ILLINOIS POLLUTION CONTROL BOARD
December 3, 1998

DEVRO-TEEPAK, INC.,	)	
	)	
Petitioner,	)	
	)	
v.	)	PCB 98-160,
	)	PCB 98-161
ILLINOIS ENVIRONMENTAL	)	(Trade Secret Appeals)
PROTECTION AGENCY,	)	(Consolidated)
	)	
Respondent.	)	

ERIC E. BOYD AND AUDREY LOZUK-LAWLESS OF SEYFARTH, SHAW, FAIRWEATHER & GERALDSON, APPEARED ON BEHALF OF PETITIONER; and

ROBB H. LAYMAN, ASSISTANT COUNSEL, ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter is before the Board on two trade secret appeals filed on May 29, 1998, by Devro-Teepak, Inc. (petitioner), pursuant to Part 120 of the Board's regulations concerning the identification and protection of trade secrets (see 35 Ill. Adm. Code 120 *et seq*.). Petitioner is appealing two final determinations of the Illinois Environmental Protection Agency (Agency) regarding certain trade secret articles submitted by petitioner in two separate Clean Air Act Permit Program (CAAPP) applications (CAAPP Permit Nos. 95120325 and 95120326). Petitioner claims that certain articles in its CAAPP permit applications are entitled to trade secret protection. The Agency disagrees with petitioner, as it asserts that the raw material usage and emission rate information sought by each of the CAAPP forms relevant to this appeal constitute emission data and is not information that can be protected as a trade secret.

By order of June 17, 1998, the Board accepted these trade secret appeals for hearing. The cases were consolidated for hearing and, pursuant to the parties' agreed motion, an *in camera* hearing was held before Board Hearing Officer Amy L. Jackson on September 22, 1998, in Danville, Illinois. On behalf of the petitioner, the following individuals testified: (1) John Webster, regional regulatory affairs manager at Devro-Teepak; and (2) John Ramsey, manager of maintenance, environmental and quality control at Devro-Teepak's Danville plant location. On behalf the Agency, the following individuals testified: (1) Pamela Irwin, an Agency legal investigator in the division of air pollution control's permit section; and (2) Christopher Romaine, Agency manager of the new source review unit in the division of air pollution control's permit section.

Since the hearing was *in camera*, members of the public were not allowed to attend. However, the hearing officer provided a sign-in sheet for members of the public wishing to

give testimony during the hearing. No members of the public appeared to give testimony at the hearing. See Devro-Teepak, Inc. v. IEPA (September 25, 1998), PCB 98-160, 98-161 (hearing officer order).

Petitioner filed its brief on October 2, 1998. The Agency filed its response brief on October 13, 1998, and petitioner filed its reply brief on October 16, 1998.

Pursuant to the rules governing trade secret matters (35 Ill. Adm. Code 120 *et seq*.), the Board has kept under seal all copies of the Agency record (trade secret copies), the hearing transcript, exhibits, and all post-hearing briefs filed in this matter.

The Board agrees with the Agency that certain trade secret information on appeal constitutes emission data. In making this finding, the Board believes that those process units which are regulated individually should be disclosed individually. But the Board believes that those process units which are regulated on a combined basis should only be disclosed on a combined or aggregate, rather than an individual, basis. The Board finds that for those units that are regulated on a combined basis, the individual, line-by-line information which was entered on the CAAPP forms, is a protectable trade secret. Therefore, based on a review of the record, the Board affirms in part and reverses in part the Agency's denial of petitioner's request for trade secret protection in both its CAAPP permit applications.

ISSUES

There are two issues in this proceeding. The first is whether the information in petitioner's CAAPP application is "emission data." Under Section 7(a) of the Environmental Protection Act (Act),

> Notwithstanding any other provision of this Title or any law to the contrary, all emission data reported to or otherwise obtained by the Agency . . . in connection with any examination, inspection or proceeding under this Act shall be available to the public to the extent required by the federal Clean Air Act Amendments of 1977 (P.L. 95-95) as amended. 415 ILCS 5/7(c) (1996).

The consequence of this provision is that to the extent that the information in petitioner's CAAPP application is emission data, it must be disclosed to the public. This provision supersedes all other provisions of the Act, so if all of the information in petitioner's CAAPP application is emission data, that ends the Board's inquiry.

If the information in petitioner's CAAPP application is not emission data, however, the Board must consider Section 7(a) of the Act. That section requires that "all files, records and data" of the Board and the Agency "shall be open to reasonable public inspection . . . except for . . . information that constitutes a trade secret." 415 ILCS 5/7(a) (1996). Therefore, the second issue in this case is whether the information in petitioner's CAAPP application is a trade secret. If not, it must be disclosed to the public.

The term "emission data" itself is not defined in either the Clean Air Act (CAA) or the Act. However, both the United States Environmental Protection Agency (USEPA) and the

Agency have promulgated regulations that define emission data. The USEPA defines "emission data" as information necessary to determine the amount of emissions being emitted by a source, what types of emissions the source is allowed to emit, and the identification of the source. 40 C.F.R. 2.301.[1] While the Agency's promulgated rules define "emission data" as information described in the federal definition, the Agency's definition is more specific in that it identifies the specific types of information that is considered emission data. See 2 Ill. Adm. Code 1827.Appendix A.[2] The Agency definition also provides that certain information may be

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[1] The federal rules defining "emission data" provide:
40 C.F.R. 2.301: Special Rules Governing Certain Information Obtained Under the CAA
(a) Definitions. For the purpose of this section:
(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 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).
(ii) Notwithstanding paragraph (a)(2)(i) of this section, the following information shall be considered to be emission data only to the extent necessary to allow EPA to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow EPA to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:
(A) Information concerning research, or the results of research, on any project, method, device or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and
(B) Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used.

[2] The Agency's rules regarding "emission data" provide, at 2 Ill. Adm. Code 1827.Appendix A, Explanation of Emission Data:
"Emission data" means the information as described in 40 C.F.R. 2.301(a)(2)(i) and (a)(2)(ii) (1983).
1. Emission data includes the following items to the extent they contain information on the identity, amount, frequency, concentration, or other

claimed to be trade secret, if the Agency is able to provide, by alternative means, the identity, amount, frequency, concentration or other characteristics of any emission by an emission source.

In addition, Board findings in two CAA trade secret cases shed light on the issue of what constitutes "emission data." See Classic Finishing Company, Inc. v. IEPA (February 7, 1985), PCB 84-174, and In the Matter of: Duo Fast Corporation Trade Secret Claim Determination (March 5, 1987), PCB 87-4. In Duo Fast, the Board found that the phrase "necessary to determine" in the USEPA's definition broadens, rather than limits, what constitutes emission data under the CAA. In this regard, the Board found that the definition includes actual emission data and information necessary to calculate emission data. In Classic Finishing, while addressing the issue of whether emission data must be disclosed on a plant-wide basis or individual equipment basis, the Board found that information must be disclosed on the basis of the point at which a source is regulated, *i.e.*, whether the regulations apply to individual emission units or to the plant as a whole.

BACKGROUND

CAAPP Application

Currently, the petitioner's facility, located in Danville, Illinois, is operating under three relevant permits (see *infra* at 7-8). However, because of the type and quantity of air emissions emitted by the facility, petitioner is required to apply for new air permits, pursuant to the CAAPP.

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characteristics, as related to air quality, of any emission or contaminant emitted by an emission source:

a) Reports and printouts produced from the Agency's Total Air System, including information which has been obtained by the Agency from permit applications and field inspections of emission sources;
b) Stack test reports;
c) Quarterly and annual emission reports submitted to the Agency by emission sources;
d) Malfunction reports submitted to the Agency by emission sources;
e) Compliance status reports submitted to the Agency by emission sources;
f) Agency field inspection reports; and
g) Permit applications filed with the Agency.

2. Items (a) through (g) above shall be provided to a requester in conformity with this Part. If the Agency is able to provide, by some other means, the identity, amount, frequency, concentration, or other characteristics, to the extent related to air quality, of any emission by an emission source, the following information may be claimed to be trade secret or confidential data pursuant to these rules:

a) Trade names of source equipment owned by a submitter;
b) Name and description of a process used by the submitter; and
c) Type, amount and method of raw materials used in the process of the submitter.

This proceeding involves the trade secret protection of certain information pertaining to raw material usage and emission rates included in the petitioner's CAAPP application. Section 39.5(5)(c) of the Act requires a CAAPP permit applicant to submit a complete application which contains information sufficient for the Agency to evaluate the subject source and to determine all applicable requirements pursuant to the CAA and other underlying regulations. The Act authorizes the Agency to develop application forms and adopt procedural rules to implement the CAAPP requirements. 415 ILCS 5/39.5(5)(c), (5)(y) (1996). Accordingly, the Agency has adopted CAAPP procedures at 35 Ill. Adm. Code 270 and issued CAAPP application forms along with instructions. The information submitted in a CAAPP application is utilized by the Agency to issue permits that include all state and federal requirements, emission limitations, compliance plans, testing methods, reporting requirements and operating modes. 415 ILCS 5/39.5(7) (1996).

The Illinois CAAPP also requires the Agency to make available to the public all documents submitted by the applicant, including the CAAPP application, with the exception of information entitled to confidential treatment pursuant to Section 7 of the Act. 415 ILCS 5/39.5(5)(q) (1996). In this regard, petitioner contends that the specific information concerning typical and maximum raw material usage rates and the typical and maximum emission rates falls under the Section 7 exception.

Sequence of Events

Due to the air emissions emitted by the facility, petitioner was required to apply for CAAPP permits. On November 3, 1995, petitioner filed two separate CAAPP permit applications (App. No. 95120326 and App. No. 95120325), which included one for each of its two processes: (1) the plastic packaging process; and (2) the cellulose food casing process. See, generally, Ag. Rec., App. No. 95120325 and No. 95120326; see also Tr. at 6.[3] These processes are described in greater detail below. Petitioner included in the CAAPP permit applications, a claim and justification, pursuant to 35 Ill. Adm. Code 120.201 and 120.202, that certain materials in the applications were entitled to trade secret protection. Tr. at 6.

In filing its CAAPP permit applications with what petitioner believed was trade secret information, petitioner took various steps to protect its trade secret information. Specifically, petitioner marked the trade secret information on its full application and also submitted a redacted copy with the complete copy to the Agency. Tr. at 47. Petitioner ensured that employees at its plant, who viewed the trade secret information, signed corporate secrecy

[3] Citations to the September 22, 1998 hearing will hereinafter be referred to as "Tr. at __." Citations to petitioner's exhibits entered into the record at hearing will be referred to as "Pet. Exh. __" Citations to the Agency's exhibits entered into the record at hearing will be referred to as "Ag. Exh. __" Citations to the Agency's Administrative Record, Volume I (trade secret copy) for Application No. 95120325 (plastics packaging CAAPP permit application) will be referred to as "Ag. Rec., App. No. 95120325 at __." Citations to the Agency's Administrative Record, Volume I (trade secret copy) for Application No. 95120326 (cellulose food casing manufacturing CAAPP permit application) will be referred to as "Ag. Rec., App. No. 95120326 at __."

agreements. Ag. Rec., App. No. 95120325 at 003; App. No. 95120326 at 003. Additionally, petitioner operates its facility with a 24-hour guard service and computerized plant entry system. *Id*.

Over two years following petitioner's filing of its CAAPP applications, on January 16, 1998, the Agency sent petitioner, via facsimile, a draft trade secret determination letter concerning the plastic packaging CAAPP permit application. Ag. Rec., App. No. 95120325 at 0157-0161. On January 21, 1998, the Agency sent petitioner, via facsimile, a draft trade secret determination letter concerning the cellulose food casing CAAPP permit application. Ag. Rec., App. No. 95120326 at 0284-0291. The Agency included in its facsimile to petitioner a chart of each trade secret claim and the Agency's decision as to whether or not each claim was a trade secret. The Agency agreed with petitioner on some of the trade secret claims, yet disagreed on others. On January 30, 1998, petitioner wrote a letter responding to the Agency's draft determinations. Ag. Rec., App. No. 95120325 at 0162-0164; Ag. Rec., App. No. 95120326 at 0292-0294. In the letter, petitioner stated that it disagreed with the Agency's draft determination that some of the information was characterized as "emissions information." *Id*. Petitioner's letter provided further information and argument in support of its position.

Final determination letters were then issued by the Agency, on both permit applications, on April 24, 1998. Ag. Rec., App. No. 95120325 at 0172-0179; Ag. Rec., App. No. 95120326 at 0302-0312. The letters contained attachments listing the pages, parts, and portions of the CAAPP permit applications that had been found to represent trade secret information. The Agency denied certain requests for trade secret protection, however, on the basis that the information on the CAAPP applications constituted emission data or information used to determine emissions.

The Agency's final determination letters varied from the January 1998 draft letters in that the Agency ultimately denied trade secret protection for some information which initially appeared on the Agency's "draft trade secret determination letter" as deserving trade secret protection. Specifically, the Agency determined that some of petitioner's requests for trade secret were, in fact, not trade secret material. For example, the Agency revised its final determination letters to exclude raw material information on line 21(a) of Form 220-CAAPP as trade secret material, while in the original drafts the Agency had determined line 21(a) was trade secret material. See Tr. at 166-67; see also Ag. Exh. 2 at 2. No discussion occurred between the Agency and petitioner prior to any of the changes made between the draft determination letter and final determination letter.

Petitioner's disagreement with some of the specific determinations made by the Agency is the subject of this consolidated appeal.

Petitioner's Manufacturing Process

Petitioner operates a manufacturing facility in Danville, Illinois (facility) for two different types of food packaging: (1) cellulose food casings and (2) plastic packaging for

meat products. Tr. at 6. The operations are linked at the site through common utilities and services but their unit operations are quite different. Ag. Rec., App. No. 95120325 at 0009; Ag. Rec., App. No. 95120326 at 0011.

Cellulose Food Casing

Petitioner primarily manufactures regenerated cellulose sausage casings at its facility. Tr. at 22. The three types of sausage casings include: (1) the "hot dog" type of casing which has a trade name, the "Wienie Pak"; (2) the deli-pack casings, which are slightly larger and used for stuffing hams; and (3) the fibrous product which is a large type of casing that comes with a paper reinforcement. Tr. at 22; see Pet. Exh. 1.

The cellulose food casing process includes a chemical department, wienie pak (W/P) operations, and fibrous operations. The following process machines within the W/P process department have been interpreted to be emission units: 1, 2, 3, 4, 5, 6, 7A, and 7B. In the fibrous process areas, the following process machines are emission units: 8, 9, 10, and 10 ½. Also included as emission units within the cellulose food casing process area are the barrates, viscose makeup, lagoon inlet, and lagoon outlet.

The cellulose food casing manufacturing operations operate under two relevant permits. Permit number 73110109 (I.D. No. 183804AAL) regulates emissions for the extrusion lines and the chemical department. This permit contains emission limits for all of the combined process units and process unit 7A individually. See Pet. Exh. 4; Tr. at 37-38. The cellulose food casing manufacturing operations also operate under construction permit number 97090100 which pertains to process units 8, 9, and 10 individually. This permit contains further emissions limitations in addition to the limitations found in the operating permit. See Pet. Exh. 5; Tr. at 39. Process units 7A, 8, 9, and 10 are the only units in the cellulose food casing operation that are subject to separate permitted emissions limitations. Tr. at 40. The permits for the cellulose operations limit the emission units which emit carbon disulfide (CS_2) and hydrogen sulfide (H_2S). Tr. at 38. For an individual cellulose processing unit, gaseous CS_2 is evolved in the process machines and is ventilated through the process ventilation equipment and emitted through a stack. Tr. at 87.

Plastic Packaging

The plastic packaging manufacturing operations area contains printing presses which use film, ink, adhesive, and solvents to print, laminate or print/laminate combined. Tr. at 122-23; see Pet. Exh. 2. Additionally, plate making and equipment cleanup are also conducted in the plastics operation. In the plastics operation, the following presses are considered emission units: 4, 5, 6, 7, the W/P Flexopress 1, and W/P Flexopress 2, and the washroom area.

The plastics packaging manufacturing area operates under permit number 74100015 (I.D. No. 183804ABF). See Pet. Exh. 6. This permit limits the volatile organic material (VOM) emissions for press 7 individually, and for presses 4, 5, 6, and the washroom area.

This permit also limits the VOM emissions for two W/P presses on a combined basis. Tr. 40-41, 107-108.

Information at Issue

The issue before the Board is whether certain information which petitioner provided to the Agency in its two CAAPP applications warrants trade secret protection under the Act and relevant regulations. Specifically, petitioner believes that the following categories of information warrants trade secret status: (1) the typical and maximum raw material usage rates; and (2) the typical and maximum emission rates. The categories of information on the CAAPP forms which petitioner claimed as trade secret are listed in the table below.

Line Number/Form	Category
Line 21(a) of the Process Emission Unit Data and Information Form (220 CAAPP Form)	typical and maximum raw material usage information for both the cellulose food casing and the plastic packaging processes emission units
Line 37 of 220 CAAPP Form	typical and maximum emission rates for both the cellulose food casing and the plastic packaging processes emission units
Line 38 of 220 CAAPP Form	hazardous air pollutant (HAP) emissions for the cellulose food casing process emission units
Line 16 of 204 CAAPP Form (App. No. 95120326)	typical and maximum emission rates during malfunction for certain cellulose food casing process emission units
Table 6 of the Hazardous Air Pollutant Emission Summary of the 215 CAAPP Form (App. No. 95120326)[4]	HAP emissions for the cellulose food casing process emission units

ARGUMENTS AND ANALYSIS

[4] The Board notes that petitioner did not raise, anywhere in the record, any appeal of the Agency's determination regarding pages 756-759 (Ag. Rec., App. No. 95120325 at 009-0012) of the plastics packaging CAAPP application and for pages 125-140 (Ag. Rec., App. No. 95120326 at 0011-0026) of the cellulose food casing CAAPP application. Also, petitioner did not present the Board with rationale as to why Exhibit 6 of the plastics packaging application should be protected as trade secret (see pages 1030-1033, Ag. Rec., App. No. 95120325 at 0153-0156). Therefore, the Board will not review the items discussed within those sections.

First the Board will make a threshold determination as to whether the claimed trade secret information constitutes emission data. The Board then addresses whether any of the information constitutes a trade secret.

Determination of Emission Data

In this section the Board reviews the arguments of the parties, with regard to the determination of emission data, in three sections: (1) typical and maximum raw material usage information (line 21(a) of CAAPP Form 220); (2) typical and maximum emission rates (line 37 of CAAPP Form 220); and (3) line 38 of CAAPP Form 220; table 6 of CAAPP Form 215; and line 16 of CAAPP Form 204. After a summary of each party's arguments, the Board then discusses its findings on each of those sections.[5]

Typical & Maximum Raw Material Usage Information (Line 21(a) of CAAPP Form 220)

Petitioner's Arguments. Petitioner asserts that the typical and maximum raw material usage information is not classified as emission data and therefore should not be disclosed to the public. Petitioner believes that because the individual units do not have specific permitted emission restrictions, the disclosure of maximum and typical information for individual process units could lead competitors to information related to production capabilities. Pet. Br. at 10. If the typical and maximum emissions vary greatly, petitioner asserts that the competitor could learn that additional capacity exists which may not be permitted but which could potentially be used by the facility. Pet. Br. at 10; see Tr. at 59-61.

Petitioner also argues that the term "emission data" is defined narrowly so as not to require disclosure of information which is only of value to a submitter's competitors. Pet. Br. at 8. Petitioner believes that typical and maximum raw material usage information and typical and maximum emissions information are not emission data as defined by the USEPA definition found at 40 C.F.R. Section 2.301(a)(2)(i) since the definition does not include any reference to typical and maximum raw material usage. Additionally, petitioner argues that raw material usage information is excluded in the Agency's definition found at 2 Ill. Adm. Code 1827.Appendix A(2)(c). Pet. Br. at 12-13. Petitioner further points out that pursuant to 2 Ill. Adm. Code 1827.Appendix A(2)(c), if the Agency is able to provide, by some other means, information on the amount of a pollutant that is actually emitted, then information on the "type, amount and method" of use of raw materials used in the process of the submitter may be claimed as a trade secret. Pet. Br. at 15.

Petitioner acknowledges that information necessary to determine actual emissions can be considered as emission data; however, petitioner argues that the raw material information it submitted in its applications cannot be used to determine actual emissions since the information is based on theoretical typical and maximum raw material use rather than actual raw material

[5] Petitioner's post-hearing brief will be cited to as "Pet. Br. at __." The Agency's response brief will be cited to as "Ag. Br. at __." Petitioner's reply brief will be cited to as "Reply Br. at __."

use. Petitioner argues that it submitted theoretical numbers to show that the maximum raw material rates for an individual machine was the maximum amount of raw material that could be used on that line. Pet. Br. at 16.

Even if the Board determines that the information at issue constitutes emission data, petitioner requests that the Board only require that the necessary information be disclosed to the public. Petitioner states that because the typical and maximum raw material use information given was for individual process machines, petitioner submitted more information than was necessary to determine emissions from the facility. Pet. Br. at 14, 18. Petitioner asserts that it provided raw material use information on line 21(a) of CAAPP Form 220 separately for each of its individual process units. Petitioner further argues that if individual units are not subject to specific per line emissions limitations, then individual typical and maximum raw material usage information is irrelevant to determine compliance with the group emission limits. Pet. Br. at 18. In this regard, petitioner notes that not all of its individual process units are subject to individual emission limits. Pet. Br. at 18-19.

Petitioner asserts that it had no objection to providing actual raw material use information for all the cellulose manufacturing equipment combined or all the plastic packaging equipment combined, but that option was not presented by the Agency. Pet. Br. at 19-20. Petitioner argues the same with regard to the plastics packaging 220-CAAPP forms. Pet. Br. at 19-20. Petitioner distinguishes its case from Classic Finishing and Duo Fast by stating that those matters concerned emissions rate information for individual process machines while petitioner's units are, for the most part, not subject to individual line limits. Reply Br. at 10-12. Petitioner therefore asserts that actual emissions from individually regulated units should not be protected by trade secret as exemplified by the Classic Finishing and Duo Fast cases, but units that are not individually regulated should be subject to trade secret protection.

Agency's Arguments. The Agency believes that the raw material usage and emission rate information sought by each of the CAAPP forms constitute emission data and, thus, cannot be protected as trade secret. Ag. Br. at 8. The Agency states that it performed the trade secret review of petitioner's CAAPP permit applications in order to comply with the public notice requirements of the Illinois CAAPP (see 415 ILCS 5/39.5 (1996)). Ag. Br. at 6-7. Additionally, the Agency states that its CAAPP permit application forms adhere to the content requirements set forth in the CAAPP procedures set forth in Subpart D of 35 Ill. Adm. Code 270, adopted by the Agency pursuant to 415 ILCS 5/39.5(y) (1996). The Agency states that its trade secret determination in this proceeding is premised on the view that raw material usage rates from line 21(a) of CAAPP Form 220, the identity and emission rates of HAPs in CAAPP Form 215, emission rates from line 37 and 38 of CAAPP Form 220 and line 16 of CAAPP Form 204 are, by nature, emission data. Ag. Br. at 12.

The Agency maintains that consideration of information sought by those specific lines in the CAAPP forms as emission data is supported by the USEPA's definition (40 C.F.R. Section 2.301(a)(2)(i)). The Agency argues that its concept of emission data is broader than the petitioner's interpretation that it is limited to specific data on the nature and amount of emissions. The Agency maintains that emission data does not only include data regarding actual emissions, but also the information necessary to determine that emission data. Ag. Br.

at 27. Information that bears upon the identity, amount, frequency, concentration or other characteristics is also necessary, the Agency believes.

The Agency refers the Board to the accompanying instructions of CAAPP Form 220 (Ag. Exh. 1, paragraph 21(a)) which state that the raw material information for the emission unit must be provided to the extent such information is emission related, needed to determine or regulate emissions, or needed to determine rule applicability or compliance. Ag. Br. at 13. The Agency notes that the raw material information requested in line 21(a) helps in identifying how the process unit is governed by the existing regulations, the type of pollutants that may be emitted from the process, and to what process the emissions rates may be attributable. Ag. Br. at 14. The Agency argues that the information in line 21(a) of CAAPP Form 220 reveals "characteristics" of emissions caused or allowed by the permit applicant that are inherently emission related. Ag. Br. at 17-18.

The Agency believes that the importance of raw material information as a means to calculate emissions should not be diminished merely because it may be used on a theoretical basis. Ag. Br. at 15. Further, the Agency asserts that even if the typical and maximum usage rates do not reflect a direct correlation with petitioner's past actual usage rates and emissions, the information provided by petitioner is still related to a determination of emissions under the assumed set of circumstances. Ag. Br. at 18. In this regard, the Agency explains that the term "typical" is meant to relate to actual operation of an emission unit as it occurred in the past, as it is presently occurring, and as it is expected to occur in the future. Ag. Br. at 19. With regard to "maximum," the Agency notes that it is supposed to represent a set of circumstances that has rarely, if ever, occurred, or may never occur in the future. *Id*. In effect, the Agency asserts that both typical and maximum data should be characterized as actual emission data.

In response to petitioner's argument that the language in 2 Ill. Adm. Code 1827.Appendix A requires the Agency to provide, by some other means, information on the amount of a pollutant, the Agency asserts that Appendix A should not be given "lawful or binding effect." The Agency relies on Duo Fast, and states that the Board "arguably overturns" the language of Appendix A in the Duo Fast decision. Ag. Br. at 32-33. Alternatively, the Agency states that if the Board chooses to give meaning to Appendix A, petitioner has not adequately demonstrated that other emission data is available for disclosure to the public. Ag. Br. at 33.

The Agency cannot comprehend how petitioner's "inflated" raw material usage as reported on line 21(a) of CAAPP 220 Form could be deemed to have any competitive value since the information does not represent actual numbers. Additionally, the Agency hints that it may, in the future, require petitioner to supplement its CAAPP permit applications with more representative data. Ag. Br. at 19.

Finally, with regard to petitioner's contention that the raw material usage information provided in the CAAPP forms is more information than necessary to show compliance, the Agency states that the petitioner does not address the obligation to publicly disclose data with

respect to actual emissions. Ag. Br. at 20. The Agency cites Classic Finishing to support its position that information should be provided for emission units that are not subject to unit-specific limitations. The Agency notes that even assuming that data is not required for certain emission units that are not individually regulated, unit-by-unit data would be required to determine the emissions from the group of regulated units. Ag. Br. at 20; see Tr. at 241-46.

Discussion. In order to determine whether the typical and maximum raw material usage information provided by petitioner is emission data, the Board must first determine whether raw material information meets the informational requirement specified in the USEPA's definition of emission data under Section 2.301(a)(2)(i), 40 C.F.R. 2.301. While the definition does not specifically describe typical and maximum raw material usage rates as emission data, the definition includes information necessary to calculate emission data. This is pertinent for the matter at hand since the information offered for line 21(a) contains certain information necessary to calculate emission data.

In Classic Finishing, the Board found that the federal definition of "emission data" is focused not only on the emissions figure, but also on the "information *necessary to determine* . . . emissions." See Classic Finishing, PCB 84-174, slip op. at 2 (emphasis added). The Board noted that emission data in many instances, as in Classic Finishing, is a calculated, rather than monitored number. Classic Finishing, PCB 84-174, slip op. at 2. In Duo Fast, the Board construed the phrase "necessary to determine" in the federal definition to broaden, rather than limit, what constitutes emission data. See also Duo Fast, PCB 87-4, slip op. at 4. Further, the Board stated that the broad scope is necessary because in most circumstances involving air pollution sources, there is no way to instantaneously measure and record actual air emissions. The Board noted that the broad interpretation of the definition also ensures that emission data can be verified, rather than being presented as a single number without supporting data or calculations. Duo Fast, PCB 87-4, slip op. at 4. In this regard, the Board noted that air emissions are typically calculated from a variety of data, including raw material usage information.

In the USEPA's policy statement (see 56 Fed. Reg. 7042), the USEPA lists specific data which the USEPA considers to constitute emission data. Raw material usage information is not included on the USEPA's list. However the Board notes that USEPA states, "[t]his list is not exhaustive and, therefore, other data might be found, in a proper case, to constitute emission data." See Ag. Rec., App. No. 95120325 at 0168-0171; App. No. 95120326 at 0298-0301. The Agency testified at hearing that raw material information is routinely used to calculate emission rates. Tr. at 199. The raw material usage information helps in identifying how a process unit is governed by existing regulations, the type of pollutants, the type of pollutants emitted, and to what process the emission rates may be attributable. Although raw material usage information is not listed specifically on the USEPA's list, the Board believes certain raw material usage information is needed to calculate emission rates. Since these raw material usage rates are emission related, the Board finds that certain raw material usage information constitutes emission data.

Petitioner also argues that pursuant to 2 Ill. Adm. Code 1827.Appendix A, the Agency can provide information on the amount of a pollutant by some other means from information submitted in the CAAPP. Appendix A of Part 1827 refers to the federal definition for the meaning of emission data and adds that reports and printouts from the Agency's Total Air System, stack test reports, quarterly and annual emission reports, malfunction reports, compliance status reports, and Agency field reports are emission data. Further, Appendix A states that "if the Agency is able to provide, by some other means, the identity, amount, frequency, concentration, or other characteristics, to the extent related to air quality," then certain information may be claimed to be trade secret. The Board does not agree with petitioner that the Agency can provide information on the amount of a pollutant by some other means from information already submitted since there is no other information in this record to be able to determine the emission rates.

The Board next addresses whether the typical and maximum raw material usage information, which petitioner estimated on a theoretical basis, is emission data. Petitioner contends that the raw material information submitted on line 21(a) of CAAPP Form 220 does not reflect actual usage and, therefore, does not constitute emission data. The raw material information required on line 21(a) of CAAPP Form 220 is intended to satisfy the informational requirements specified at 35 Ill. Adm. Code 270.403. Specifically, the Agency regulations for CAAPP application contents at Section 270.403(h) require that the CAAPP application include information for each emission unit and each mode of operation, for which a permit is sought, to the extent they are related to air emissions, raw material used, and raw material usage rates.

Petitioner chose to provide typical and maximum raw material information based on theoretical estimation to meet the informational requirement and then used that information to calculate the emission rates. While petitioner claims that raw material information provided in the CAAPP application was inflated, the information is still necessary for evaluating the application. As argued by the Agency, the importance of raw material data as a means to calculate emission rates does not diminish merely because the information is based on theoretical estimates. The Board believes that the raw material information is related to emission rates; therefore, consistent with the discussion immediately following, the Board finds that certain raw material information related to emission rates should be disclosed to the public.

The Board next addresses whether, in light of Classic Finishing and Duo Fast, the term "emission data" encompasses the line-by-line data provided by petitioner in its permit application or whether, as argued by petitioner, raw material can be considered in the aggregate in accordance with Section 7(c) of the Act and Board case law. In other words, the immediate issue at hand is whether the raw material data for emission units which are regulated individually and emission units which are regulated on a combined/aggregate basis require public disclosure. In Classic Finishing, the Board held that the point at which a source is regulated must be examined in determining whether the Act requires disclosure of emission data on a plant-wide basis or an individual equipment basis. Classic Finishing, PCB 84-174, slip op. at 3. See also Duo Fast, PCB 87-4, slip op. at 5-6. Given the fact that the units in Classic Finishing were subject to individual limits, the Board held that information must be

provided for individual machines, as well as for the whole plant, since the data on emissions by each machine may very well be significant to members of the public. Classic Finishing, PCB 84-174, slip op. at 3.

Regarding the equipment which is regulated on an individual basis, the Board, in this matter, follows Classic Finishing and Duo Fast. The Board therefore finds that emissions information of equipment which is individually regulated should be disclosed to the public (as in Duo Fast and Classic Finishing) as emission data. In making this finding, the Board affirms the Agency's decision requiring that the emission levels from process units 7A, 8, 9, and 10 of the cellulose food casing process, and press 7 of the plastic packaging process be disclosed to the public.

Regarding the emission units which are regulated on a combined or aggregate basis, the Board again relies upon the reasoning in Classic Finishing and Duo Fast. In those matters, the Board looked to the point at which the units were regulated to determine if certain information must be disclosed to the public pursuant to Section 7 of the Act. Again, here, the Board believes that the information which constitutes disclosable emission information, as required under Section 7(c) of the Act, is the information listed for the point at which a source is regulated. Since the Agency utilizes the combined or aggregate emission data to determine the CAAPP permit emission levels for two or more emission units that are regulated on a combined basis, the Board finds that for such process units, emission data should be disclosed to the public only as a combined or aggregate value, rather than an individual value.

In making the findings above, the Board reverses the Agency's decision requiring that each individual line information, rather than the combined or aggregate information, be disclosed to the public. The Board therefore finds that the raw material usage rates from process units 1, 2, 3, 4, 5, 6, 7B, 10 ½, the barrates, viscose makeup, lagoon inlet, and lagoon outlet of the cellulose food casing process, and presses 4, 5, 6, W/P presses 1 and 2, and the washroom area of the plastics packaging process area need not be disclosed on an individual basis, but on an aggregate or combined value for the disclosure of emission data.

Typical & Maximum Emission Rates (Line 37 of CAAPP Form 220)

Petitioner's Arguments. Petitioner states that the Agency incorrectly determined that typical and maximum emission rates on line 37 of CAAPP Form 220 is emission data for the same reasons as the determination of raw material use information is emission data. Petitioner argues that the typical and maximum emission rates are not specifically defined as emission data pursuant to either the USEPA definition (40 C.F.R. Section 2.301(a)(2)(i)) or the Agency's definition (2 Ill. Adm. Code 1827.Appendix A(2)(c)). Pet. Br. at 20-21.

Petitioner believes that its reported typical and maximum emissions information from the individual units are not actual emissions information because they are based on theoretical and not actual emissions. Pet. Br. at 21-22. Petitioner asserts that typical and maximum emission information on line 37 was based on the direct relationship of line 37 to the information listed on line 21(a); therefore, petitioner believes that such information is not the

same as actual emissions. Pet. Br. at 21. Petitioner notes that the typical and maximum emission data on line 37 of CAAPP-Form 220 is higher than what it actually emits or is permitted to emit. *Id*. Petitioner states that it used the higher rates because petitioner hoped to avoid individual unit emission limits which would limit production in the future under the new Title V program. Pet. Br. at 21; see Tr. at 116-17. Also with regard to the plastics packaging operations, line 37 information was also obtained by examining the raw material usage from line 21(a). Pet. Br. at 22-23.

Regarding the emission information for individual process units, petitioner again argues that emission information for individual lines is more information than is necessary to determine whether the facility is in compliance with the applicable emissions limitations or to determine the effects on air quality. Pet. Br. at 23. Petitioner asserts that if individual units are not subject to specific per line emissions limitations, the individual typical and maximum emission information is not necessary to determine compliance with the group emission limits. *Id*. Petitioner explains that the Board, in two cases, found that emission data from individual units was relevant to determine compliance and should be disclosed to the public. See Classic Finishing and Duo Fast. But petitioner believes that the reasoning in these two cases should not apply to the instant matter since petitioner's individual processing units are, for the most part, not subject to an individual emissions limits like the units in Classic Finishing and Duo Fast.

Agency's Arguments. The Agency states that line 37 of CAAPP Form 220 requests a variety of information, including typical and maximum rates of actual emissions for the specified pollutants. Ag. Br. at 21. The Agency notes that the accompanying instructions to line 37 (see Ag. Exh. 1) state that the maximum emissions are to be based on emissions that theoretically could be emitted by the unit if it were operated at the maximum design capacity or maximum production capacity. Ag. Br. at 22. The Agency asserts that the maximum emission rates are significant for assessing compliance because of inherent inefficiencies of control equipment at higher rates. *Id*. The typical emission rates are also needed to analyze what is usually going to be occurring with respect to emission rates for a source or emission unit. Ag. Br. at 23.

The Agency notes that maximum and typical emission rates would be used for the dual purpose of determining emissions and determining rule applicability. The Agency contends that the USEPA "emission data" policy supports its position (see Ag. Rec., App. No. 95120325 at 0168-0171; Ag. Rec., App. No. 95120326 at 0298-0301; 56 Fed. Reg. 7042). In this regard, the Agency notes that emission rates are specifically identified in the policy as a specific data field which constitutes emission data. Ag. Br. at 23-24. The Agency argues that even if the USEPA's policy statement is interpreted narrowly to apply only to actual emission rates, the information is "characteristic" of emission that can, or will, be emitted and is instructive as to whether emissions may be authorized under an applicable standard.

Discussion. The emission rate information provided in petitioner's CAAPP applications pertaining to regulated air pollutants, HAPs, and malfunctions are intended to satisfy the informational requirements specified in the regulations underlying the CAAPP

application forms. Since petitioner has addressed the issues pertaining only to emission rates of regulated air pollutants on line 37 of CAAPP Form 220, the discussion is limited to line 37.

The Agency regulations relating to CAAPP application contents at 35 Ill. Adm. Code 270.403(e) require the CAAPP application to include the maximum and typical emission rates for each emission unit and each mode of operation for which a permit is being sought. The regulations require such information to establish the applicability of requirements and compliance with the applicable limitations and standards. The emission rate information provided by the petitioner is intended to satisfy Section 270.403(e). Even though the emission rates information is based on theoretical raw material usage, the Agency must use this information to determine applicable requirements and establish permit limits. Therefore, consistent with the discussion above under the raw material usage rates, the Board finds that the emission rate information for the units which are individually regulated and the combined/aggregate emission information for those units which are regulated on a combined/aggregate basis is emission data and disclosable to the public under Section 7(c).

Line 38 of CAAPP Form 220; Table 6 of CAAPP Form 215;
Line 16 of CAAPP Form 204

Petitioner's Arguments. Petitioner has not addressed in detail the issue of why emission data associated with HAPs (CAAPP Forms 215, 220) and malfunction/breakdown (CAAPP Form 204) must be protected as trade secret. However, petitioner states that such information must be protected for the same reason the information on line 37 of Form 220 is trade secret. Pet. Br. at 3, n.3.

Agency's Arguments. The Agency maintains that emission rates of HAPs on line 38 of CAAPP Form 220 is, by its very nature, emission data. The Agency notes that the rationale for its conclusion is essentially the same as that for the emission rates on line 37 of CAAPP Form 220. Ag. Br. at 24. Regarding the HAPs summary information in table 6 of CAAPP Form 215, the Agency states that the purpose of the information is to provide an overall perspective about the identity and amounts of HAPs to be emitted by a source. Ag. Br. at 25. The Agency relies on its rationale for determining emission rates on line 37 as emission data to support its conclusion that information in table 6 of Form 215 is emission data. *Id*. Regarding line 16 of CAAPP Form 204, the Agency states that information about the maximum and typical emission rates experienced during malfunction or breakdown of a process emission unit is emission data based on the Agency's rationale for determining that the emission rates on line 37 of CAAPP Form 220 are emission data.

Discussion. For reasons stated earlier, the Board finds that the data associated with HAPs (CAAPP Forms 215, 220) and malfunction/breakdown (CAAPP Form 204) constitutes emission data only as it relates to individually-regulated units and units which are regulated on a combined/aggregate basis.

Agency's Procedures on Trade Secret Determination

Petitioner's Arguments

Petitioner's final argument concerns the Agency's alleged failure to follow the applicable procedures when it denied the trade secret claims. Petitioner believes that the Agency failed to provide petitioner any opportunity to dispute the Agency's belief that the information on maximum and typical raw material use was emission data. Pet. Br. at 26. Petitioner points out that the Agency flipped its position on line 21(a) of CAAPP Form 220 where the Agency first found in the January 16 and 21, 1998 draft determination letters that line 21(a) was trade secret information, and then found in the January 30, 1998 final determination letter that such information was indeed emission data. Petitioner argues that, as a result, it did not have a chance to respond to this determination in its letter of January 30, 1998. Pet. Br. at 26.

Petitioner asserts that the Agency failed to follow the procedures for a trade secret determination in accordance with the trade secret regulations since the Agency did not require the January 16 and 21, 1998 requests for justification to be in writing, sent by certified mail-return receipt requested, and signed by an authorized representative. See 35 Ill. Adm. Code 120.215; Pet. Br. at 27. Also, petitioner claims that it may have been able to resolve this dispute with the Agency if it had an opportunity to discuss these matters after the Agency issued its final determinations on April 24, 1998.

Agency's Arguments

The Agency argues that it did not fail to adhere to the applicable regulations for trade secret determination, although the Agency admits that it wrongly identified the January 30, 1998 letter sent by petitioner to the Agency as a "trade secret claim and justification letter." Ag. Br. at 30-31. The Agency states it did not follow the proper mailing requirements since it did not believe that a request for justification from the petitioner was necessary. Ag. Br. at 31. The Agency states that a request for justification of claims is entirely discretionary on the Agency's behalf under the Part 1827 requirements. Ag. Br. at 31.

Discussion

Petitioner argues that the Agency failed to follow the proper applicable procedures in making this trade secret determination. In support of its argument, petitioner cites to the January 16 and 21, 1998 draft determination letters sent by the Agency via facsimile to petitioner and states that such letters did not follow the appropriate procedures pursuant to Section 120.215 of the Board's procedural rules. Additionally, petitioner relies on the fact that the final determination letter of April 24, 1998, included substantive changes from the original draft determination letters to which petitioner did not have a chance to respond. Petitioner claims that had the Agency given petitioner a chance to discuss these matters, some resolution may have resulted between the parties. The Agency vehemently denies that it did not follow the proper procedures and it states that an Agency request for justification of claims is discretionary.

The procedures in place for a trade secret claim emanate from Part 120 of the Board's procedural rules (35 Ill. Adm. Code 120). The Agency may adopt additional procedures that

are not inconsistent with Part 120, as allowed by Section 120.401 of the Board's rules. As a result, the Agency adopted 2 Ill. Adm. Code 1827.

One question before the Board is whether the Agency's January 16 and 21, 1998 draft determination letters were requests for justification of claims and, as such, whether the Agency followed the proper procedures under Section 102.215 and 2 Ill. Adm. Code 1827.203. The Agency mistakenly referenced these letters as a "trade secret claim and justification letter," but later refuted this reference. The Board has reviewed these letters (Ag. Rec., App. No. 95120325 at 0157-0161; Ag. Rec., App. No. 95120326 at 0284-0291). Nowhere on these draft determination letters does it appear to state that such drafts are an Agency request for justification of claims. The draft letters do not reference any of the requirements necessary for requests for justification of claims found in Section 102.215 and 2 Ill. Adm. Code 1827.203. The Board finds that the Agency did not intend the letters of January 16 and 21, 1998, to be requests for justification of claims pursuant to the Board's rules and the Agency's rules. The Board also notes that the Agency may request a justification under the rules, but is not required to do so.

Another question before the Board is whether the Agency allowed time to give petitioner a chance to respond to its final determination letter of April 24, 1998. Under the rules, the Agency is not required to do so.

Finally, the Board addresses the timeliness of the Agency's decision on the trade secret requests in petitioner's CAAPP applications. Under the rules, the Agency is required to make its determination within ten working days. See 2 Ill. Adm. Code 1827.204; 35 Ill. Adm. Code 120.225. The time may be extended for a second period of ten working days if the Agency demonstrates that an extension is necessary and notifies the submitter of the extension. *Id*. Here, the Agency received the CAAPP applications in late 1995 and did not notify petitioner until January 1998. The record does not include any communications, if any, which the Agency had with petitioner to discuss any extension of time to allow the Agency to make its determination. The record is also silent in explaining why the Agency took such a long period of time to arrive at a determination on these trade secret requests. The Agency should follow the Board's rules, as well as its own procedural rules, in making its determinations for a trade secret request. In the least, the Agency should be in contact with the petitioner to inform the petitioner of the status of its request. Otherwise, pursuant to Section 120.250(c), the petitioner can proceed to file its trade secret determination with the Board if the Agency fails to make a final determination within the time limits prescribed in Part 120. See Pillsbury v. IEPA (November 19, 1998), PCB 99-60.

Trade Secret Determination

Having determined that the information pertaining to individual units that are regulated on a combined/aggregate basis are not subject to Section 7(c) of the Act, the Board will now determine whether such information constitutes a trade secret. As defined in the Act, trade secret information is "scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general

public knowledge, and which has competitive value." 415 ILCS 5/3.48 (1996). Trade secret information is an exception to the generally recognized public openness requirement found in Section 7 of the Act, specifically that all "files, records and data" of the Board and the Agency must be "open to reasonable public inspection." 415 ILCS 5/7 (1996).

Under the Act and Part 120, a trade secret must meet a two-pronged test: (1) it must have been kept secret and confidential; and (2) it must have competitive value. See 35 Ill. Adm. Code 120 *et seq*.; see also Classic Finishing, PCB 84-174, slip op. at 4; Duo Fast, PCB 87-4, slip op. at 8-9.

Confidentiality

Petitioner asserts that it has kept the claimed trade secret information confidential. Specifically, petitioner states it would not disclose the information claimed as trade secret except as necessitated by the CAAPP applications. Petitioner safeguards the information at its Danville facility with a 24-hour guard service and computerized plant entry system thereby assuring that no unauthorized entry takes place. Additionally, the information is stored in locked drawers. Any person who is not employed by petitioner who views the information must sign a corporate secrecy agreement. Tr. at 45. Petitioner only allows a very limited segment of management and staff to access the application information. Ag. Rec., App. No. 95120325 at 0003-05; Ag. Rec., App. No. 95120326 at 0003-05.

On the basis of these statements, the Board finds that the information involved meets the first prong of the two-pronged trade secret test.

Competitive Value

Petitioner also claims that the trade secret information has competitive value. Petitioner filed its request for trade secret when filing its CAAPP applications since it believes the information is valuable to its competitors only. Tr. at 10. In particular, petitioner states that the detailed operating data, required in the emissions determinations, could be of significant competitive value. Petitioner tries to keep all kinds of information from its competitors such as basic production data, production capacity information, cost of manufacturing information, sales information, product improvements, and processing improvements. Tr. at 44.

Petitioner claims the raw material data as trade secret material because the competitor could use that information to develop further information about its production capabilities and actual production at the facility. Tr. at 59. With regard to typical and maximum emissions on line 37, petitioner claimed trade secret because it did not want to provide information showing the typical and maximum emissions which the emission units equipment could produce. Tr. at 60-61. These emissions, petitioner claims, are directly related to its production levels. Tr. at 61. Further, petitioner believes that providing grouped information from the emissions point would provide competitive value to a competitor, but in that situation petitioner "understands" the requirement to do so. Tr. at 71.

On the basis of these statements concerning the competitive value of the claimed trade secret material, the Board concludes that the second prong of the trade secret test has been met. Therefore, the Board finds that the individual information used to compile the combined/aggregate values within the CAAPP applications constitutes a protectable trade secret. The Board notes that only the combined/aggregate information may be disclosed.

CONCLUSION

In summary, the Board finds that the individual line information submitted by petitioner should be disclosed to the public because it is emission data. However, for those emission units that are regulated on a combined or aggregate basis, the information need not be disclosed to the public on an individual basis, but rather on an aggregate or combined basis. Accordingly, the Board affirms in part and reverses in part the Agency's decision of April 24, 1998. The parties are directed to follow the order below consistent with this opinion.

ORDER

1. The Board orders that the information below concerning the plastics packaging process be protected as a trade secret:

Process Machine (P/M)	Page	Portion Claimed	Description
4	761	Item 21(a)	Raw Material Rates
4	767	Nothing deleted in public copy	Emission Information
4	778	Item 21(a)	Raw Material Rates
4	784	VOM Emissions	Emission Information
4	795	Item 21(a)	Raw Material Rates
4	801	VOM Emissions	Emissions Information
5	816	Item 21(a)	Raw Material Rates
5	822	VOM Emission	Emissions Information
5	833	Item 21(a)	Raw Material Rates
5	839	VOM Emissions	Emissions Information
5	850	Item 21(a)	Raw Material Rates
5	856	VOM Emissions	Emissions Information
6	871	Item 21(a)	Raw Material Rates
6	877	Nothing deleted in public copy	Emissions Information
6	888	Item 21(a)	Raw Material Rates
6	894	VOM Emissions	Emissions Information
6	905	Line 21(a)	Raw Material Rates
6	912	VOM Emissions	Emissions Information
Wienie Pak	981	Item 21(a)	Raw Material Rates

Press (W/P) 1			
W/P 2	989-2	Item 21(a)	Raw Material Rates
W/P 1	987	VOM Emissions	Emissions Information
W/P 2	989-8	VOM Emissions	Emissions Information

2. The Board orders that the information below concerning the cellulose packaging process be protected as a trade secret:

Process Machine (P/M)	Page	Portion Claimed	Description
1	142	Item 21(a)	Raw Material Rates
1	149-151	VOM Emissions	Emissions Information
1	173	VOM Emissions	Emissions Information
2	177	Item 21(a)	Raw Material Rates
2	184-186	VOM Emissions	Emissions Information
2	208	VOM Emissions	Emissions Information
3	212	Item 21(a)	Raw Material Rates
3	219-221	VOM Emissions	Emissions Information
3	243	VOM Emissions	Emissions Information
4	247	Item 21(a)	Raw Material Rates
4	254-256	VOM Emissions	Emissions Information
4	278	VOM Emissions	Emissions Information
5	282	Item 21(a)	Raw Material Rates
5	289-291	VOM Emissions	Emissions Information
5	313	VOM Emissions	Emissions Information
6	317	Item 21(a)	Raw Material Rates
6	324-326	VOM Emissions	Emissions Information
6	348	VOM Emissions	Emissions Information
7B	387	Item 21(a)	Raw Material Rates
7B	393-394	VOM Emissions	Emissions Information
7B	416	VOM Emissions	Emissions Information
10 ½	525	Item 21(a)	Raw Material Rates
10 ½	531-532	VOM Emissions	Emissions Information
Barrates	538	Item 21(a)	Raw Material Rates
Barrates	544-545	VOM Emissions	Emissions Information
Viscose Makeup	557	Item 33	Tank Throughput
Viscose Makeup	561-562	VOM Emissions	Emissions Information
Lagoon Inlet	668	Item 21(a)	Raw Material Rates
Lagoon Inlet	674-675	VOM Emissions	Emissions Information

Lagoon Outlet	681	Item 21(a)	Raw Material Rates
Lagoon Outlet	687-688	VOM Emissions	Emissions Information

3. Regarding Table 6 of CAAPP Form 215, the Board orders that the hazardous air pollutant data for those individual units which are regulated on a combined/aggregate basis should be protected as a trade secret. Further, the Board orders that the hazardous air pollutant data for such units should be disclosed only on a combined/aggregate basis.

4. The remaining claimed trade secret information constitutes air emission data and is required to be made available to the public pursuant to Section 7(c) of the Environmental Protection Act.

5. The Board orders the Clerk of the Board to continue to protect the determined trade secret information pursuant to Subpart C of 35 Ill. Adm. Code 120, and to mark these items in red ink with the word "DETERMINED" pursuant to 35 Ill. Adm. Code 120.310.

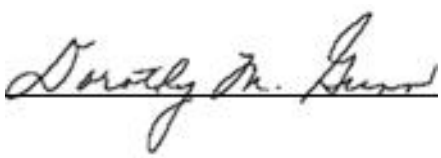
6. The Board orders the Clerk of the Board to continue to protect these articles as trade secrets pursuant to Subpart C of 35 Ill. Adm. Code 120 for 35 days from the date of this order. If within 35 days the Board does not receive a motion to reconsider or modify this order or a notification of a petition for review of this order by a court of competent jurisdiction, the Clerk is ordered to make these articles available for public inspection and to notify the owner.

7. If the Board receives a motion to reconsider or modification of this order or a notification of a petition for review of this order by a court of competent jurisdiction, the Clerk is ordered to continue to protect these articles as trade secrets pursuant to Subpart C of 35 Ill. Adm. Code 120, until otherwise ordered by the Board.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 3rd day of 1998 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board