DENR Administrative Order No. \_\_\_\_\_\_

Series of 2023

**SUBJECT: GUIDELINES FOR CONFIDENTIAL BUSINESS INFORMATION (CBI) REQUESTS**

Pursuant to Sections 8, 11 (Item C), and 12 of Republic Act 6969, “Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990”, and Sections 15, 17, 22, 40 of DENR Administrative Order (DAO) No. 29 Series of 1992, “Implementing Rules and Regulations of RA 6969”, this Order is hereby issued for guidance on the process of requesting for Confidential Business Information (CBI) on chemical evaluations.

1. **Objective**

This Order aims to provide guidelines on the process for requesting of Confidential Business Information (CBI) for chemical evaluations of general inquiries and permits applied to the Bureau, which are: Premanufacture Preimportation Notification (PMPIN), Polymers and Polymer of Low Concern (PLC) Exemption from the PMPIN Process, Small Quantity Importation (SQI) clearance, Priority Chemical List (PCL), and Chemical Control Orders (CCO).

1. **Definition of Terms**

As used in this Order, the following terms are hereby defined:

* 1. Bureau – the Environmental Management Bureau
  2. Chemical Control Order or CCO – a policy to regulate, restrict, or prohibit the importation, manufacture, processing, sale, distribution, use and disposal of certain chemical substances and mixtures that present unreasonable risk and/or injury to health or the environment.
  3. Confidential Business Information or CBI – data or information requested to have restricted public access.
  4. CBI Provider – the entity who will submit the CBI to the Bureau, either as the owner of the CBI, or another entity who has the legal right to provide the information on behalf of the owner of the CBI
  5. New chemical – a chemical or chemical substance not yet listed in the Philippine Inventory of Chemicals and Chemical Substances (PICCS)
  6. Philippine Inventory of Chemicals and Chemical Substances or PICCS – a list of chemicals being imported, used and manufactured in the Philippines, as updated by the Environmental Management Bureau.
  7. Polymer Exemption or Polymers and Polymer of Low Concern (PLC) Exemption from the PMPIN Process – an exemption from the PMPIN Process for new chemicals applicable under the criteria for polymers stated in DAO 2019-18.
  8. Premanufacture Preimportation Notification or PMPIN – notification process in which a new chemical will be imported or manufactured. Chemicals notified in the PMPIN will eventually be listed in the PICCS.
  9. Priority Chemical List or PCL – a list of chemicals or chemical compounds regulated by the Environment Management Bureau due to its toxicity and other hazardous properties.
  10. Small Quantity Importation or SQI – an exemption from the PMPIN process for new chemicals being imported at less than 1000 kgs per year.

1. **Scope.** This Order shall cover the CBI for the following:
   1. Regulations involving confidential compositions of chemicals.
   2. Applications for the following permits:
      * PMPIN and its exemptions
      * PCL Compliance Certification or exemption
      * Chemical Control Orders (CCO)
2. **Process for CBI Application**
   1. For inquiries sent to the Bureau for evaluation of chemicals, the 100% composition with valid chemical names and CAS Registry Numbers (if available) must be submitted. CBI may be submitted separately by the information provider. The CBI Provider shall submit to the Bureau a CBI Form (see Annex A) with the following information:
      * Information on the CBI provider
      * Indicate which parts of the information are requested to be CBI
      * Clear justification (with concrete example) on the request for CBI
      * Specify companies who needs the evaluation of CBI
   2. For PMPIN applications and its exemptions:
      * The applicant will start their application at the Online Permitting and Monitoring System website; they shall indicate there which fields are to be submitted by CBI provider, and the details of the CBI provider.
      * The CBI provider will then be sent instructions through e-mail on how to submit the information through the OPMS.
      * If the Bureau would deny a CBI request, the CBI provider will be notified. The application will not proceed with the information that was submitted.
      * The importer can finalize the application only after the information has been completed.
3. **Guidelines for CBI**
   1. **PCL/CCO.** Information on chemicals under PCL and CCO is not allowed to be confidential. If the PCL/CCO chemicals are in a mixture, the other non-PCL/CCO components may be requested as CBI.
   2. **PICCS Tool.** For evaluation of chemical mixtures, composition of mixtures can be checked using the PICCS Tool, regardless of confidentiality. The PICCS Tool is available at the Online Permitting and Monitoring System website. The following information can be checked by providing the chemical component information:
      * Status of chemical listing in PICCS
      * Requirement to apply under PMPIN, PCL or CCO
   3. **Justification.** The justification stated by the applicant shall be evaluated based on its clarity and reasonableness. As such, the justification must satisfy the following:
      * Indicate who will be responsible for the veracity of the CBI submitted
      * Clearly explain why the information is CBI; the explanation must be concrete and not hypothetical.
   4. **CBI Liability**. The applicant shall be liable for the information sent by the CBI provider.
   5. **Agreement between parties.** There needs to be a signed Memorandum of Agreement between all involved parties: the applicant, the CBI provider, and/or third parties.
   6. **Denial.**
      * Upon evaluation of the application for CBI, and the information is deemed not acceptable to be CBI (non-compliance to Section 5.1. to 5.5), the Bureau will notify the parties involved. For applications on the OPMS, the application involved will not proceed.
      * For PMPIN Applications, if the new chemical applied for CBI is regulated by PCL or CCO, the confidentiality may be revoked. Upon approval of the PMPIN, the applicant shall apply for the relevant PCL/CCO for the regulated chemical.
4. **Revocation of CBI**
   1. Upon the event that the justification submitted becomes invalid, a notification will be sent to the parties involved. The parties will be given 30 days from the date of the notification to send a motion of reconsideration. Upon deadline and no response has been given, the document will no longer be considered CBI.
   2. The CBI provider may revise their confidentiality from confidential to public at any time they deem necessary.
5. **Penalty Clause**

Any falsification, misrepresentation or violation of the requirements specified in this Order shall subject the person(s) liable thereof to the applicable administrative and criminal sanctions as provided for under Section 14 of Republic Act 6969, Sections 41 and 43 of DAO 29, s. 1992 and DENR Memorandum Circular No. 2005-003.

1. **Separability Clause**

Should any provision or portion of this Order be declared unconstitutional or invalid, all the other provisions of this Order shall remain valid and enforceable.

1. **Repealing Clause**

All other existing Orders and related issuances inconsistent with this Order shall be repealed and modified accordingly.

1. **Effectivity**

This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation and upon acknowledgement of receipt of a copy hereof by the Office of the National Administrative Register (ONAR), UP Law Center.

**GILBERT C. GONZALES, CESO III**

Director and concurrent

Assistant Secretary for Field Operations

**ANNEX A**: Confidential Business Information Form

CBI Information supplier:

Company Name:

Company Address:

President/General Manager:

Contact Person:

Contact Number:

E-mail address:

Document submitted: (indicate what the document you submitted is, and who will use it)



Part(s) of document requested as CBI:



Justification (clearly explain why the information is CBI):



\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature over Printed Name Signature over Printed Name Date

Contact Person President/General Manager