

3750-60-09 **Methods of asserting trade secrecy claims.**

(A) Method of asserting claims of trade secrecy for information submitted under division (C) of rule 3750.05 of the Revised Code:

(1) In submitting information requested by the committee under division (C) of section 3750.05 of the Revised Code, the claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.05 of the Revised Code. To assert a claim for trade secrecy under this section, the claimant shall submit to the commission the following information:

(a) A copy of the information which is being submitted under division (C) of section 3750.05 of the Revised Code to the committee, with the chemical identity or identities claimed trade secret deleted, and the generic class or category of the chemical identity or identities inserted in its place. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.

(b) A sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for each chemical identity claimed as trade secret. The claimant may claim the information in the substantiation as a trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.

(2) Trade secret claims asserted under paragraph (A) of this rule shall be sent to the address specified in rule 3750-60-95 of the Administrative Code.

(B) Methods of asserting claims of trade secrecy for information submitted under section 3750.07 of the Revised Code.

(1) The claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.07 of the Revised Code on the material safety data sheet. To assert a claim for trade secrecy for a chemical on a material safety data sheet, the claimant shall submit to the commission the following information:

(a) One copy of the material safety data sheet which is being submitted under division (E) of section 3750.07 of the Revised Code to the committee and fire department having jurisdiction over the facility, which shall make it available to the public. In place of the specific chemical identity claimed as a trade secret, the generic class or category of the chemical claimed as a trade secret shall be inserted. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.

- (b) A sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for every chemical identity claimed as a trade secret. The claimant may claim the information in the substantiation as a trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
 - (2) The claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.07 of the Revised Code on the chemical list. To assert a claim for trade secrecy for a chemical identity on the list, the claimant shall submit to the commission the following information:
 - (a) An unsanitized copy of the chemical list which is being submitted under division (A) of section 3750.07 of the Revised Code. The claimant shall clearly indicate the specific chemical identity claimed as trade secret, and shall label it "Trade Secret". The generic class or category of the chemical claimed as trade secret shall be inserted directly below the claimed chemical identity. The method for choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code.
 - (b) A sanitized copy of the chemical list shall be identical to the document identified in paragraph (B)(2)(a) of this rule except that the claimant shall delete the chemical identity or identities claimed as trade secret, leaving in place the generic class or category. This copy shall be sent by the claimant to the committee and fire department having jurisdiction over the facility, which shall make it available to the public.
 - (c) A sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for every chemical identity claimed as a trade secret. The claimant may claim information in the substantiation as a trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
 - (3) Trade secrecy claims asserted under paragraph (B) of this rule shall be sent to the address specified in rule 3750-60-95 of the Administrative Code.
- (C) Methods of asserting claims of trade secrecy for information submitted under section 3750.08 of the Revised Code.
- (1) The claimant may claim as trade secret the specific chemical identity of any chemical subject to reporting under section 3750.08 of the Revised Code. To assert a claim for trade secrecy for a chemical identity reported on an emergency and hazardous chemical inventory form, the claimant shall submit to the commission the following information:
 - (a) An unsanitized copy of the Tier II emergency and hazardous chemical inventory form which is being submitted under division (B) of section

3750.08 of the Revised Code. The claimant shall clearly indicate the specific chemical identity claimed as a trade secret by checking the box marked "Trade Secret" next to the claimed chemical identity. The Tier I emergency and hazardous chemical inventory form does not require the reporting of specific chemical identity and therefore, no trade secrecy claims may be asserted with respect to that form.

- (b) A sanitized copy of the Tier II emergency and hazardous chemical inventory form. This copy shall be identical to the document identified in paragraph (C)(1)(a) of this rule except that the claimant shall delete the chemical identity or identities claimed as a trade secret and include instead the generic class or category of the chemical claimed as a trade secret. The method of choosing a generic class or category is set forth in rule 3750-60-10 of the Administrative Code. This copy shall be sent by the claimant to the committee and the fire department having jurisdiction over the facility, or whichever entity requested the information.
 - (c) The sanitized and unsanitized substantiation in accordance with paragraph (C) of rule 3750-60-25 of the Administrative Code for every chemical identity claimed as a trade secret. The claimant may claim information in the substantiation as trade secret or as confidential in accordance with rule 3750-60-25 of the Administrative Code.
- (2) Trade secrecy claims asserted under paragraph (C) of this rule shall be sent to the address specified on rule 3750-60-95 of the Administrative Code.
- (D) If a specific chemical identify is submitted to commission, committee or local fire department having jurisdiction over the facility, without asserting a trade secrecy claim, the chemical identity shall be considered to have been voluntarily disclosed, and non-trade secret.
 - (E) A claimant making a trade secrecy claim under this rule shall submit to entities other than the commission only the sanitized or public copy of the submission and substantiation.

Effective: June 30, 1993

Original signed by: Kenneth A. Schultz, Acting Chairman, State
Emergency Response Commission
Certification

June 11, 1993
Date

Promulgated under: R.C. Chapter 119
Rule amplifies: R.C. Section 3750.09
Rule authorized by: R.C. sections 3750.02(B)(1)(i),
3750.02(B)(2)(d), 3750(B)(5), and 3750.02(B)(14)
Prior effective dates: None