

Swagelok

Swagelok Company
29500 Solon Road
Solon, Ohio 44139-3492
www.swagelok.com

Philip J. Carino
General Counsel
440.649.5056
philip.carino@swagelok.com

July 25, 2017

Via Email (Charles.Mullins@nrc.gov)

Mr. Charles E. Mullins
Office of the General Counsel
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Re: Swagelok - Nuclear Regulatory Inspection Report No. 99901477/2017-201 (the "Inspection Report")

Dear Charles:

Thank you for your email of yesterday afternoon. This letter responds to your question about why Swagelok's supplier list may be entitled to exemption from disclosure under Exemption 4, even if, in some cases, supplier lists of other vendors may have been publicly disclosed.

I understand from your email and our prior phone conversations that Department of Justice staff that is advising on this matter. As noted in my July 7, 2017 letter, the DOJ has identified supplier lists as "items usually regarded as commercial or financial information" under Exemption 4 (as have numerous other agencies), and I believe that Swagelok is a perfect example of why this is the case.

Unlike other vendors, whose supplier information may have been released, three important factors support the protection of Swagelok's supplier list:

- First, Swagelok requested that the NRC not release its suppliers' identities to the public prior to the audit, at the close of the audit, and upon receipt of the NRC's inspection report.
- Second, Swagelok makes reasonable efforts to maintain the secrecy of such information. Swagelok does not disclose supplier identities unless it is required to do so. Swagelok also protects the identities of its suppliers through non-disclosure agreements. Finally, Swagelok takes steps to avoid public disclosure through requests like this one.
- Third, the identities of Swagelok's suppliers (especially the extensive list available in the unredacted Inspection Report) has significant value, and the disclosure of these suppliers would cause competitive harm to Swagelok.

Swagelok may be in a different position from other vendors for a number of reasons. The supplier list of another vendor may not be exempt from disclosure if:

- the vendor did not request that the NRC keep the supplier list confidential,
- the vendor does not maintain the confidentiality of the information generally, or
- disclosure of the vendor's list would not result in competitive disadvantage.

Swagelok firmly believes that disclosure of its supplier list would give competitors a distinct advantage. Swagelok enjoys a valuable reputation for quality and reliability in part due to its

11/20/2017, original, SUNS / review has been completed, 

Mr. Charles E. Mullins
Office of the General Counsel
July 25, 2017
Page 2 of 2

meticulousness in choosing its suppliers and the manner in which it works and collaborates with suppliers. Through a lot of hard work and significant investment over the years, Swagelok has developed a roster of suppliers that are highly capable and offer high quality and reliability. In other words, Swagelok locates suppliers through significant investigation and qualification. Then, it works with those suppliers so that the processes and products of the suppliers improve, and the suppliers are exposed to Swagelok practices and specifications. A competitor that is provided access to the identities of Swagelok's supplier could free ride on Swagelok's efforts without investing the time, effort, and expense that Swagelok has undertaken to locate good suppliers and develop strong and efficient practices within its supplier base.

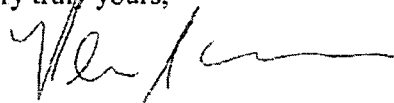
Indeed, Swagelok's supplier list is analogous in some respects to "Angie's ListTM." A consumer can go to the Yellow Pages for a complete list of roofing contractors, but that list says nothing about quality or reliability of any particular contractor. The consumer would have to invest significant time, effort, and expense to research all of the contractors listed in the Yellow Pages to find the best. For consumers that have joined Angie's List, that work is done for them. They now have a short list and know, without doing their own investigation, that a roofing contractor who is highly rated on Angie's List meets certain measures in terms of quality and reliability. In addition, Angie's List develops and improves roofing contractors by forcing them to offer strong customer service and respond to consumer feedback. If a contractor does not do a good job, its rating and usage drops.

Similarly, if a Swagelok competitor is able to learn the identities of Swagelok's suppliers, then the competitor becomes like a consumer who has access to Angie's List. The competitor knows that the short list of Swagelok suppliers is highly capable and offers high quality and reliability without having to invest time, effort, and expense in repeating the sort of effort that Swagelok had undertaken. The competitor can free ride on Swagelok's efforts.

Protecting the confidentiality of Swagelok's supplier list would encourage companies like Swagelok to continue to invest in supplier identification and development, thereby raising the bar for the quality of products supplied for nuclear applications. Accordingly, Swagelok requests that the NRC publish only a redacted version of the Inspection Report that blocks out the names of Swagelok's suppliers. That would be consistent with the case law and agency guidance discussed in my letter of July 7, 2017.

Please let us know if we can provide any further information. If you wish, I would be happy to have a discussion directly with the Department of Justice team that is involved.

Very truly yours,



Philip J. Carino