

**Release of chemical identity determined to be a non-trade secret;
notice of intent to release chemical identity.**

- (A) Where a claimant failed to seek review by the environmental review appeals commission pursuant to procedures established in section 3745.04 of the Revised Code or the court of appeals of Franklin county pursuant to procedures established in section 3745.06 of the Revised Code within twenty days of receiving notice of a determination by the commission that the trade secrecy claim is invalid or that the chemical identity is not entitled to trade secret protection, the commission may furnish notice of intent to disclose that chemical identity claimed as a trade secret within ten days by furnishing the claimant with the notice set forth in paragraph (D) of this rule by certified mail (return receipt requested).
- (B) Where a claimant failed to seek review by the environmental review appeals commission pursuant to procedures established in section 3750.04 of the Revised Code or by the court of appeals of Franklin county pursuant to procedures established in section 3745.06 of the Revised Code within twenty days of receiving notice of a determination by the commission that the trade secret is insufficient, or insufficient after receipt of additional material, or if the claimant has not met the standard for good cause, the commission may furnish notice of intent to disclose the chemical identity claimed as a trade secret within ten days of furnishing the claimant with the notice set forth in paragraph (D) of this rule by certified mail (return receipt requested).
- (C) Where the commission, upon initial review pursuant to rule 3750-60-30 of the Administrative Code, determines that the chemical identity claimed as a trade secret in a submittal submitted pursuant to paragraph (D)(2) of rule 3750-60-30 of the Administrative Code is the subject of a prior final commission determination concerning a claim of trade secrecy for the same chemical identity for the same facility, in which such claim was held invalid, the commission may furnish notice of intent to disclose chemical identity within ten days by furnishing the claimant with the notice set forth in paragraph (D) of this rule by certified mail (return receipt requested).
- (D) The commission shall furnish notice of its intent to release chemical identity information claimed as trade secret by sending the following information to the claimant under the circumstances set forth in paragraphs (A), (B), and (C) of this rule.
 - (1) The notice shall state that the commission will make the chemical identity available to the petitioner and the public on the tenth working day after the date of the claimant's receipt of written notice unless the environmental review appeals commission or the court of appeals has first been notified of the claimant's commencement of an action to obtain review of the determination at issue and to obtain preliminary injunctive relief against disclosure.

- (2) The notice shall further state that if the court action is timely commenced, the commission may nonetheless make the information available to the petitioner and the public (in the absence of an order by the court to the contrary), once the court has denied a motion for preliminary injunction in the action or has otherwise upheld the commission determination, or, that if the appeal to the environmental review appeals commission or court of appeals is timely commenced, the commission may nonetheless make the information available to the petitioner and the public whenever it appears to the environmental review appeals commission or the court of appeals, after reasonable notice to the claimant, that the claimant is not taking appropriate measures to obtain a speedy resolution of the action.

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R.C. 119.032 review dates: Exempt

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Certification

12/19/2006
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3750.02(B)(14)
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