

3750-60-30      **Initial action by the commission.**

- (A) When a claim of trade secrecy, made in accordance with rules 3750-60-07 and 3750-60-09 of the Administrative Code, is received by the commission, that information is treated as confidential until a contrary determination is made.
- (B) A determination as to the validity of a trade secret claim shall be initiated upon receipt by the commission of a petition filed under rule 3750-60-60 of the Administrative Code or may be initiated by the commission at any time if the commission desires to determine whether chemical identity information claimed as trade secret is entitled to trade secret treatment, even though no request for release of the information has been received.
- (C) If the commission initiates a determination to the validity of a trade secrecy claim the procedures set forth in rules 3750-60-40, 3750-60-60, and 3750-60-85 of the Administrative Code shall be followed in making the determination.
- (D) When the commission receives a petition requesting disclosure of trade secret chemical identity or if the commission decides to initiate a determination of the validity of a trade secret claim for chemical identity, the commission shall first make a determination that the chemical identity claimed as a trade secret is not the subject of a prior trade secret determination by the commission concerning the same claimant and facility, or if it is, that the prior determination upheld the claimant's claim of trade secrecy for that chemical identity at that facility.
  - (1) If the commission determines that the chemical identity claimed as a trade secret is not the subject of a prior trade secret determination by the commission concerning the same claimant and the same facility, or if it is, that the prior determination upheld the claimant's claim of trade secrecy, then the commission shall review the claimant's claim according to rule 3750-60-40 of the Administrative Code.
  - (2) If such prior determination held that the claimant's claim for that chemical identity is invalid, and such determination was not challenged by appeal to the environmental board of review, or by review in the appeals court, or, if challenged, was upheld, the commission shall notify the claimant by certified mail (return receipt requested) that the chemical identity claimed as a trade secret is the subject of a prior, final commission determination concerning the same facility in which it was held that such claim was invalid. In this notification, the commission shall include notice of intent to disclose the chemical identity within ten days pursuant to rules 3750-60-90 of the Administrative Code. The commission shall also notify the petitioner by regular mail of the action taken pursuant to this section.

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