

Confidentiality Request

Form #: 18-031

September 2022

Owner/Operator Name: _____
Common Name of Source/Facility: _____ NDEE Facility ID#: _____

Nebr. Rev. Stat. § 81-1527 and § 84-712.05 provide that certain records or information may be entitled to protection as trade secrets with confidential treatment by the Nebraska Department of Environment and Energy (NDEE).

This form, or its equivalent, must be completed and submitted to the NDEE to make a confidentiality request. The completed form provides information needed to enable NDEE to determine the eligibility of application materials for confidentiality. NDEE may request additional information or clarification.

**The confidentiality request process must be followed EACH TIME
confidential material is submitted.**

This form, or its equivalent, is a public record when received by NDEE.

By law, the following information is never eligible for confidential treatment:

- Emission data, draft and issued permits under the Clean Air Act
- Effluent data, permit applications, draft and issued permits under the National Pollutant Discharge Elimination System (NPDES) pursuant to the Clean Water Act

NDEE has determined that the following information is not entitled to confidential treatment:

- Potential to Emit, Quantity of Emissions
- Names of contaminants and regulated air pollutants
- Applicant name and contact information
- Items that can be viewed from off the property (examples: stack heights, external tanks)
- Items identified in previous permits, a facility file, or otherwise readily available to the public

Provide a response and detailed explanation to the following:

(Reference: [Nebraska Administrative Code Title 115, Chapter 2 – Confidentiality for Trade Secrets](#)).

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Please Note: In order to be eligible for confidentiality consideration you must have answered “Yes” to questions 1, 2, and 3; and answered “No” to questions 7, 8, 10, 11, 12, and 14. Otherwise, your request has not met minimum requirements for consideration of confidentiality.

1. **Yes** or **No** Are you requesting confidentiality on material submitted to NDEE that you consider confidential?
2. **Yes** or **No** Have you provided a complete (**not-redacted**) **original** of your request **and** a separate (identical except with requested confidential information **redacted**) **public copy** of the document with your request (note - both original and public copy are required)?
3. **Yes** or **No** Is the material for a method or process that you consider a trade secret?
4. If you answered “Yes” to the previous question, describe in detail why you consider it a trade secret (be sure to provide a redacted public copy and not-redacted original of any attachments).

Detail:

5. **Yes** or **No** Has a similar confidentiality request been approved or denied by NDEE or any other governmental agency in the past five years?
6. If you answered “Yes” to the previous question, provide an official copy of that determination.
7. **Yes** or **No** Has the information been publicly filed with another governmental agency?
8. **Yes** or **No** Is this information associated with a publicly traded source or has the information been disclosed in publicly available SEC (U.S. Security and Exchange Commission) filings?
9. Describe in detail measures the claimant has taken to protect the confidentiality of the information and how access to the information is restricted. Include detailed information on who it is restricted to, any policies and practices of securing the information including electronic restrictions and physical actions such as stamping the information “CONFIDENTIAL”, any confidentiality training provided to staff or others (training details, scheduled, etc.), and any other active measures or policies you have taken.

Detail:

10. **Yes** or **No** Can the information be obtained without the claimant’s consent by other persons (other than governmental bodies) by use of legitimate means?

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- 11. **Yes** or **No** Has the information ever been disclosed on your business website or social media or has the information been disclosed by your contractor, supplier, investors, or by a competitor?
- 12. **Yes** or **No** Is the information obtainable or identifiable from a physical or aerial observation of site operations (i.e. visible or accessible through use of aerial photography, Google Earth or similar websites, thermal imagery, or other readily available observation tools)?
- 13. Describe actions taken to ensure privacy from physical or aerial observation.

Detail:

- 14. **Yes** or **No** Can the information be calculated from publicly available sources?
- 15. Explain why disclosure of the information is likely to result in substantial harmful effects to the business's competitive position and identify specific competitors, by name, who could gain advantage through use of this information. Include in your detailed explanation any purported harmful effects, the extent of those effects, and any causal relationship between disclosure and such harmful effects.

Detail:

(References: *Confidential Business Information* - [19 CFR 201.6\(a\)](#) ; *Trade Secret* - [Neb. Rev. Stat. S. 87-502\(4\)](#))

Certification Statement of Responsible Person or Corporate Official for Owner/Operator	
<i>I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.</i>	
Signature	Date (mm/dd/yyyy):
Typed or Printed Name:	Title:

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NOTE: Even if confidentiality is granted by NDEE, any information received by NDEE may be used by NDEE in compiling or publishing analyses or summaries as long as the owners/operators are not identified and the analysis/summaries do not reveal any information that is otherwise confidential. Furthermore, NDEE is authorized by law to allow the US-EPA to inspect NDEE's confidential records.

Produced by: Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, NE 68509-8922, phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at <http://dee.ne.gov> .