

22PRR9770: 3M Wausau 2021 CAA Violation Request

Applin, Jessica E - DNR <jessica.applin@wisconsin.gov>

Fri 11/25/2022 3:17 PM

To: Tom Kilian <tkilian@kilianimc.com>

Cc: DNR Records Response <DNRRecordsResponse@wisconsin.gov>

Hello Tom Kilian:

In response to your public records request, submitted on **November 1, 2022**, the Department has searched for the following records:

“Records pertaining to this facility's (**3M Company -- Wausau Downtown; 144 Rosecrans Street; Wausau, WI 54401**; FID: 737009460) 10/18/21 Clean Air Act (CAA) violations (at least one of which is a High Priority Violation). The records I am requesting include, but are not limited to, the 11/03/2021 Notice of Violation from the State. The 2021 violation(s) and Notice of Violation from the State are referenced on the following EPA ECHO page [here.](#)”

The Wisconsin Department of Natural Resources has concluded its search and located records for this property responsive to your request. You can download the file at the link provided below.

- [22PRR9770 – 11.25.22-release](#)

One record was withheld because it includes communications related to civil penalty calculations related to an ongoing enforcement action that was referred to the Wisconsin Department of Justice. The Department of Justice uses these calculations in negotiations before or during litigation. The release of these records would weaken the state's position while negotiating pending enforcement actions. The penalty calculations have been withheld pursuant to the public records balancing test (Wis. Stat. § 19.35(1)(a)), as the public interest in maintaining the confidentiality of this record and the strength of the state's negotiating position outweighs the presumption of full disclosure. Furthermore, information used in negotiation is exempt from the open meetings law under 19.85(1)(e) while negotiations are pending and is likewise exempt from disclosure under the public records law.

Some records are attorney-client privileged communications and not subject to disclosure under the public records law. *George v. Record Custodian*, 169 Wis.2d 573, 582 (Ct. App. 1992); Wis. Stat. § 905.03(2). Where responsive records include attorney-client privileged communications and communications not subject to this privilege, the attorney-client privileged communications have been redacted and the remaining responsive portions of the records have been released to you.

Drafts of documents are not being produced because drafts are not records as defined in Wis. Stat. § 19.32(2). See *Schill v. Wis. Rapids Sch. Dist.*, 2010 WI 86, ¶ 71. Final documents are being produced.

Some records were redacted because they contained a passcode or moderator code for conference call line(s) pursuant to the public records balancing test. This was necessary to protect the security and integrity of the conference call line(s) because providing the access code poses substantial risks. The public interest in disclosure is outweighed by the public interest in maintaining the security and integrity of the system.

Pursuant to Wis. Stat. § 23.38(2), we redacted identifying information about the informant from 000185-4734 confidential hotline call for service reports. We cannot release information regarding the reporting party or information that could compromise their identity, as we are statutorily required to protect the identity of the reporting party.

At this time, your public records request will now be considered closed. Thank you and please let me know if you have any questions.

Respectfully,

We are committed to service excellence.

Visit our survey at <http://dnr.wi.gov/customersurvey> to evaluate how I did.

Jessica E. Applin

Pronouns: she/her/hers

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Wisconsin Department of Natural Resources

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Pursuant to Wis. Stat. § 19.35(4)(b), these determinations are subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.