



CONFIDENTIALITY REQUEST

AIR QUALITY REQUEST FOR CONFIDENTIALITY

A copy of this form must accompany the public (redacted) and confidential versions of the document(s). Please see instructions for more details on completing this form.

Company Name: _____

PROTECTION OF CONFIDENTIALITY

- 1. Please provide a description of all measures taken to protect the confidentiality of the information and a statement of the intent to continue to take such measures:**
(if additional space is needed please provide an attachment)

PRACTICES OF OTHER BUSINESSES

- 2. Please provide a description of the practices and policies of other businesses, if known, regarding the confidentiality of similar information:**
(if additional space is needed please provide an attachment)

ATTAINMENT OF INFORMATION

- 3. Please provide a statement explaining how the information is not, and has not been, reasonably attainable without the consent of the company by persons other than government bodies by use of legitimate means:**
(if additional space is needed please provide an attachment)

SUBSTANTIAL HARM

4. **Please provide a statement demonstrating disclosure of the information is likely to cause substantial harm to the company's competitive position:**
(if additional space is needed please provide an attachment)

OTHER CONFIDENTIAL DETERMINATIONS

5. **Please provide a reference to the status of any other confidential determinations for the information or similar information:**
(if additional space is needed please provide an attachment)

CERTIFICATION

I certify that based on information and belief formed after reasonable inquiry, the enclosed documents, including the attachments are true, accurate, and complete.

6. **Responsible Official's Name:** _____ Mr. Ms. Dr.
Responsible Official's Position Title: _____
Address _____
City _____ **State** _____ **Zip Code** _____
7. **Responsible OFFICIAL SIGNATURE** _____ 8. **Date** _____

Instructions for the Air Quality Confidentiality Request Form

- Only one (1) Confidentiality Form is required for each confidentiality request.
 - The regulations [561 IAC 2.5(7)“c”] require substantiation for confidentiality status of information. This form provides the questions required by the regulations.
 - In addition to this form, a company requesting confidentiality is required to submit one (1) original copy of the document and one (1) redacted version of the document.
 - Confidentiality is not transferable to future documents. If confidentiality is granted it is only for the specific document submitted with this form.
 - If information is already in the public domain it cannot be considered confidential in future documents.
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Company Name: This is useful if application pages become separated.

1. **Protection of Confidentiality:** Briefly describe how your company has kept the information secret from the public and what measures your company will take in the future to keep the information confidential. A few examples are employees signing confidentiality agreements, not allowing visitors to take pictures on tours, and periodic review of public files to ensure the information is not available to the public.
2. **Practices of Other Businesses:** If your company knows how other companies keep similar information confidential please provide a brief description of those practices.
3. **Obtaining Information:** Briefly describe how your company knows the public cannot obtain the information through legitimate means without the consent of the company. For example, what measures has the company taken to ensure the information is not on the internet or any public records?
4. **Substantial Harm:** Briefly describe the consequences to your company if the information is made available to the public.
5. **Past Confidential Determinations:** Briefly describe past determinations where your company has requested this or similar information to be held confidential. NOTE: Granting confidentiality for information in the past does not guarantee the granting of confidentiality in the future.
6. **Responsible Official's Name:** Provide the name and contact information of the Responsible Official associated with this confidentiality request. The Responsible Official is someone who has the authority to submit the confidentiality request on behalf of the company.
7. **Signature of Responsible Official:** The person designated as the responsible official must provide their signature on this form. The confidentiality request cannot be processed until a signed Confidentiality Form is received.
8. **Date** the Confidentiality Form is signed.

Regulations

- Requests for confidentiality are covered by 561 Iowa Administrative Code (IAC) Chapter 2.
 - 567 IAC 2.5(7) details how a company can request confidentiality and how that claim is processed.
 - 561 IAC 2.4(6) provides a list of information that is not considered confidential.
 - The pertinent parts of the regulations are provided below. Emphasis in the form of bolding key words has been added for the reader.
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2.5(7) Processing of business confidentiality claims.

- b. **Form.** A business which submits information to the department may assert a business confidentiality claim in the manner prescribed in the application or instruction, if any, otherwise by placing on or attaching to the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” When only a portion of the information is claimed to be confidential, only that portion shall be deleted from the application, report or other recorded submission, with appropriate reference to a separate claim for business confidentiality, which separate claim shall be submitted as specified above. If a request not to disclose information is filed with the department, the party shall file together with the document a second copy of the document from which has been deleted the information for which such party wishes to claim confidential treatment. The business shall conspicuously indicate on the face of the original document that it is confidential information and shall file a claim for confidential status in accordance with the provisions of 2.5(7) “c.”
- c. **Contents of claim.** All claims for confidentiality must be substantiated with the following information:
- (1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;
 - (2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;
 - (3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;
 - (4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business’s competitive position;
 - (5) A reference to any other determinations of confidential status of the information or similar information.
- d. **Initial action by department.** All claims will be reviewed within ten days of receipt for completeness and applicability of subrule 2.4(6). If the claim does not include the substantiation required by 2.5(7) “c,” or if the claim relates to information within 2.4(6), the business making the claim will be so notified by certified mail. If the substantiation or comment regarding the inapplicability of 2.4(6) is not received by the department within ten days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice. A timely response from the notice under this paragraph will be ruled on by the department within ten days, based on the applicability of 2.4(6) or compliance with 2.5(7) “c” as appropriate.
- e. **Initiation of official determination.** All claims not rejected under 2.5(7) “d” shall receive an official determination when a request for disclosure covering such information is received by the department or when the department deems it advisable to make a determination because a request for disclosure is likely to be received or because of administrative burdens in maintaining the information confidential. The procedures and criteria below shall be followed.
- f. **Substantive criteria for use in confidentiality determinations.** Determinations shall hold that business information is entitled to confidential treatment for the benefit of a particular person if:
- (1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;
 - (2) The information is not readily obtainable by others by legitimate means;
 - (3) The claim is not unreasonable in view of the nature of the information, the interests, and normal practices of the business, and the practices of other businesses;
 - (4) No statute or rule specifically requires disclosure of the information; and
 - (5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the

competitive position of the business.

Prior determinations by the courts, the department or other agencies on the information or similar information shall be given due consideration and effect.

- g. Preliminary determination—opportunity for comment.** The department shall transmit its preliminary determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure shall be sent a similar notice in the same manner within ten days of the request.
- h. Final determination.** A final decision shall be issued within ten days after the close of the comment period to the preliminary determination. If any substantial comments are received, the final decision shall be made by the director or designee. If no substantial comments are received, the claimant and the person requesting disclosure, if any, shall be notified that the preliminary determination is the final decision.

2.4(6) Notwithstanding any other provision, the following information will not be considered confidential by the department:

- a. Emission data;
- b. Analytical results of monitoring or public water supply systems;
- c. Name and address of any permit applicant;
- d. NPDES permits, applications (including any information required by NPDES application).

2.4(7) Definitions. For purposes of this chapter:

- a. **“Emission data”** means the following, with reference to any source of emission of any substance into the air:
 - (1) 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;
 - (2) 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
 - (3) A general description of the location and 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).
- b. **“Effluent data”** means the following, with reference to any source of discharge of any pollutant:
 - (1) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of any pollutant which has been emitted by the source (or of any pollutant resulting from any discharge from the source) or any combination of the foregoing;
 - (2) Information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics (to the extent related to water quality) of the pollutants which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and
 - (3) A general description of the location and 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).