

3745-49-03

**Trade secrets.**

- (A) A trade secret claim shall be submitted to the agency simultaneously with submission of the specific information claimed to constitute a trade secret, and such request shall be accompanied by sufficient supporting documentation. If a claimant does not submit the documentation and substantiation in accordance with paragraph (B) of this rule within a reasonable time after the submission of the information claimed to constitute a trade secret, the submission shall be considered a public record of the agency.
- (B) In order to constitute a valid trade secret claim regarding a submission, the claimant shall, at the time of the submission, provide the following to the director:
- (1) An unredacted copy of the submission, identified as such, with each page numbered consecutively from beginning to end.
  - (2) A proposed public copy of the submission, identified as such, with each page numbered consecutively from beginning to end.
  - (3) With respect to each item of information claimed to be a trade secret, a statement that describes each item and identifies the location of each item in the submission.
  - (4) A sworn or affirmed statement of reasons, including the factual basis thereof, as to why each item of information redacted from the proposed public copy meets the definition of trade secret, as defined in division (D) of section 1333.61 of the Revised Code.
- (C) A trade secret claim is not asserted by simply stamping, marking, or otherwise identifying information as "confidential," "trade secret," or the like.
- (D) Upon receipt of a valid submission made in accordance with paragraph (B) of this rule, the agency shall retain the information as trade secret confidential.
- (E) If the underlying validity of a trade secret claim is challenged in court, the claimant bears the burden of defending the trade secret claim. The agency will continue to retain the records as trade secret confidential during the pendency of the court action regarding the validity of the trade secret claim. Once a judicial decision has been rendered regarding the trade secret claim, the agency will retain the information in a manner consistent with the court's trade secret determination.

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CERTIFIED ELECTRONICALLY

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Certification

05/08/2023

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Date

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