



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 the Data Management Unit Chief at eiq@dnr.mo.gov or (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://s1.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c10-6a.pdf>

A. APPLYING FOR CONFIDENTIAL STATUS

First, submit the EIQ:

Hardcopy EIQs: Check the box at the top of the cover page, Form 1.0, to indicate that this facility intends to request confidentiality. Send in the entire report, with all fields visible, for APCP use.

MoEIS EIQs: On the "Submit EIQ" page, check the yes button next to the question "Does this EIQ contain confidential information?".

Second, send a request letter: Requests for confidential status must be submitted each year in letter or email format. An authorized company representative must make each request. Consultants ARE NOT viewed as authorized company representatives. The claim of confidentiality must be submitted within ten working days following EIQ submittal. Section B lists the items needed in the request letter for it to be granted.

Third, send in a sanitized EIQ. According to 6.210, the director may segregate confidential information from that subject to public disclosure, but having the facility provide this initial analysis via the sanitized EIQ is a preferred starting point for data disclosure. The sanitized EIQ should have all of the fields - claimed confidential blacked out. For hardcopy EIQs (not MoEIS submitted), the full EIQ with all fields visible must also be submitted to fulfill the EIQ reporting requirement, with the "Confidential" box checked at the top of the first page, Form 1.0. The sanitized EIQ will be available for public review, and the full report containing all data will be available only to employees and agents of the Department of Natural Resources.

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:

- a. Emissions data (See Section D).
- b. Publicly available information and information that is "common knowledge."
- c. All information on Forms 1.0 and 4.0.

2. A claim on 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 REQUESTS

The program will inform the facility by letter that they have received the EIQ and confidential request. The letter will state whether the claim of confidentiality is granted or preliminarily denied. A preliminary decision to deny the request will be followed by the reason(s) for denial and the procedures and timetable for appeal. This letter also will list the information subject to confidential status.

When a public request for data is made, and the confidentiality request from the owner has not been finally denied, procedures in 10 CSR 10-6.210 (5) (A) apply.

D. DEFINITIONS

The following terms are defined in Code of State Regulations 10 CSR 10-6.210:

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.