

1007 Request for Confidentiality

(a)

The Director will withhold from public inspection, pursuant to the applicable state and/or federal law, information received in connection with an application (including applications for interpretive opinions) or report, if in the opinion of the Director, the public inspection of such information is not necessary for the purposes of the law under which the information was filed, and the information is reasonably shown to meet either of the following: (1) The information is proprietary or of a confidential business nature, including but not limited to trade secrets, and has been confidentially maintained by the business entity and the release of which would be damaging or prejudicial to the business concern. (2) The information is such that the private and/or public interest is served in withholding the information.

(1)

The information is proprietary or of a confidential business nature, including but not limited to trade secrets, and has been confidentially maintained by the business entity and the release of which would be damaging or prejudicial to the business concern.

(2)

The information is such that the private and/or public interest is served in withholding the information.

(b)

Requests for Confidential treatment. A request for confidential treatment of any information received in connection with an application or report submitted to the Department must be filed with the information submitted. The information intended to remain confidential must be filed separately from the remaining parts of the application or report and marked "Confidential Treatment Requested." The person filing the application or report and requesting confidential treatment must sign the request. The signed request must contain the following: (1) A statement identifying the information that is the subject of the request and the application or report relating thereto. (2) A statement specifying the provisions of subsection (a) pursuant to which the request is made. (3) A statement of the grounds upon which the request is made, including (if applicable) a statement as to the information's confidentiality and the measures taken to protect its confidentiality, and a statement of the adverse consequences that are expected to result if the information is disclosed through the public records of the Department. (4) A statement of the specific time for which confidential treatment of the information is necessary, and the basis for such conclusion. (5) If appropriate, a statement of the extent to which such information has been, or will be, disclosed to present or proposed investors, or other persons appropriate under the statute pursuant to which the information is filed.

(1)

A statement identifying the information that is the subject of the request and the application or report relating thereto.

(2)

A statement specifying the provisions of subsection (a) pursuant to which the request is made.

(3)

A statement of the grounds upon which the request is made, including (if applicable) a statement as to the information's confidentiality and the measures taken to protect its confidentiality, and a statement of the adverse consequences that are expected to result if the information is disclosed through the public records of the Department.

(4)

A statement of the specific time for which confidential treatment of the information is necessary, and the basis for such conclusion.

(5)

If appropriate, a statement of the extent to which such information has been, or will be, disclosed to present or proposed investors, or other persons appropriate under the statute pursuant to which the information is filed.

(c)

Request for Confidentiality Available for Public Inspection. Requests for confidentiality will be available for public inspection. Therefore, the request for confidentiality should not contain information that is itself confidential.

(d)

Granting of Request. If a request for confidential treatment is granted, the person making such request will be notified in writing, the information will be marked "confidential" and kept separate from the public file, and the application or report will be noted with the following legend: "Additional portions of this filing have been granted confidential treatment pursuant to Section 1007 of Title 28, Chapter 1, of the California Code of Regulations. They are contained in a separate confidential file."

(e)

Denial of Request. Material for which confidential treatment is requested shall not be deemed filed unless the request is granted, and may be withdrawn by the

applicant if the request is denied, unless (1) the Director has already taken an official action in reliance on such information prior to receiving the request for confidential treatment; or (2) the Director determines that the withdrawal of such information is otherwise contrary to the public interest. If withdrawn, such information will not be considered by the Director in connection with the application or report.

(f)

Permissible Disclosure of Information Held Confidential. Information held confidential pursuant to this section may be disclosed by the Director, at any time and in the Director's sole discretion, whether on the Director's own motion or upon the request of any person, under the following circumstances: (1) To other local, state, or federal regulatory or law-enforcement agencies, in accordance with the law; (2) When necessary or appropriate in any proceeding or investigation pursuant to the law under which the information was filed; (3) Upon a determination by the Director that the private and/or public interest in disclosing such information outweighs the public interest in non-disclosure; or (4) Upon a determination by the Director that the justifications for the confidential treatment no longer exist. (5) If the Director determines to disclose confidentially held information pursuant to subsections (f)(1) through (f)(4), and concludes that the disclosure of such information is necessary and urgent, or that it is impractical under the circumstances to give notice to the person who requested confidential treatment of the information, the information may be disclosed without notice. Otherwise, the person who requested confidential treatment of such information shall be given written and actual notice through certified mail that the release of such information is under consideration and the reasons therefor. Thereafter, the person will be given five business days to explain why the need and justification

for continued confidentiality exists.

(1)

To other local, state, or federal regulatory or law-enforcement agencies, in accordance with the law;

(2)

When necessary or appropriate in any proceeding or investigation pursuant to the law under which the information was filed;

(3)

Upon a determination by the Director that the private and/or public interest in disclosing such information outweighs the public interest in non-disclosure; or

(4)

Upon a determination by the Director that the justifications for the confidential treatment no longer exist.

(5)

If the Director determines to disclose confidentially held information pursuant to subsections (f)(1) through (f)(4), and concludes that the disclosure of such information is necessary and urgent, or that it is impractical under the circumstances to give notice to the person who requested confidential treatment of the information, the information may be disclosed without notice. Otherwise, the person who requested confidential treatment of such information shall be given written and actual notice through certified mail that the release of such information is under consideration and the reasons therefor. Thereafter, the person will be given five business days to explain why the need and justification for continued confidentiality exists.

(g)

Requests to Inspect Confidential Information. A request to inspect confidential information pursuant to subsections (f)(1) through (f)(4) shall be in writing, state

the justification for the request, and be signed by the person making the request. A copy of the request for inspection shall be forwarded to the person who requested confidential treatment of the information in accordance with subsection (f)(5). If a request for inspection should be held confidential and not disclosed to the owner of the confidential information, the reasons therefor must be stated in such request, in accordance with subsection (b).

(h)

Nothing contained herein shall be interpreted as affording any person a right to withdraw information once it has been received by the Director, except as provided in subsection (e).