



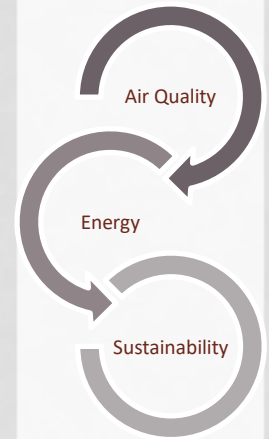
STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



ISG Meeting February 5, 2021  
In Collaboration with Division of Air Quality, NJDEP

# CONFIDENTIAL INFORMATION

UNDERSTANDING THE RULE REQUIREMENTS



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# CONFIDENTIAL INFORMATION

- Questions about Confidential Information in Air Permit Applications?
  - Start with Department's administrative procedures rule, N.J.A.C. 7:27-1, General Provisions.
  - Contact NJDEP. Talk to your Permit Evaluator.
  - Information submitted electronically is ALWAYS public information. Submit on PAPER, no RADIUS application.
  - High bar for asserting Confidentiality. Not very common.
  - Strict procedures for handling Confidential Information.

# SUBCHAPTER 1 DEFINITION

Information which the Department determines, in accordance to the procedures at N.J.A.C. 7:27-1.6 and satisfies all of the following:

1. The claimant has asserted a confidentiality claim consistent with N.J.A.C. 7:27-1
2. The claimant has shown that disclosure of the information would likely cause substantial damage either to the claimant's competitive position or to national security
3. The claimant has taken reasonable measures to protect the confidentiality of the information
4. The information is not available or otherwise disclosed, and not contained in materials which are routinely available to the general public

Bottom Line: Merely requesting that information should be classified as confidential does not necessarily mean it will be deemed as such.

# TWO IMPORTANT ITEMS FOR APPLICANTS

1. Procedure for making a confidentiality claim (N.J.A.C. 7:27-1.6)
  - Follow the labelling, highlighting, and mailing requirements.
  - Submit a confidential copy and a public copy with a notation that confidential information has been deleted.
2. Classes of information which are not confidential (N.J.A.C. 7:27-1.18)
  - Emissions information, as defined at N.J.A.C. 7:27-1.4, is not confidential information.
  - N.J.A.C. 7:27-1.4 defines “Emissions information” as information necessary to determine the identity, amount, frequency, concentration, or other characteristics of any air contaminant.

# NJDEP HANDLING OF CONFIDENTIAL INFORMATION

1. Safeguarding of confidential information (N.J.A.C. 7:27-1.28)
  - Submissions opened only by authorized persons.
  - Any records containing confidential information stored only in locked cabinets.
  - Authorized persons must take appropriate measures to safeguard information and protect against its improper disclosure.
2. Wrongful access or disclosure; penalties(N.J.A.C. 7:27-1.30)
  - Violation of this subchapter by a Department employee shall constitute grounds for dismissal, suspension, fine or other adverse personnel action.

# REVIEW OF CONFIDENTIAL APPLICATIONS

Parts of Permit applications deemed confidential by the Department will be processed as follows:

- Paper copy of the application will be used in the permit application review process.
- Paper Application filed as Confidential will not be publicly available.
- Parts of Permit application not deemed Confidential by the Department will be publicly available.

Take-Home Message: Review procedures in Subchapter 1. Contact NJDEP.  
Any information related to emissions is NOT Confidential. Submit on paper.  
Beware of additional review time.