



## CONFIDENTIAL EIQ INFORMATION

Information submitted in an Emissions Inventory Questionnaire (EIQ) may satisfy the definition of confidential business information. If a company meets the criteria the department's Air Pollution Control Program (APCP) will keep the designated material confidential. If you have questions regarding these procedures, contact Dan Williams with the Air Program's Emissions Inventory Unit at (573) 751-4817.

Section A of this document outlines the steps to initiate a confidential status request.  
Section B lists the criteria for reviewing such requests.  
Section C describes the procedures that APCP will follow in processing these claims.  
Section D defines confidential business information and emissions data.

NOTE: This summary is intended to paraphrase the existing regulations regarding confidentiality requests for clarity. It cannot replace the regulations themselves, which can be found in 10 CSR 10-6.210 Confidential Information, or by clicking on this link:

<http://www.sos.mo.gov/adrules/csr/current/10csr/10c10-6c.pdf>

### A. APPLYING FOR CONFIDENTIAL STATUS

1. Requests for confidential status must be submitted each year in a letter format, whether the EIQ was mailed in or submitted via MoEIS. An authorized company representative must sign each request. (Consultants ARE NOT viewed as authorized company representatives). The claim of confidentiality must be submitted within ten working days following EIQ submittal.
2. Once confidentiality has been requested, the facility is responsible for submitting two copies of the EIQ. One normal copy and another sanitized copy. If the EIQ was submitted via MoEIS, only a sanitized copy is necessary. The sanitized EIQ should have all of the fields that can be kept confidential already blacked out. The EIQ will be filled exactly as the normal EIQ, except that no information will be put into the blacked out fields. Both the normal and the sanitized EIQ will be sent to the APCP. The normal EIQ will be for in-house use only. The sanitized EIQ will be kept in our public files.
3. If the EIQ submission is in hard copy format, write or stamp "CONFIDENTIAL" in large letters, preferably red, on the top of Form 1.0. This notation flags the EIQ for immediate special attention upon arrival at APCP. Unless clarification is needed, it is not necessary to stamp "CONFIDENTIAL" on other pages.
4. If the EIQ is submitted via the Internet using the department's Web based MoEIS application, you must indicate your request for confidentiality on the Web page. Once you have successfully logged into MoEIS, click "Site" on the green navigation bar, and then "General Info" on the dropdown. Next, select the "yes" radio button which is located after the question, "Does the EIQ contain confidential information?". As with hard copy EIQ submissions, a sanitized paper version of the EIQ must still be submitted, which will be kept on-file within the Air Pollution Control Program. If an online confidentiality request is not followed-up by a sanitized paper copy within 30 days of the reporting deadline, the confidential status of the facility will be in jeopardy.

## **B. CRITERIA FOR EVALUATING REQUESTS FOR CONFIDENTIAL STATUS**

1. Confidential business information is defined in Section D. Any information for which confidentiality is granted must satisfy that definition. The following classes of information ARE NOT entitled to confidential status:

1. Emissions data (See Section D).
2. Publicly available information and information that is "common knowledge."
3. All information on Forms 1.0 and 4.0.
4. A claim of confidentiality shall be granted if—
  - a. The owner or operator has asserted a business confidentiality claim that has not expired by its terms, been waived or withdrawn;
  - b. The owner or operator has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and that it intends to continue taking those measures;
  - c. The information is not, and has not been, reasonably obtained without the owner's or operator's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special needs in a judicial or quasi-judicial proceeding);
  - d. No statute specifically requires public disclosure of the information;
  - e. The information is not emission data; and
  - f. The owner or operator has satisfactorily shown that public disclosure of the information—
    - i. Is likely to cause substantial harm to the business' competitive position; or
    - ii. Was voluntarily submitted and its disclosure would be likely impair the director's ability to obtain necessary information in the future. Information is voluntarily submitted if the director has no statutory, regulatory or contractual authority to obtain some benefit or avoid some disadvantage under the Missouri Air Conservation Law and implementing rules (for example, information required to obtain a permit or other approval is submitted to obtain a benefit from the Missouri Air Conservation Commission).

## **C. PROGRAM PROCEDURES FOR HANDLING CONFIDENTIAL REQUEST**

1. The program will inform the facility by letter that they have received the EIQ and confidential request and that the information will be treated as confidential unless further review indicates the status is not appropriate. This letter also will list the information subject to confidential status.
2. The program will notify the facility of its preliminary decision regarding the confidentiality request. If this decision is to deny the request this notification will include the reason(s) for the denial and the procedures and timetable for appealing the denial.

## **D. DEFINITIONS**

Code of State Regulations 10 CSR 10-6.210 lists procedures and conditions for handling confidential information. The following terms are defined in that rule:

1. Under existing legal concepts a business has the right to preserve business information as confidential and to limit its disclosure so the business may obtain or retain business advantages it derives from its rights to the information. Confidential business information may include secret processes, secret methods of manufacture or production, trade secrets and other information possessed by a business.

2. Emission data means -

a. The identity, amount, frequency, concentration or other characteristics (to the extent related to air quality) of any air contaminant that -

i. Has been emitted from a source operation;

ii. Results from any emission by the source operation;

iii. Under an applicable standard or limitation the source operation was authorized to emit; or

iv. Is a combination of any of the foregoing.

b. The name, address or a description of the location, and the nature of the source operation. The information should identify the source operations, including a description of the device, equipment or operation constituting the source operation; and

c. The results of any emission testing or monitoring required to be reported under this rule or other rules of the Missouri Air Conservation Commission.