

Regulation on Protection of Confidential Information Regarding Hazard Evaluations(New Chemical Notification), etc.

Established by Ministry of Environment Public Notice No. 1997-79, August 29, 1997

Chapter I. General Provisions

Article 1. (Purpose)

The purpose of this regulation is to provide for detailed matters concerning the method of preparing an application for the protection of information (hereinafter referred to as the "application") and the method of managing information protected in accordance with Article 39 of the Toxic Chemicals Control Act (hereinafter referred to as the "Act"), and Articles 47 and 49 of the Ministerial Ordinance on the Toxic Chemicals Control Act (hereinafter referred to as the "Ministerial Ordinance").

Article 2. (Definitions)

Terms used in this regulation shall defined as follows :

1. "Confidential information" shall mean an applicant's own technical and business information which is likely to cause disadvantages to the applicant or submitter if the information is disclosed to a third party.
2. "Information protected" shall mean information for which an application for protection has been filed in accordance with Article 39, Paragraph (1) of the Act and information for which an application for protection has been accepted in accordance with this regulation.
3. "Generic name" shall mean a name of a chemical that an applicant attributes to it by substitution, to protect its confidential information in accordance with the method set forth in this regulation.
4. "Accident" shall mean an accident, such as disclosure, loss or robbery of information protected, or destruction or damage of storage facilities and equipment.

Article 3. (Responsibilities of the Head of Institution that Protects Information)

In accordance with Article 39 of the Act and Article 25 of the Presidential Decree on the Act, mayors or governors, the Head of the Environmental Management Office, the Head of the Regional Environmental Management Office, or the Head of the National Institute of Environmental Research (hereinafter referred to as the "Head of Protecting Institution") shall manage persons, documents and facilities relating to the protection of confidential information.

Article 4. (Appointment and Dismissal of a Person who is Authorized to Handle Information Protected)

- (1) The Head of Protecting Institution shall appoint the minimum number of personnel required to manage of information protected as persons who are authorized to handle information protected (hereinafter referred to as "Authorized Persons").
- (2) The Head of Protecting Institution shall cancel the authorization to handle information protected if an Authorized Person cause Accident deliberately, through gross negligence, or by failing to securely manage information protected.

Article 5. (Manager of Information Protected)

- (1) The Head of Protecting Institution shall appoint the minimum number of personnel from the Authorized Persons as manager(s) of information protected (hereinafter referred to as "Manager(s)") in order to store and manage information protected, and may appoint assistant manager(s) of information protected, if necessary, in order to assist the Manager's duties.
- (2) The Manager's duties shall be as follows :
 1. Establishment and supervision of plan concerning the implementation of duties for the management of information protected;
 2. In-service education for Authorized Persons and expected Authorized Persons;
 3. Maintenance of an inventory of current status of possession of information protected; and

4. Other matters necessary for the management of information protected.

(3) In the case of a replacement of the Manager, transfer of responsibilities shall be conducted according to the Ledger of Management of Information Protected (hereinafter referred to as the "Ledger of Management"), and confirmation shall be obtained from the Head of Protecting Institution.

Article 6. (Custody of Documents)

Custody period of any of the following documents shall be the longest protection period for the information protected concerned. In the case of substitution or re-preparation of the documents prior to the expiration of the custody period, authorization from the Head of Protecting Institution shall be obtained.

- 1. Ledger of Management : or
- 2. Ledger of records on inspection of information protected.

Chapter II. Application for Protection of Confidential Information

Article 7. (Applicant)

(1) The person who requested the Minister of Environment to protect confidential information submitted in accordance with Article 39, Paragraph (1) of the Act (hereinafter referred to as the "Applicant") shall mean a person who needs to obtain a hazard evaluation(notification) as set forth in Article 7, Paragraph (1) of the Act, or a person who submits data or materials in accordance with Article 14, Paragraph (2) of the Act.

(2) Notwithstanding the foregoing Paragraph (1) above, if an applicant is not able to directly submit the application for protection, such applicant shall entrust another person to submit the application for protection. In such case, the entrusted person shall submit a power of attorney on which such applicant's signature or seal has been affixed.

(3) Power of attorney as set forth in the foregoing Paragraph (2) shall be submitted whenever an application for protection of confidential information is filed or an application for extension of protection period is filed.

Article 8. (Method of Preparing Generic Names)

Method of preparing generic names as set forth in Article 2, Item 3 shall be as prescribed in Annex 1.

Article 9. (Preparation of Attachments)

(1) Summary of materials to be protected and the reason for their protection as set forth in Article 47 of the Ministerial Ordinance shall be prepared in accordance with any of the following methods :

- 1. Detailed reasons for applying, such as patents and contracts, shall be described based on each information to be protected in order to show that the contents concerned are confidential information as set forth in Article 2, Item 1 of this regulation.
- 2. When preparing the statement for the reason for protection as set forth in the foregoing Item 1 above, potential losses which the disclosure of contents to be protected may cause to the applicant's economic interest or competitive status shall be described in detail. In particular, if an applicant files for protection of matters other than chemical names, the reason for application shall be rationally presented.
- (2) An applicant shall indicate the contents to be protected by underlining them in red pen, and then collected the pages concerned only, make partial file, put them into an envelope, and tightly seal it, and thereafter, list the confidential information concerned and write "information protected" in red pen on the front side of the envelope.

Article 10. (Contents to be Reviewed)

The Head of Protecting Institution shall review the application for protection as to whether or not it falls under any of the following items, based on the attachments as set forth in Article 8 of this regulation:

- 1. Whether or not the chemical concerned can be designated as a toxic chemical or observational chemical;
- 2. Whether or not the contents to be protected have been disclosed inside or outside Korea in any form of document or record;
- 3. Whether or not the contents to be protected and the reason for application for protection is rational; or

4. Whether or not the protection period is proper.

Article 11. (Supplementation)

Upon the Head of Protecting Institution's request for supplementation of insufficiency in the application for protection, an applicant shall supplement it within the fixed period.

Article 12. (Return)

- (1) If an applicant fails to supplement the insufficiency despite the Head of Protecting Institution's request for supplementation for a fixed period due to an applicant's failure to supplement as stipulated in Article 11 above, the Head of Protecting Institution may return the original application to the applicant.
- (2) If reason for return as stipulated in the foregoing Paragraph (1) above occurs, the Head of Protecting Institution may return the application for protection of confidential information and any and all documents relating to the application for hazard evaluation (notification) to the applicant.
- (3) The Head of Protecting Institution shall manage the application for protection as information protected until said application is returned to the applicant upon the applicant's request, or said application is returned to the applicant as stipulated in the foregoing Paragraphs (1) and (2).

Article 13. (Protection Period)

- (1) The period of protection of information protected for which an application for protection has been accepted in accordance with this regulation, shall be five (5) years. However, if the applicant files an application for the extension of protection of information by preparing two (2) copies of the application for the extension of protection in Annexed Form No. 1, the protection period may be extended for an additional five (5) years. However, if the contents of patent are accepted as information protected, it may be excluded from the subject of protection upon the expiration of the term of the patent.
- (2) If an applicant wishes to extend the protection period in accordance with the foregoing Paragraph (1) above, the applicant shall file an application for the extension of protection of confidential information thirty (30) days prior to the date of the expiration of the protection period. If the applicant fails to file an application for the extension of protection of confidential information within this time limit, the protection period of confidential information shall be considered as having expired on the expiration date of the current protection period.

Article 14. (Notice)

- (1) When the Head of Protecting Institution gives notice of the results of the review as stipulated in Article 10 of Annexed Form No. 3, such notice shall include contents to the effect that a person who receives the results of the review may raise an objection to the contents of the notice within a fixed period written in the notice.
- (2) The Head of Protecting Institution shall manage the application as information protected until the person who receives the results of the review may raise an objection as stipulated in the foregoing Paragraph (1) above.

Chapter III. Method of Managing Information Protected.

Article 15. (Handling)

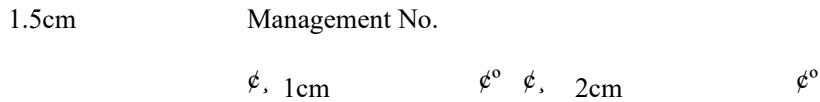
A person who is not an Authorized Person (hereinafter referred to as the "Unauthorized Person") shall not peruse, copy, keep or manage information protected. If an Unauthorized Person happens to obtain the information protected, he or she shall hand it over to the Authorized Person without delay.

Article 16. (Indication of Information Protected)

(1) The Manager shall inscribe the following indication on the cover of the information protected with a record of the total number of pages on the lower part of the center of the cover in order to prevent an Unauthorized Person from accessing information protected:

1cm	Information Protected		
0.5cm	By and Until (Date)		
	¢,	5cm	¢°

(2) The Manager shall inscribe the following indication on the upper part of the left side of the cover of the information protected in accordance with the order of filing an application for protection of confidential information, and shall describe the filing number based on the Ledger of Management.



Article 17. (Transmission and Receipt of Document)

A person who receives information protected shall hand over, without delay, the information protected to the Manager or Authorized Persons and shall obtain the signature or seal of the transferee.

Article 18. (Storage)

- (1) Information protected shall not be stored together with general information.
- (2) The Manager shall store information protected in safe storage facilities, such as a cabinet or safe in order to prohibit robbery, damage or theft of the information protected.
- (3) The storage facilities shall be positioned in such a manner that an Unauthorized Person may not gain access thereto, and shall not bear any marks indicating storage of information protected on the outside.
- (4) An Unauthorized Person shall not be allowed to be aware of the type or method of use of the lock of the storage facilities. Notwithstanding the foregoing, if an Unauthorized Person is considered to be aware of the type and method of use, such type and method of use shall be immediately changed.

Article 19. (Ledger of Management)

- (1) The Head of Protecting Institution shall maintain the Ledger of Management in Annexed Form No. 3 in order to record the receipt and handling of information protected.
- (2) All details on management of information protected shall be accurately recorded and maintained in the Ledger of Management as stipulated in the foregoing Paragraph (1) above.

Article 20. (Prohibition of Copying)

- (1) Reproduction of the original shape of a part or the whole of information protected, such as writing, typing or taking photos, at any time, shall be prohibited. However, for the purpose of hazard evaluation (notification) or arrangement of materials, part of the information protected may be abstracted, summarized or quoted by the Authorized Person.
- (2) In principle, documents which have been abstracted, summarized or quoted in accordance with the foregoing Paragraph (1) above shall be destroyed at the time of completion of the concerned duties. However, If it is deemed necessary that such documents should be kept, such documents shall be managed as information protected.

Article 21. (Perusal)

- (1) Information protected may be perused only by the Authorized Person whose duties are directly related to the concerned information.
- (2) Notwithstanding the foregoing Paragraph (1) above, if it happens to be necessary for an Unauthorized Person whose duties are directly related to the concerned information to peruse or handle information protected, the Head of Protecting Institution may approve such perusal after reviewing the rationality thereof. The same shall apply when it is necessary to peruse information protected in conducting government's responsibilities in accordance with Article 4 of the Act.
- (3) If the Head of Protecting Institution approves perusal in accordance with the foregoing Paragraph (2) above, he or she shall, prior to perusal, execute with the person who intends to peruse, an agreement in Annexed Form No. 4 to the effect that if the contents subject to perusal are disclosed to any third party, the person who intends to peruse shall be subject to punishment in accordance with Article 45, Item 8 of the Act.
- (4) Any person who intends to peruse information protected shall peruse information protected after recording the fact in the record of perusal of information protected in Annexed Form No. 5.

Article 22. (Disclosure)

Any Authorized Person or Unauthorized Person who peruses information protected shall not disclose the information protected unless the protection period has expired or the application for protection is withdrawn.

Article 23. (Temporary Removal)

An Authorized Person or Unauthorized Person who peruses information protected shall not remove the information protected from the concerned institution. However, if it is necessary to temporarily remove the information protected due to public duties, the approval of the Head of Protecting Institution shall be obtained to do so.

Article 24. (Destruction)

- (1) If information protected of which part is abstracted, summarized or quoted for hazard evaluation (notification) or arrangement of materials in accordance with Article 17, Paragraph (2) above shall be destroyed by incineration or an equivalent method by which the original shape of the information protected shall be completely destructed.
- (2) Destruction of information protected shall be performed by the Manager or an Authorized Person designated by the Manager himself.

Article 25. (Examination and Inventory of Actual Status of Management)

- (1) The Manager shall regularly or irregularly examine the actual status of the management of information protected according to Annexed Form No. 6, and the Head of Protecting Institution shall confirm and supervise the results of the examination and inventory.
- (2) If the Minister of Environment deems it necessary to secure the effective of protection of information, the Minister may examine the actual status and propriety of personnel, documents, materials, facilities and equipment for the protection of information.
- (3) For the examination stipulated in the foregoing Paragraph (2) above, the relevant public official may request the applicant to cooperate with respect to matters required for examination.

Article 26. (Report of Accident)

- (1) If an accident occurs, the applicant shall immediately report to the Head of Protecting Institution the date, time, place and nature of the accident as well as current measures being taken.
- (2) If the Head of Protecting Institution receives an accident report in accordance with the foregoing Paragraph (1) above, he or she shall not disclose the information protected until investigation of the accident is concluded and shall take necessary measures based on the investigation, such as suspension or termination of the validity of protection.

Chapter IV. Supplementary Rules.

Article 27. (Supplementary Rules)

The Decree on Security Duties and the Basic Act on Administrative Regulation and Civil Petition Duties shall apply to matters necessary for the protection of confidential information which are not provided in this regulation mutatis mutandis.

Addenda

(1) Date of Enforcement

This Regulation shall become effective as of the date of Pubic Notice.

(2) Notification of Invalidation

Ministry of Environment Public Notice No. 1996-175 shall be invalid as of the date of enforcement of this Regulation.

(3) Interim Measures for Term of Protection of Confidential Information

Confidential information which is protected under Ministry of Environment Public Notice No. 1996-175 shall be deemed as having been accepted under this Regulation, and the date of expiration shall be the date as stipulated in Article 8, Paragraph (3) of Ministry of Environment Public Notice No. 1996-175. However, the applicant may file an application for extension of the protected period in accordance with Article 13 of this Regulation.

<Annexed Form No. 1>

Application for the Extension of the Protection Period of Confidential Information

Applicant	(1)Trade name			
	(2) Name (Representative)		(4) Resident Registration No.	
	(3) Address	(Tel)		
Contents of notice of results of acceptance of application for protection of confidential information		(5) Notice No.		
		(6) Expected expiration date of protection period		
		(7) Item subject to protection of confidential information		
(8) Reason for application for extension of protection period				
(9) Extended protection period of confidential information				
I hereby make an application for an extension of the protection period of confidential information in accordance with Article 13 of the Regulation on Protection of Confidential Information Regarding Hazard Evaluation(Notification).				
(Date)				
Applicant Seal (or Signature)				
Extension Approval No. :				
I hereby approve the application for extension of protection period of confidential information as stated above.				
(Date)				
Head of Protecting Institution				

<Annexed Form No. 2>

No. :		Notice of Results of Acceptance of Application for Protection of Confidential Information		
Applicant	(1)Trade name			
	(2) Name (Representative)		(4) Resident Registration No.	

	(3) Address	(Tel)	
(5) Chemical Name (or Generic Name)			
Results of acceptance	(6) Items subject to protection of confidential information		(7) Expected expiration date of protection of confidential information
	(8) Denial of protection of confidential information	Item	
		Cause	
		Period for application of objection	
	I hereby notify the results of acceptance of application for protection of confidential information filed by you in accordance with Article 13 of the Toxic Chemicals Control Act, as stated above. (Date) Head of Protecting Institution		

<Annexed Form No. 3>

Agreement

Name :
Department :
Title :
Position :
Resident registration No. :
Information protected subject to
application for perusal

I, the above mentioned, hereby swear as follows : I recognize that I shall be sentenced to three years or less imprisonment or be fined a minimum of 10 million Won in accordance with Article 45, Item 8 of the Act if, when perusing the aforementioned information protected in accordance with Article 39 of the Act, anyone uses matters obtained during the perusal for any purpose other than the purpose of perusal or commits accident, such as disclosing to the public, propagating to a third party, or illegally copying or destroying the information which I have acquired during the perusal, and therefore, I will submit to the punishment stated above in case I commit any of the aforementioned illegal acts.

Date :
Person who provides the Agreement : (seal or signature)
Executor of the Agreement (Manager) : (seal or signature)

<Annexed Form No. 4>

Ledger of Management of Information Protected

Manage- ment No.	Applicant							Storage place	Extension of protection period of information			Expiration of protection period of information		Recorder		Witness											
	Trade name	Repre- sen- tative	Ad- dress	Filing Date	Hand- ling Date	Ex- pected Expi- ra- tion date of pro- tec- tion pe- riod	Con- tents pro- tected											1st	2nd	3rd	Date	Confirmation	Name	Signa- ture	Name	Signa- ture	

<Annexed Form No. 5>

Record of Perusal of Information Protected

Manage- ment No.	Trade name	Inspectiondate	Purpose of inspection	Contents of inspection	Personal information on inspector			Witness		
					Position	Name	Signature	Title	Name	Signature

<Annexed Form No. 6>

Record of Examination of Information Protected

Record of Examination of Information Protected							
Date of examination	Matters to be examined and results of examination				Examiner		
	Condition of storage	Recording of Ledger of Management	Record of inspection	Storage devices (locks, etc.)	Name	Title	Position