFFICE OF
AIR, NOISE AND RADIATION

DESIGNATION OF AUTHORIZED REPRESENTATIVE
FOR STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES (SECTION 111)
AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (SECTION 112)

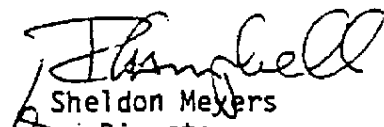
Radian Corporation is hereby designated an Authorized Representative of the Administrator of the United States Environmental Protection Agency for the purpose of assisting in the development of standards of performance under 42 U.S.C. 7411 and national emission standards for hazardous air pollutants under 42 U.S.C. 7412 for gas turbines, SO₂ carrier gas, refinery wastewater, refinery process gas, sewage sludge incineration, industrial boilers (SO₂), glass (arsenic), secondary lead (arsenic), zinc oxide (arsenic), recreational vehicles, cotton gins (arsenic), offset lithography, acrylonitrile, vinyl chloride, utility boilers and flexible packaging under Contract Number 68-02-3816.

This designation is made pursuant to the Clean Air Act, 42 U.S.C. 7414. The United States Code provides that, upon presentation of this credential, the Authorized Representative named herein: (1) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which records required to be maintained under 42 U.S.C. 7414(a)(1) are located, and (2) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under 42 U.S.C. 7414(a)(1), and sample any emissions which the owner or operator of such source is required to sample.

Authorized Representatives of the Administrator are subject to the provisions of 42 U.S.C. 7414(c) respecting confidentiality of methods or processes entitled to protection as trade secrets, as implemented by 40 CFR 2.301(h) (41 FR 36912, September 1, 1976).

Date: SEP 9 1983

Designation Expires: September 30, 1987


Sheldon Meyers
Director
Office of Air Quality Planning
and Standards

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ENCLOSURE 2

U.S. Environmental Protection Agency
Office of Air Quality Planning and Standards
Emission Standards and Engineering Division

June 1982

Summary of ESED

Procedures for Safeguarding Confidential Business Information

1. Purpose

This memorandum summarizes Agency policy and procedures pertaining to the handling and safeguarding of information that may be entitled to confidential treatment for reasons of business confidentiality by the Emission Standards and Engineering Division (ESED), Office of Air Quality Planning and Standards, Office of Air, Noise, and Radiation, U.S. Environmental Protection Agency.

2. Other Applicable Documents:

- a. Clean Air Act as amended.
- b. 40 CFR, Chapter I, Part 2, Subpart B - Confidentiality of Business Information.
- c. EPA Security Manual, Part III, Chapters 8 and 9.

3. Exception:

This document was prepared as a summary of data gathering and handling procedures used by the Emission Standards and Engineering Division, Office of Air Quality Planning and Standards, EPA. Nothing in this document shall be construed as superseding or being in conflict with any applicable regulations, statutes, or policies to which EPA is subject.

4. Definition:

Confidential Business Information - Information as to which the source has asserted a claim of confidentiality. This information may be identified with such titles as trade secret, secret, administrative secret, company secret, secret proprietary, privileged, administrative confidential, company confidential, confidential proprietary, proprietary, etc. NOTE: These markings should not be confused with the classification markings of National Security information identified in Executive Order 11652.

5. Background:

Section 114(c) of the Clean Air Act as amended reads as follows:

"Any records, reports, or information obtained under subsection (a) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, (other than emission data) to which the Administration 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 record, report, or information or particular portion thereof confidential in accordance with the purposes of Section 1905 of Title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act."

On September 1, 1976, EPA promulgated regulations (40 CFR Part 2) that govern the treatment of business information, including data obtained under Section 114 of the Clean Air Act. These regulations require EPA offices to include a notice with each request for information to inform the business (1) of its right to assert a claim of confidentiality covering part or all of the information, (2) of the method for asserting a claim, and (3) of the effect of failure to assert a claim at time of submission. In addition, the regulations (1) set forth procedures for the safeguarding of confidential information; (2) contain provisions for providing confidential information to authorized representatives; (3) contain provisions for the release of information to the Congress, Comptroller General, other Federal agencies, State and local governments, and Courts; (4) permit the disclosure of information within EPA to employees with an official need for the information; and (5) prohibit wrongful use of such information and describe penalties for wrongful disclosure. Further, the regulations contain the Agency's basic rules concerning the treatment of requests for information under the Freedom of Information Act (5 U.S.C. 552).

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6. Procedures:

a. Request for Information

Each request originating in the Emission Standards and Engineering Division (ESED) for information made under the provisions of Section 114(a) is signed by the Division Director. The request includes ESED's standard enclosure "EPA's Information Gathering Authority Under Section 114 of the Clean Air Act," which was designed to meet the requirement of 40 CFR Part 2 discussed above.

b. Receipt of Confidential Business Information

Upon receipt of information for which confidential treatment has been requested, the Office of the Director (OD) directs the logging of the material and the establishment of a permanent file. If confidential treatment is requested, but is not specifically marked, the material will be stamped "Subject to Confidentiality Claim." If part of the material is claimed to be confidential, that portion is marked "Subject to Confidentiality Claim." In compliance with Sections 2.204 and 2.208 of 40 CFR Part 2, the Branch Chief responsible for the requested information reviews the information to determine whether it is likely to be confidential, in contrast to being available in the open literature, and whether it likely provides its holder with a competitive advantage. If the information is clearly not confidential, the Branch chief prepares a letter for signature of the Division Director, ESED, to notify the business of this finding. If the information is possibly confidential, the Branch Chief sends a memorandum to inform the Office of the Director, ESED, of this finding, gives a brief description of the material (what it is, how many pages, etc.), identifies it with the correct ESED project number, and lists those persons who are authorized to have access to the information. The information and memorandum are hand carried to the OD and filed with the material. EPA Form 1480-21, "Privileged Information Control Record," (Enclosure A) is also filed with the folder containing the information. If confidential business information is received from the owner via an authorized representative or a third party, the same procedure is followed, with the addition of clearly identifying the information and its source.

By regulation, information for which confidential treatment is requested must be so marked or designated by the submitter. EPA takes additional

measures to ensure that the proprietary designation is uniformly indicated and immediately observable. All unmarked or undesignated information (except as noted below) is freely releasable.

c. Storage of Confidential Business Information

Folders, documents, or material containing confidential business information (as defined) shall be secured, at a minimum, in a combination locked cabinet. Normal ESED procedure is to secure this information in a cabinet equipped with a security bar and locked using a four-way, changeable combination padlock. The locked file is under the control of the Office of the Director.

Knowledge of the combination of the locking device is limited to the minimum number of persons required to effectively maintain normal business operations. Records of the locking device combination may be made but shall be stored elsewhere in conformance with the requirements of the EPA Security Manual.

The combination of the lock is normally changed whenever a person with knowledge of the combination is transferred, terminates employment, or is no longer authorized access, or whenever the possibility exists that the combination may have been subjected to compromise.

Files may be checked out upon confirmation that the person is authorized to receive the information. All confidential files must be returned no later than 3:30 p.m. on the same day they are removed. The intended user must sign the Privileged Information Control Record in the presence of an Office of the Director staff member when the file is checked out and when it is returned.

The individual who signs out a confidential file is responsible for its safekeeping. The file must not be left unattended. The information must not be disclosed to any non-authorized personnel.

Storage procedures for confidential business information by an authorized representative of EPA (see Section d. below) must be, at a minimum, as secure as those established here for EPA. Whenever confidential business information is removed from the EPA files to be transmitted to an authorized representative, a memorandum is placed in the file indicating what information was transmitted, the date, and the recipient.

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d. Access to Confidential Business Information

Only authorized EPA employees may open and distribute confidential business information.

Only EPA employees who require and are authorized access to confidential business information in the performance of their official duties are permitted to review documents and, after reviewing, shall sign and date EPA Form 1480-21 (Enclosure A) to certify their access to the document.

The confidential business information file is controlled by the Office of the Director, ESED. Access to the information is strictly enforced by that office.

The ESED Branch through which the confidential business information has been requested or sent provides a memo for the record designating those personnel who are authorized to use confidential business information in performance of their official duties in a program under which confidential business information can be requested. No person is automatically entitled to access based solely on grade, position, or security clearance. A need to know must exist. Where a person with a need to know is not designated on the memo for the record, the applicable Branch Chief shall review that need and, if appropriate, prepare an amendment to the memo of record. In any case, the memo designating authorized personnel should be reviewed and revised from time to time to ensure that it is current.

Persons under contract to EPA to perform work for EPA may be designated authorized representatives if such designation is necessary in order for the contractor to carry out the work required by the contract. The following conditions apply when it has been determined that disclosure is necessary:

(1) The authorized contractor representative and its employees (a) may use such confidential information only for the purposes of carrying out the work required, (b) must refrain from disclosing the information to anyone other than EPA without having received from EPA prior written approval of each affected business or of an EPA legal office, and (c) must return to EPA all copies of the information (and any abstracts or excerpts therefrom) upon request or whenever the information is no longer required for the performance of the work.

(2) The authorized contractor representative must obtain a written agreement from each of its employees who will have access to the information

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to honor the above-noted limitations. A copy of each such agreement must be furnished to EPA in a format substantially complying with that shown in Enclosure B before access is permitted.

(3) the authorized contractor representative must agree that the conditions in the contract concerning the use and disclosure of confidential business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

These requirements provide reasonable protection for the rights of owners of confidential business information.

Information may be released to or accessed by employees of other EPA elements only upon approval by the Director, ESED, of a written justification signed by a Division Director, or equivalent.

Requests from other Federal agencies, Congress, Comptroller General, Courts, etc., are handled by the Office of the Director, ESED.

Requests under the Freedom of Information Act are handled in accordance with 40 CFR, Part 2, Subpart A. The ESED Freedom of Information Coordinator must be consulted prior to responding to any request for information where a claim of confidentiality has been asserted or where there is reason to believe that a claim might be made if the business knew release was intended.

e. Use and Disclosure of Confidential Business Information

Confidential business information as defined may not be used in publications, supporting documents, memoranda, etc., that become a part of the public domain, except as provided for in 40 CFR, Chapter 1, Part 2, Subpart B.

Confidential business information may not be summarized, tabulated, photocopied, or in any other way reproduced without the express written approval of the Branch Chief responsible for the information request. Any authorized reproduction shall be sparing and all procedures herein, strictly followed. Further, all authorized reproductions must be introduced into the confidential business information control system and treated according to the same procedures applicable to the original confidential material.

EPA generated documents or material, or extracts of information containing confidential business information, shall be stamped "For Official Use Only" and include on the first page and/or cover sheet the following statement:

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"This document contains data claimed to be confidential business information and shall be handled and stored in accordance with Part III, Chapter 9 of the EPA Security Manual."

f. Handling of Other Information

Reports, memoranda, documents, etc., prepared by EPA or its authorized representatives are not normally circulated outside EPA for comment or review prior to publication except in such cases as described above (6.d.3) wherein confidential business information is expressly included. However, because industrial-data-gathering visits, plant inspections, and source testing can involve inadvertent receipt of confidential business information, it is the policy of ESED to protect all parties involved in the following manner.

Prior to or at the inception of a plant inspection, data gathering visit, or source test, EPA or its authorized representatives discuss with a responsible industry official the information sought, how it is to be used, and how it is to be protected. A copy of this document may be provided upon request.

Following an inspection, visit, or test, a trip report will be prepared to include, as practicable, all information received by EPA or its authorized representative during the visit or test. The report may be prepared by either EPA or its authorized representative. The draft of that report will be clearly identified, on an enclosed, colored cover sheet as "Confidential Business - Pending Company Review." A second copy of the draft trip report will be made. It will be forwarded by EPA to the responsible industry official for review. The responsible industry official will be requested by cover letter to review the report, clearly mark any information considered to be confidential, and return the marked report to the responsible EPA employee within two weeks of receipt. The original draft will be kept in the confidential business information file until the marked-up copy is returned by the business firm.

When the reviewed copy of the report, as marked by the responsible plant official, is received by EPA, information designated confidential will be placed in the confidential business information files as described above. The original of the trip report will be edited to delete the confidential information and the trip report will be issued.

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EPA Order 1350
June 12, 1974

APPLICATION NO:

PRIVILEGED INFORMATION CONTROL RECORD

INFORMATION REFERRED TO:

NAME	SIGNATURE	DATE
		SAL 000049764

DO NOT DETACH

TREATMENT OF CONFIDENTIAL INFORMATION

It is understood that performance under EPA Contract No. _____ will require the Contractor (_____) and its employees to have access to confidential information obtained by EPA under section _____ of the Clean Air Act. In fulfillment of the conditions of disclosure contained in the Contract, I _____, hereby affirm that I personally will honor the limitations expressed in the contract concerning my access to such information.

Specifically, I shall:

1. use the information only for the purpose of carrying out the work required by the Contract;
2. 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
3. return to EPA, through the Contractor, all copies of the information (and any abstracts or excerpts therefrom) upon request by the EPA Program Office or whenever the information is no longer required by the Contractor for the performance of work required by the Contract.

Dated this _____ day of _____, 1976.

Signature

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