

APPENDIX 33 CONFIDENTIALITY

CONFIDENTIALITY OF INVENTORY DATA

To be considered confidential, the person submitting emissions inventory data must request that the data be treated confidential at the time that he submits the data (**15A NCAC 2Q .0107(b)**). The person submitting the data with a request to keep it confidential needs to explain in writing why it should be held confidential.

When requested according to **15A NCAC 2Q .0107**, Confidential Information, all data will be held confidential except actual emission rates. Any calculations or analyses, e.g., material balances that include production rates, can be held confidential.*

CONFIDENTIALITY OF INFORMATION ON PERMIT APPLICATIONS

If a permit applicant desires certain information on his permit application be held confidential, he needs to (1) make the request at the time of submitting the application (**15A NCAC 2Q .0107(b)**), (2) submit along with the request for confidentiality a written explanation why the information should be held confidentiality (**15A NCAC 2Q .0107(b)**), and (3) submit two versions of the application. One application should include all information and data, including the confidential information and data;

*Laura Butler to Regional Air Quality Supervisors, *et al.*, 2 Sept. 1994, "Confidentiality of Inventory Data" (memorandum). Laura S. Butler to Regional Air Quality Supervisors, 9 Feb. 1998, "Internal Confidentiality Policies and Procedures for Air Permit Applications" (memorandum). "Internal Confidentiality Policies and Procedures for Air Permit Applications North Carolina Division of Air Quality."

this application will be held confidential. The Other application should contain emission rates and other nonconfidential information.*

INFORMATION THAT MAY NOT BE HELD CONFIDENTIAL

Emission data as defined in 40 CFR 2.301 may not be held confidential: 40 CFR 2.301 defines emission data as follows:

(a)(2)(i) Emission data means, with reference to any source of emission of any substance into the air—

(A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

(ii) Notwithstanding paragraph (a)(2)(i) of this section, the following information shall be considered to be emission data only to the extent necessary to allow EPA to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow EPA to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation:

(A) Information concerning research, or the results of research, on any project, method, device or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and

(B) Information concerning any product, method, device, or installation (or any component thereof) designed and intended to

**Ibid.*

be marketed or used commercially but not yet so marketed or used.*

TRADE SECRETS

A trade secret may be held confidential. G.S. 66-152 gives the following definition of trade secret:

- (3) "Trade secret" means business or technical information, including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process that:
 - a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
 - b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The existence of a trade secret shall not be negated merely because the information comprising the trade secret has also been developed, used, or owned independently by more than one person, or licensed to other persons.

*Laura S. Butler to Regional Air Quality Supervisors, 9 Feb. 1998, "Internal Confidentiality Policies and Procedures for Air Permit Applications" (memorandum). "Internal Confidentiality Policies and Procedures for Air Permit Applications North Carolina Division of Air Quality."