



Ohio Administrative Code

Rule 901:10-1-05 Trade secrets requests for confidentiality.

Effective: February 13, 2021

(A) Applicant means a person submitting a claim of trade secrecy to the director or to the director's authorized representative.

(B) Records, reports or other information obtained under Chapter 903. of the Revised Code or rules thereunder may be entitled to protection as trade secrets. In order to be protected, the applicant shall demonstrate to the director's satisfaction that all or part of such records, reports or other information, (including attachments that are required to be submitted), or other part thereof (other than effluent data) to which the director has access under this rule, if made public would divulge methods or processes or other information entitled to protection as trade secrets. If the director determines that the claim for trade secret is satisfied, the director shall consider such records, reports, or other information or part thereof confidential and manage the records, reports or other information pursuant to this rule.

(C) The following information is considered a public record for which claims of trade secrecy will be denied:

(1) The name and address of any permit applicant or permittee;

(2) Permit forms, permit applications, permits and sampling and effluent data;

(3) Information required by NPDES application forms provided by the department including information submitted on the forms themselves and any attachments used to supply information required by the forms; and

(4) Any public comments, testimony or other documentation from the public concerning a permit application.

(D) A request for confidentiality shall be submitted to the director simultaneously with submission



of the specific record, report or other information. The applicant shall clearly indicate the record, report or information as trade secret and shall label it "trade secret." Failure to make such request simultaneously shall constitute a waiver of the right to prevent public disclosure. A request for confidentiality shall be accompanied by documents that support the request which include:

(1) Describe the measures the applicant has taken to safeguard the confidentiality of the information.

(2) Indicate whether or not others are bound by a confidentiality agreement.

(E) A decision as to the confidentiality request shall be made by the director within forty-five days of receipt of a request filed in accordance with this rule. Until such decision is made, the record, report or other information or part thereof, shall be confidential and maintained by the director in a separate file labeled "confidential." The applicant shall be notified by mail of the decision.

(F) Any record, report or other information determined to be confidential may be disclosed without the applicant's consent to officers, employees or authorized representatives of the state, another state or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act.