

3745-3-07 **Trade secrets; request for confidentiality.**

[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 rule 3745-3-01 of the Administrative Code.]

- (A) Any record, report, or other information obtained under this chapter shall be available to the public, except upon a showing satisfactory to the director that all or part of such record, report, or other information, other than effluent data, would divulge methods or processes entitled to protection as trade secrets, in which instance Ohio EPA shall consider such record, report, or other information or part thereof as confidential and administer such record, report, or other information pursuant to this rule. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. 2.302, shall not be considered confidential information and shall be available to the public without restriction. All other information that is submitted to the state or publicly owned treatment works (POTW) shall be available to the public at least to the extent provided by 40 C.F.R. 2.302.
- (B) A request for confidential treatment shall be submitted to Ohio EPA simultaneously with submission of the specific record, report, or other information with documentation sufficient to support that the record, report, or other information is confidential. Failure to make such timely request shall constitute a waiver of the right to prevent public disclosure. A request at a later time will be entertained by Ohio EPA, but Ohio EPA will not be liable for any information released prior to receiving the request.
- (C) A decision as to whether to treat the record, report, or other information as confidential shall be made by the director within forty-five days of receipt of the request and accompanying documentation. Until such decision is made, the record, report, or other information or part thereof, shall be treated as confidential. The person requesting confidentiality shall be notified in writing of the director's decision.
- (D) Any record, report or other information determined to be confidential may be disclosed, without such person's consent:
 - (1) To officers, employees, or authorized representatives of the state or a federal agency;
 - (2) In any judicial proceeding; and
 - (3) In any hearing conducted by Ohio EPA.

Effective: 10/1/2012

R.C. 119.032 review dates: 6/7/2012 and 6/7/2017

Promulgated Under: R.C. 119.03

Statutory Authority: R.C. 6111.03(Q), 6111.042

Rule Amplifies: R.C. 6111.03(Q), 6111.042

Prior Effective Dates: 4/7/1988, 5/21/2001, 2/1/2007