

3750-60-05 **Assertions of claims of trade secrecy where claim is pending before the administrator.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3750-1-01 of the Administrative Code titled "Incorporation by reference."]

- (A) A claimant who is required to file a report or other filing under the reporting requirements of sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code or rules adopted by the commission under divisions (B)(1)(d) or (B)(1)(e) of section 3750.02 of the Revised Code, may withhold from submission to the commission, committee, fire department or from any other person, the specific chemical identity, including the chemical name and other specific identification of an extremely hazardous substance listed under 40 CFR Part 355, Appendices A and B or a hazardous chemical identified in 29 CFR 1910.1200 (C) on the grounds that the information constitutes a trade secret if:
- (1) At the time of filing the submission to which the claim of trade secrecy pertains, the claimant submits a claim for protection of that information as a trade secret pursuant to rules adopted under division (B)(2)(d) of section 3750.02 of the Revised Code and submits a copy of the required report that indicates that such a claim has been filed and contains the generic class or category of the chemical identity in the place of the specific chemical and that is accompanied by the substantiation supporting the trade secret claim that was submitted to the administrator pursuant to section 322 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 USC 11042. The claimant may withhold from the copy of the substantiation submitted to the commission, committee, and fire department having jurisdiction over the facility, the specific chemical identity claimed to be a trade secret and information identified as confidential as provided in rule 3750-60-25 of the Administrative Code; or
 - (2) The claimant indicated to the commission, committee, and fire department having jurisdiction over the facility that such a claim was submitted to the Administrator and that a determination of the trade secrecy claim remains pending.
- (B) A claimant who is required to submit information under the reporting requirements under sections 3750.04, 3750.05, 3750.07, and 3750.08 of the Revised Code, and who has obtained a final determination from the Administrator that the information otherwise required to be submitted to the commission, committee, and fire department having jurisdiction over the facility, is a trade secret, may withhold the submission of the specific chemical identity under this rule if:

- (1) At the time of filing the submission in which such information is otherwise required, the claimant submits a copy of the Administrator's final determination of trade secret; and,
- (2) The submission to which the trade secret pertains contains the generic class or category of the chemical identity in place of the specific chemical identity. Methods of choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.

Effective: 01/02/2007

R.C. 119.032 review dates: Exempt

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Certification

12/19/2006
Date

Promulgated Under: 119.03
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3750.02(B)(14)
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