§ 209.23 Trade secrets and privileged information.

In the presentation, admission, disposition, and use of evidence, the administrative law judge shall preserve the confidentiality of trade secrets and other privileged commercial and financial information. The confidential or trade secret status of any information shall not, however, preclude its being
§ 209.24 Default order.

(a) Default. Respondent may be found to be in default upon failure to comply with a prehearing or hearing ruling of the Administrator or the administrative law judge. A respondent's default shall constitute an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual allegations. The remedial order proposed is binding on respondent without further proceedings upon the issuance by the Environmental Appeals Board of a final order issued upon default.

(b) Proposed default order. Where the administrative law judge finds a default has occurred after a request for a hearing has been filed, the administrative law judge may render a proposed default order to be issued against the defaulting party. For the purpose of appeal pursuant to §209.31 this order shall be deemed to be the initial decision of the administrative law judge.

(c) Contents of a final order issued upon default. A final order issued upon default shall include findings of fact, conclusions regarding all material issues of law, fact, or discretion, and the remedial order which is issued. An order issued by the Environmental Appeals Board upon default of respondent shall constitute a final order in accordance with the terms of §209.33.


§ 209.26 Evidence.

(a) The official transcripts and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. Evidence may be received at the hearing even though inadmissible under the rules of evidence applicable to judicial proceedings, provided it is relevant, competent and material and not unduly repetitious. Inmaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable. The weight to be given evidence shall be determined by its reliability and probative value.

(b) Witnesses shall be examined orally, under oath or affirmation, except as otherwise provided in these rules of practice or by the administrative law judge. Parties shall have the right to cross-examine a witness who appears at the hearing provided that such cross-examination is not unduly repetitious.