

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 350**

[SFUND-1988-0002; FRL-7584-9]

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.**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking action to amend 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 This proposed rule also amends the regulations to remove the outdated substantiation form for trade secrecy claims from the Code of Federal Regulations.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:** Comments, identified by the docket control number SFUND-1988-0002 must be submitted by December 15, 2003.

**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.

**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 document, 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](mailto:jacob.sicy@epa.gov).**SUPPLEMENTARY INFORMATION:****I. General Information**

In the "Rules and Regulations" section of today's **Federal Register**, EPA is issuing these revisions as a direct final rule without prior proposal because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this approval in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

This document concerns Trade Secrecy Claims for Emergency Planning and Community Right-to-Know Information and Trade Secret Disclosures to Health Professionals. For detailed information, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

**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 materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing

copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

#### *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](mailto: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, DC, 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.

#### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Dorothy McManus, Mailcode 5104A, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington DC 20460. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### **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.*

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