

Ohio Department Of Health

Trade Secret Designation Request

| | | | |
|---|---------------------|---------------|--------|
| 1. Name of Applicant/Licensee | | | |
| 2. Name of Applicant/ Licensee Contact Person | Telephone () | Fax () | E-mail |

3. I/we request that the following document(s) be designated as "Trade Secret" and withheld from public disclosure (use additional sheets if necessary).

Document/Drawing 1

| | |
|---|------------------|
| Unique Designator/Number | Name/Description |
| Reason for Trade Secret Designation Request | |

Document/Drawing 2

| | |
|---|------------------|
| Unique Designator/Number | Name/Description |
| Reason for Trade Secret Designation Request | |

Document/Drawing 3

| | |
|---|------------------|
| Unique Designator/Number | Name/Description |
| Reason for Trade Secret Designation Request | |

4. Application Certification:

The applicant stated herein, or any official executing this application on behalf of the applicant, certifies that:

- a. All information contained herein, including supplements and attachments, is true and correct to the best of our knowledge and belief.
- b. The request satisfies both criteria for designation as a trade secret in accordance with division D Section 1333.61 of the Ohio Revised Code.

| | | |
|---|-----------|---------------|
| Printed name and title of applicant/official executing this application | Signature | Date / / |
|---|-----------|---------------|

Warning: False statements in this certificate may be subject to civil and/or criminal penalties. Ohio Department of Health regulations require that submissions to the Ohio Department of Health be complete and accurate in all material respects.

Instructions and Information for Completing Form HEA 5519 “Trade Secret Designation Request”

During the course of communication with ODH, including but not limited to, requests for a Sealed Source and Device Registration (SS&D) certificate, certain information and details about a unique process or product design and its fabrication methods may be submitted to ODH for evaluation. This information may be considered “trade secrets” by the applicant. Items that are identified, stamped and justified as trade secrets are not subject to public disclosure.

The availability of public records is specified in Ohio Revised Code (ORC) 149.43 “Availability of public records for inspection and copying.”

Rule 3701:1-40-14(H) of the OAC states:

Information provided by a licensee or applicant for a license or license renewal that constitutes a “trade secret” as defined in section 1333.61 of the Revised Code is not subject to public disclosure in accordance with sections 1333.61 to 1333.69 of the Revised Code.

Division (D) of section 1333.61 of the ORC states:

“Trade secret” means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies **both** of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Ohio Supreme Court case law guidance:

Identification of a trade secret requires a fact-based assessment. An entity claiming trade secret status bears the burden to identify and demonstrate that the material is included in categories of protected information under the statute and additionally must take some active steps to maintain its secrecy. The Ohio Supreme Court has adopted the following factors in analyzing a trade secret claim: (1) the extent to which the information is known outside the business; (2) the extent to which it is known to those inside the business, i.e., by the employees; (3) the precautions taken by the holder of the trade secret to guard the secrecy of the information; (4) the savings effected and the value to the holder in having the information as against competitors; (5) the amount of effort or money expended in obtaining and developing the information; and (6) the amount of time and expense it would take for others to acquire and duplicate the information. See *State ex rel. Besser v. Ohio St. Univ.*, 89 Ohio St. 3d 396 (2000).

This form is to be used to justify the trade secret status of each document claimed as a trade secret by the applicant. If, after review, the BRP determines the information qualifies as a trade secret, such information will be treated as an exception to the Public Release laws by the BRP. The applicant will be notified if a request for a document’s status as a trade secret is denied.

Instructions for Completing Form HEA 5519

- 1. Name of Applicant/Licensee** — This should be the applicant’s corporate name or an individual’s name, if an individual is requesting a trade secret designation.
- 2. Applicant/Licensee Contact Person** — The person whom the BRP should contact if there are questions about the trade secret designation request. Normally, the BRP will contact the radiation safety officer (RSO), and correspondence will also generally be directed to the RSO.
- 3. Document Drawing Information** — For each document that a trade secret designation is requested, provide the following:
 - A unique designator/number
 - Name and description of the document
 - The reason(s) why trade secret designation is being requested.

Additional sheet may be used if necessary.

- 4. Application Certification** — Applications must be signed and dated by an officer of the applicant/licensee’s corporation, or by the individual that is requesting the trade secret designation.