



Federal Register

**Friday,
November 14, 2003**

Part III

Environmental Protection Agency

40 CFR Part 350

**Trade Secrecy Claims for Emergency
Planning and Community Right-to-Know
Information; and Trade Secret Disclosures
to Health Professionals; Amendment;
Direct Final Rule and Proposed Rule**

**ENVIRONMENTAL PROTECTION
AGENCY**
40 CFR Part 350
[SFUND-1988-0002; FRL-7584-8]
RIN 2050-AF10
**Trade Secrecy Claims for Emergency
Planning and Community Right-to-
Know Information; and Trade Secret
Disclosures to Health Professionals;
Amendment**
AGENCY: Environmental Protection
Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This direct final action amends the trade secret regulations to remove the incorrect addresses in the regulations for mailing trade secrecy claims, petitions for disclosures, and any appeals to EPA determinations of insufficient trade secrecy claims. This action also amends the regulations to remove the outdated substantiation form for trade secrecy claims from the code of federal regulations. The most current substantiation form and the correct addresses to mail the trade secret claims, petitions and appeals will be posted on EPA program Web sites.

DATES: This rule is effective on January 13, 2004, unless EPA receives adverse comments by December 15, 2003. If we receive such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be submitted by mail. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Send two copies of your comments to: U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket, Mailcode 5305T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. SFUND-1988-0002. Follow the detailed instructions as provided in Unit I.C. of the

SUPPLEMENTARY INFORMATION section. Copies of the documents relevant to this action (Docket No. SFUND-1988-0002) are available for public inspection during normal business hours from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays, at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424-9346 or (703) 412-9810, TDD (800) 553-

7672, <http://www.epa.gov/epaoswer/hotline/>. For questions on the applicability of provisions contained in 40 CFR part 350 or on the contents of this notice, contact: Sicy Jacob, Chemical Emergency Preparedness and Prevention Office, (5104A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Telephone: 202-564-8019; Fax: 202-564-8233; e-mail: jacob.sicy@epa.gov.

SUPPLEMENTARY INFORMATION:
I. General Information
A. Affected Entities

Entities that may be affected by this action are those facilities subject to sections 303(d)(2) and (d)(3), 311, 312 and 313 of the Emergency Planning and Community Right-to-Know Act, specifically, those that wish to file trade secrecy claims for chemical identity in the reports submitted under these sections.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. SFUND-1988-0002. You may also obtain information related to the final rule published on July 29, 1988 (53 FR 28772) under Docket ID No. 300-PQ-TS. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1742, and the telephone number for the Superfund Docket is (202) 566-0276.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/>

to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work toward providing electronic access to all of the publicly available docket.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA

will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. EPA Dockets. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. SFUND-1988-0002. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to SUPERFUND.docket@epa.gov, Attention Docket ID No. SFUND-1988-0002. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Send two copies of your comments to: U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket, Mailcode 5305T, 1200 Pennsylvania Avenue, NW, Washington, D.C., 20460, Attention Docket ID No. SFUND-1988-0002.

3. By Hand Delivery or Courier. Deliver your comments to: Superfund Docket, EPA Docket Center, 1301 Constitution Avenue, NW., EPA West Building, Room B-102, Washington, DC 20004, Attention Docket ID No. SFUND-1988-0002. Such deliveries are

only accepted during the Docket's normal hours of operation as identified in Unit I.B.

4. By Facsimile. Fax your comments to: (202) 566-0224, Attention Docket ID No. SFUND-1988-0002.

II. What Is the Authority for This Action?

These regulations are issued under sections 322, 323, and 328 of the Emergency Planning and Community Right-to-Know Act of 1986.

III. What Is the General Background for This Action?

The Emergency Planning and Community Right-to-Know Act contains provisions requiring facilities to report to State and local authorities, and EPA, the presence, use and releases of extremely hazardous substances (described in sections 302 and 304), and hazardous and toxic chemicals (described in sections 311, 312, and 313 respectively). The regulations are codified in 40 CFR parts 355, 370 and 372. A submitter may claim the chemical identity as trade secret in the reports submitted under sections 303, 311, 312 and 313. On July 29, 1988 (53 FR 28772), EPA published the procedures for making trade secret claims. These procedures are codified in 40 CFR part 350. The regulations also include procedures for filing petitions requesting disclosure of specific chemical identities submitted and claimed as trade secrets by facilities. EPA also published the form and instructions for substantiating a trade secret claim in the 1988 final rule. The address for mailing the claims and petitions requesting disclosure noted in 40 CFR 350.16 and 350.27 (instructions to the substantiation form) is outdated due to the change in contractor handling trade secret claims for EPA. The correct address to mail these claims and petitions was announced in two recent **Federal Register** documents, October 25, 2002 (67 FR 65566) and February 6, 2003 (68 FR 6149). It is possible that the address may change from time to time because the contractor managing this information for EPA may change. Therefore, EPA is amending 40 CFR 350.16 and 350.27 (instructions to the substantiation form) by giving a reference to obtain the correct address instead of publishing the address in the regulations.

Section 350.17(a) contains procedures for filing an appeal to an EPA determination of insufficiency with the EPA General Counsel. The address to mail these appeals, which is noted in this section, is also outdated, since EPA

has moved to a new location. This amendment reflects that change.

All forms used to collect information must be approved and renewed every three years by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Each approved and renewed substantiation form contains an OMB approval expiration date. The form also contains a Paperwork Reduction Act Notice, which provides a paperwork burden estimate for completing this form and an address for submitting comments on this burden estimate or any other aspect associated with the collection of this information. The OMB approval expiration date, the burden estimate and the address to submit comments that are on the substantiation form currently published in EPA's regulation at 40 CFR 350.27 are outdated. Since the OMB approval expiration date will change every three years, and the burden estimate and the address for submitting comments may change from time to time, EPA is revising 40 CFR 350.27 to remove the outdated substantiation form and provide references for obtaining the most current substantiation form.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. This action only corrects addresses for submitting trade secrecy claims and petitions for disclosures, and for appealing determinations of insufficient trade secrecy claims. These corrections are due to the change of address and location of contractor handling trade secrecy claims as well as EPA location. The only other change is to remove an outdated trade secret substantiation form. This action does not change any regulatory burden on any of the facilities subject to the regulations in 40 CFR part 350. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to amend the trade secret regulations to remove the incorrect addresses and outdated substantiation form. This rule will be effective on January 13, 2004 without further notice unless we receive adverse comment by December 15, 2003. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. What Are the Revisions?

Under section 322(f) of EPCRA and EPA's regulation at 40 CFR 350.23, EPA has the authority to disclose information to authorized representatives of the United States. Contractors and subcontractors who are hired to perform work for EPA in connection with EPCRA or regulations which implement EPCRA may be considered authorized representatives of the United States. EPA may engage contractors to assist with the handling and management of information submitted under EPCRA. The EPA contractor that handles trade secret claims submitted by facilities may change as the contract is recompeted and therefore the address for mailing the claims may change. The Agency is revising § 350.16 to provide a reference to obtain the correct address to mail trade secrecy claims and petitions for disclosure of information claimed as trade secret instead of publishing the address in the regulation. The address that appears in the current § 350.16 is for a contractor that is no longer authorized to handle trade secret claims. Any claims or petitions mailed to that address are forwarded to a new contractor as specified in the October 25, 2002 and February 6, 2003 **Federal Register** notices.

The EPA address in § 350.17(a) where a submitter may file an appeal to an EPA determination with the EPA General Counsel under § 350.11(a)(2)(i) or (b)(2)(i) is not correct. EPA has moved to a new location, and the amendment to this section reflects that change.

The third revision in the rule is to remove the substantiation form from § 350.27. Under the Paperwork Reduction Act, every federal agency must obtain approval from the Office of Management and Budget (OMB) before information can be collected from 10 or more members of the public. Since the substantiation form is used to collect information from facilities submitting trade secrecy claims, the Agency must prepare and submit to OMB for approval an Information Collection Request (ICR). The substantiation form contains the expiration date of OMB's approval. It also contains the burden estimate for completing this form and an address for submitting comments on the estimate or any other aspect associated with collection of this information. OMB usually approves the ICR and forms used to collect information for three years. EPA must then seek a renewal of the ICR and forms before the end of the three-year period; otherwise authority for collection of the information expires. The substantiation form that is currently

printed in the Code of Federal Regulations shows an approval expiration date of October 31, 1990. The ICR and the substantiation form have been renewed several times since October 1990. That form also provides outdated information on the burden estimate. Further, because EPA has moved to a new location, the address on that form for submitting comments is incorrect. Since the renewal takes place every three years, rather than amending the regulations to reflect the new approval expiration date and any other change to the form every three years, the Agency is removing the outdated form from the Code of Federal Regulations and post the most current approved substantiation form on the EPA Program offices' Web sites, Chemical Emergency Preparedness and Prevention Office), <http://www.epa.gov/ceppo> and Toxics Release Inventory Program Division, <http://www.epa.gov/tri>. The form can also be obtained by contacting National Service Center for Environmental Publications (NSCEP) at (800) 490-9198 or (513) 489-8190.

Also, the mailing address for trade secrecy claims as required in the Instructions for completing the EPA Trade Secret Substantiation Form (§ 350.27) is also outdated. This amendment identifies the Web sites that provide the mailing address for submitting trade secrecy claims.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in the Executive Order."

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review. This action only corrects addresses for submitting trade secrecy claims and petitions for disclosures, and for appealing determinations of insufficient trade secrecy claims. These corrections are due to the change of address and location of contractor handling trade secrecy claims as well as EPA location. The only other change is to remove an outdated trade secret substantiation form. This action does not change any regulatory burden on any of the facilities subject to the regulations in 40 CFR part 350.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action is only amending the regulations to provide the correct address to mail trade secrecy claims and petitions for disclosure, and any appeals to EPA determinations of insufficient trade secrecy claims. Also, the Agency is removing the substantiation form from the Code of Federal Regulations and post the current form on the program offices' Web sites. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 40 CFR part 350 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050-0078, EPA ICR number 1428.05. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Abby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566-1672.

Burdens means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et. seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business that is defined by the Small Business Administration by category of business using North American Industrial Classification System (NAICS) and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

After considering the economic impacts of today's action on small entities, I certify that this rule will not have any economic impact on small entities. This action is only amending the regulations to provide the correct address to mail trade secrecy claims and petitions for disclosure, and any appeals to EPA determinations of insufficient

trade secrecy claims. Also, the Agency is removing the substantiation form from the code of federal regulations and post the current form on the program offices' Web sites.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This action is only amending the regulations to provide the correct addresses to mail trade secrecy claims, petitions for disclosures, and any appeals to EPA determinations of insufficient trade secrecy claims. Also, the Agency is removing the substantiation form from the code of federal regulations and post the current form on the program offices' Web sites.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action is only amending the regulations to provide the correct address to mail trade secrecy claims and petitions for disclosure, and any appeals to EPA determinations of insufficient trade secrecy claims. Also, the Agency is removing the substantiation form from the code of federal regulations and post the current form on the program offices' Web sites. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175. This proposed rule is only amending the regulations to provide the correct address to mail trade secrecy claims and petitions for disclosure, and any appeals to EPA determinations of insufficient trade secrecy claims. Also, the Agency is proposing to remove the substantiation form from the code of federal regulations and post the current form on the program offices' Web sites. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

“Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be “economically significant” as defined under 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866 and (b) this action does not involve any environmental health or safety risks, therefore does not have a disproportionate effect on children.

In today’s action, the Agency is only amending certain parts of the regulations in 40 CFR part 350 to remove an outdated substantiation form and correct the addresses to where the trade secrecy claims, petitions for disclosure, and appeals to determinations of insufficient trade secrecy claims can be mailed.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides

not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This rule will be effective December 15, 2003 unless EPA receives adverse comments by December 15, 2003. If we receive such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

List of Subjects in 40 CFR Part 350

Environmental protection, Chemicals, Confidential business information, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 3, 2003.

Marianne L. Horinko,
Acting Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 350—TRADE SECRECY CLAIMS FOR EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW INFORMATION: AND TRADE SECRET DISCLOSURES TO HEALTH PROFESSIONALS

■ 1. The authority citation for part 350 continues to read as follows:

Authority: 42 U.S.C. 11042, 11043, and 11048 Pub. L. 99–499, 100 Stat. 1747.

■ 2. Section 350.16 is revised to read as follows:

§ 350.16 Address to send trade secrecy claims and petitions requesting disclosure.

The address and location to send all claims of trade secrecy under sections 303(d)(2) and (d)(3), 311, 312, and 313 of Title III and all public petitions

requesting disclosure of chemical identities claimed as trade secret are posted on the following EPA Program Web sites, <http://www.epa.gov/ceppo> and <http://www.epa.gov/tri>. Any subsequent changes to the address and location will be announced in **Federal Register** Notices as these changes occur. Also, the changes will be posted on these Web sites. Submitters may also contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, <http://www.epa.gov/epaoswer/hotline/> to obtain this information.

■ 3. Section 350.17 is amended by revising paragraph (a) introductory text to read as follows:

§ 350.17 Appeals.

(a) *Procedure for filing appeal.* A submitter may appeal an EPA determination under § 350.11(a)(2)(i) or (b)(2)(i), by filing an appeal with the General Counsel. The appeal shall be addressed to: The Office of General Counsel, U.S. Environmental Protection Agency, Mailcode 2310A, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

* * * * *

■ 4. Section 350.27 is amended by revising paragraph (a) and in paragraph (b) under the heading “Where to Send the Trade Secrecy Claim” to read as follows:

§ 350.27 Substantiation form to accompany claims of trade secrecy, instructions to substantiation form.

(a) The substantiation form to accompany claims of trade secrecy must be completed and submitted as required in § 350.7(a). The form is posted on the Chemical Emergency Preparedness and Prevention Office Web site, <http://www.epa.gov/ceppo> and the Toxics Release Inventory Program Division Web site, <http://www.epa.gov/tri>. Submitters may also contact the National Service Center for Environmental Publications (NSCEP) at (800) 490–9198 or (513) 489–8190 to obtain the form.

(b) * * *

Where To Send the Trade Secrecy Claim

The address to send all trade secrecy claims is posted on the following EPA Program Web sites, <http://www.epa.gov/ceppo> and <http://www.epa.gov/tri>. This information can also be obtained by contacting the Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD

(800) 553-7672, <http://www.epa.gov/epaoswer/hotline/>.

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[FR Doc. 03-28419 Filed 11-13-03; 8:45 am]

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