

**STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE**

Bulletin 2008-02  
Issued on February 15, 2008

- To:** All Entities Submitting Filings to the State of Minnesota via the System for Electronic Rate and Form Filing (“SERFF”)
- Subject:** Procedure for Requesting Maintenance of Data in SERFF Filings as Trade Secret Information That Will Not Be Accessible by the Public

**PURPOSE**

In general, all government data collected and maintained by the Department of Commerce are accessible by the public, unless a law, for example, classifies the data in such a way that prevents access by the public. Data in SERFF filings are government data. An entity could prevent public access to certain data in its SERFF filing(s) if such data meets the standards established in MINN. STAT. § 13.37, subd. 1(b) (2006) for “trade secret information.” This Bulletin explains the procedure for requesting maintenance of data in SERFF filings as trade secret information.

**PROCEDURE**

1. Before submitting a filing via SERFF, identify in the document to be filed the data you seek to have maintained as trade secret information by bracketing or highlighting the data.
2. When submitting the filing via SERFF, select the “Set Confidentiality” button. Then use the Option Buttons (  Option ) and Check Boxes (  Document ) to select the parts of the filing containing the highlighted or bracketed data you seek to have maintained as trade secret information.

At this stage, the parts of the filings you selected in step (2) are not accessible by the public.

3. Explain in writing why you think the highlighted or bracketed data should be maintained as trade secret information pursuant to MINN. STAT. § 13.37, subd. 1(b). Your explanation must demonstrate that:
  - a. You supplied the data at issue via SERFF. (Provide the SERFF Tracking Number.);
  - b. You have made reasonable efforts to maintain the data’s secrecy; and

- c. The data derives independent economic value from not being generally known to or readily ascertainable by other persons who can obtain economic value from its disclosure or use.

Submit this written explanation via SERFF under the tab entitled "Supporting Documentation" in the document category entitled "Request to Maintain Data as Trade Secret Information." If your written explanation itself contains data that you seek to have maintained as trade secret information, then follow the procedure in steps (1)-(3).

4. In the course of reviewing your entire filing, the Department will determine whether your written explanation justifies maintaining the data as trade secret information.
  - a. If not, the Department will contact you and give you thirty days to:
    - i. Respond to the Department's determination and/or
    - ii. Withdraw the request to maintain certain data as trade secret information.
  - b. If you do not respond within thirty days, the data at issue will be maintained as "public data not on individuals" under the Minnesota Government Data Practices Act in Chapter 13. Such data would be accessible by the public.
  - c. Similarly, if you withdraw your request to maintain certain data as trade secret information, that data will be maintained as public data not on individuals.
  - d. Or if, after receiving your response, the Department stands by its determination that the data should not be maintained as trade secret information, then the data will be maintained as public data not on individuals. If you continue to disagree with the Department's determination, you can:
    - i. Request from the Commissioner of the Department of Administration a written opinion or
    - ii. Seek judicial review.
  - e. If so – that is, if your written explanation justifies maintaining the data as trade secret information – the data will be maintained as "nonpublic data" under Chapter 13 and will not be accessible by the public. However, the classification of data is determined by the law applicable to the data *at the time a request for access to the data is made*, regardless of the data's classification at the time it was collected, created, or received.

If you have any questions about this Bulletin, please contact Ms. Tammy Lohmann at (651) 296-2327 or [Tammy.Lohmann@state.mn.us](mailto:Tammy.Lohmann@state.mn.us).

  
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