

## 10 CSR 10-6.210 Confidential Information

(1) Applicability. This rule shall apply to all business information requested to be designated confidential under Chapter 643, RSMo.

(2) Definitions.

(A) Confidential business information-Secret processes, secret methods of manufacture or production, trade secrets, and other information possessed by a business that, under existing legal concepts, the business has a right to preserve as confidential, and to limit its use by not disclosing it to others in order that the business may obtain or retain business advantages it derives from its rights in the information.

(B) Emission data-

1. The identity, amount, frequency, concentration, or other characteristics (related to air quality) of any air contaminant which-

A. Has been emitted from an emission unit;

B. Results from any emission by the emissions unit;

C. Under an applicable standard or limitation, the emissions unit was authorized to emit; or

D. Is a combination of any of the subparagraphs (2) (B) 1.A., B., or C. of this rule;

2. The name, address (or description of the location), and the nature of the emissions unit necessary to identify the emission units including a description of the device, equipment, or operation constituting the emissions unit; and

3. The results of any emission testing or monitoring required to be reported under this rule or other rules of the commission.

(C) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions. Any information or records submitted or obtained pursuant to Chapter 643, RSMo, is subject to public disclosure unless a request for confidentiality is made by the person submitting the information or records and the request has been approved pursuant to the following procedures:

(A) Procedures.

1. An owner or operator who wishes to claim confidentiality for any information submitted pursuant to this rule or other rules of the commission should submit a claim of confidentiality when the information is initially submitted. Failure to submit a claim of confidentiality when the information is initially submitted may result in public disclosure.
2. The claim of confidentiality shall be accompanied by a justification that the information is entitled to confidential treatment.
3. When information claimed to be confidential is being submitted with a permit application, emissions report, or any other documentation containing information subject to public disclosure, a separate version that may be viewed by the public shall be provided by the owner or operator.
4. Upon receipt of a claim of confidentiality, the director shall evaluate the claim and inform the owner or operator that the claim has been approved, or that a preliminary decision has been made to deny the claim in whole or in part. Until that time in which the claim is reviewed it shall be held in confidence.
5. If a claim of confidentiality is denied in the preliminary review, the owner or operator will have fifteen (15) days from the date of the denial letter to

submit further justification or comments to the director for consideration in the final decision on confidentiality. The director shall inform the owner or operator of his/her final decision on whether the claim will be denied in whole or in part within ten (10) working days of receiving the owner or operator's further justification or comments.

6. The owner or operator may appeal the director's final decision to deny a claim of confidentiality, in whole or part, to the administrative hearing commission pursuant to section 621.250, RSMo, and 10 CSR 10-1.030. Upon the timely filing of a notice of appeal, the confidentiality of the information shall be preserved until the entry of a final order by the commission.

7. If the commission's final decision is to deny the claim of confidentiality, in whole or in part, the director shall treat the information as subject to public disclosure unless the owner or operator files a timely action for judicial review pursuant to section 536.110, RSMo. If a timely action for judicial review is filed, the confidentiality of the information shall be preserved until adjudication of the matter upon judicial review.

8. A claim of confidentiality under this rule shall be approved if-

A. The owner or operator has asserted a business confidentiality claim that has not expired by its terms or been 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 to take 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-

(I) Public disclosure of the information is likely to cause substantial harm to the business' competitive position; or

(II) The information was voluntarily submitted and if disclosed, the submitter would be reluctant to provide additional information to the director in the future. Information is voluntarily submitted if the facility has no statutory, regulatory, or contractual obligation to provide the information; or the director has no statutory, regulatory, or contractual authority to obtain the information under federal or state law; and

(4) Reporting and Record Keeping. (*Not Applicable*)

(5) Test Methods. (*Not Applicable*)

EPA Rulemakings

CFR: 40 C.F.R. 52.1320(c)  
 FRM: 88 FR 42030 (6/29/2023)  
 PRM: 88 FR 29596 (5/8/2023)  
 State Submission: 9/20/2022  
 State Proposal: 47 MoReg 235-236 (2/15/2022)  
 State Final: 10 C.S.R. 10-6 (9/30/2022)  
 APDB File: MO-466  
 Description: The revisions include structural, formatting, and other text changes that are administrative in nature.

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CFR: 40 C.F.R. 52.1320(c) (86) (i) (A)  
 FRM: 61 FR 7714 (2/29/96)  
 PRM: 60 FR 16824 (4/3/95)  
 State Submission: 3/31/94  
 State Proposal: 19 MR 585 (2/15/94)  
 State Final: 10 C.S.R. 10-6 (1/27/95)  
 APDB File: MO-103, MO-111  
 Description: The EPA approved a new regulation which transferred in their entirety the confidential information provisions previously found in 10 C.S.R. 10-6.110. This rule provides procedures and conditions for handling confidential information.

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Difference Between the State and EPA-Approved Regulation

None.