

SECTION 12.6: CONFIDENTIALITY

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12.6 Confidentiality

Information obtained by the Control Officer either in performance of the Control Officer's duties under these AQRs or submitted by a business or individual pursuant to these AQRs, shall be public information unless otherwise designated as confidential pursuant to NRS 445B.570 and Section 12.6.

12.6.1 Certification of Confidentiality

A business or individual submitting information to the Control Officer or with regard to information obtained by the Control Officer may provide a Certification of Confidentiality in writing that the information is confidential. Such certification shall include:

- (a) A clear identification of the information claimed as confidential including a stamped or typed legend or other notice employing language such as "confidential" or "proprietary." Confidential information contained in an otherwise non-confidential document shall be submitted separately.
- (b) A justification for the claim of confidentiality with specific reference to the criterion in NRS 445B.570(6) on which the claim is based and the facts supporting the position that the criterion has been met.

12.6.2 Control Officer's Action on a Claim of Confidentiality

Within thirty (30) days of receipt of a Certification of Confidentiality, the Control Officer shall provide written notice by certified mail to the business or individual submitting the Certification that:

- (a) The certification is verified and approved; or
- (b) The certification is denied in whole or in part.

The notice shall state the basis for the determination, that it constitutes final action by the Control Officer on the Certification, and that the Control Officer will make information that has not been certified as confidential available to the public in accordance with Nevada public records law unless, within twenty (20) calendar days after receipt of the denial, the business or individual files a notice of appeal and petitions the Clark County Air Pollution Control Hearing Board in writing for a hearing to determine whether the Control Officer properly determined that the information was not confidential information. As applicable, Section 7 of these AQRs shall govern the appeals process.

12.6.3 Effect of the Submission of a Certification of Confidentiality or Appeal

- (a) Upon the submission of a Certification of Confidentiality in accordance with Section 12.6.1, the information for which a Certification has been sought shall not be made available to the public until the Control Officer has denied the Certification in whole or in part and the appeal period has run.
- (b) Upon the filing of a timely appeal, the information for which a Certification of Confidentiality has been sought shall not be made available to the public until the Hearing Board renders a decision determining that the denial of certification was proper.

12.6.4 Limitation of this Regulation

Nothing in Section 12.6 shall be construed as limiting the disclosure of information to the public under the provisions of NRS 445B.570(2), (3), and (4).

History: Adopted May 18, 2010