to or copying of records as required by section 11 of the Act (15 U.S.C. 2610) is a violation of section 15 of the Act (15 U.S.C. 2614).

(c) Failure or refusal to permit entry or inspection as required by section 11 of the Act (15 U.S.C. 2610) is a violation of section 15 of the Act (15 U.S.C. 2614).

(d) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(e) The Agency may seek to enjoin the manufacture, import, processing, or distribution in commerce of asbestos-containing products in violation of this subpart, or act to seize any asbestos-containing products manufactured, imported, processed, or distributed in commerce in violation of this subpart, or take any other actions under the authority of section 7 or 17 of the Act (15 U.S.C. 2606 or 2616) that are appropriate.

§ 763.176 Inspections.

The Agency will conduct inspections under section 11 of the Act (15 U.S.C. 2610) to ensure compliance with this subpart.

§ 763.178 Recordkeeping.

(a) *Inventory.* (1) Each person who is subject to the prohibitions imposed by §§ 763.165 and 763.167 must perform an inventory of the stock-on-hand of each banned product as of the effective date of the ban for that product for the applicable activity.

(2) The inventory shall be in writing and shall include the type of product, the number of product units currently in the stock-on-hand of the person performing the inventory, and the location of the stock.

(3) Results of the inventory for a banned product must be maintained by the person for 3 years after the effective date of the § 763.165 or § 763.167 ban on the product.

(b) *Records.* (1) Each person whose activities are subject to the bans imposed by §§ 763.165, 763.167, and 763.169 for a product must, between the effective date of the § 763.165 or § 763.167 ban on the product and the § 763.169 ban on the product, keep records of all commercial transactions regarding the product, including the dates of purchases and sales and the quantities purchased or sold. These records must be maintained for 3 years after the effective date of the § 763.169 ban for the product.

(2) Each person who is subject to the requirements of § 763.171 must, for each product required to be labeled, maintain a copy of the label used in compliance with § 763.171. These records must be maintained for 3 years after the effective date of the ban on distribution in commerce for the product for which the § 763.171 requirements apply.

[54 FR 29507, July 12, 1989, as amended by 54 FR 46898, Nov. 8, 1989; 58 FR 34205, June 23, 1993]

§ 763.179 Confidential business information claims.

(a) Applicants for exemptions under § 763.173 may assert a Confidential Business Information (CBI) claim for information in an exemption application or supplement submitted to the Agency under this subpart only if the claim is asserted in accordance with this section, and release of the information would reveal trade secrets or confidential commercial or financial information, as provided in section 14(a) of the Act. Information covered by a CBI claim will be treated in accordance with the procedures set forth in 40 CFR part 2, subpart B. The Agency will place all information not claimed as CBI in the manner described in this section in a public file without further notice to the applicant.

(b) Applicants may assert CBI claims only at the time they submit a completed exemption application and only in the specified manner. If no such claim accompanies the information when it is received by the Agency, the information may be made available to the public without further notice to the applicant. Submitters that claim information as business confidential must do so by writing the word "Confidential" at the top of the page on which the information appears and by underlining, circling, or placing brackets ([ ]) around the information claimed CBI.

(c) Applicants who assert a CBI claim for submitted information must provide the Agency with two copies of their exemption application. The first copy must be complete and contain all

information being claimed as CBI. The second copy must contain only information not claimed as CBI. The Agency will place the second copy of the submission in a public file. Failure to furnish a second copy of the submission when information is claimed as CBI in the first copy will be considered a presumptive waiver of the claim of confidentiality. The Agency will notify the applicant by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The applicant has 30 days from the date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause the Agency to place the first copy in a public file.

(d) Applicants must substantiate all claims of CBI at the time the applicant asserts the claim, i.e., when the exemption application or supplement is submitted, by responding to the questions in paragraph (e) of this section. Failure to provide substantiation of a claim at the time the applicant submits the application will result in a waiver of the CBI claim, and the information may be disclosed to the public without further notice to the applicant.

(e) Applicants who assert any CBI claims must substantiate all claims by providing detailed responses to the following:

(1) Is this information subject to a patent or patent application in the United States or elsewhere? If so, why is confidentiality necessary?

(2) For what period do you assert a claim of confidentiality? If the claim is to extend until a certain event or point in time, please indicate that event or time period. Explain why such information should remain confidential until such point.

(3) Has the information that you are claiming as confidential been disclosed to persons outside of your company? Will it be disclosed to such persons in the future? If so, what restrictions, if any, apply to use or further disclosure of the information?

(4) Briefly describe measures taken by your company to guard against undesired disclosure of the information you are claiming as confidential to others.

(5) Does the information claimed as confidential appear or is it referred to in advertising or promotional materials for the product or the resulting end product, safety data sheets or other similar materials for the product or the resulting end product, professional or trade publications, or any other media available to the public or to your competitors? If you answered yes, indicate where the information appears.

(6) If the Agency disclosed the information you are claiming as confidential to the public, how difficult would it be for the competitor to enter the market for your product? Consider in your answer such constraints as capital and marketing cost, specialized technical expertise, or unusual processes.

(7) Has the Agency, another Federal agency, or a Federal court made any confidentiality determination regarding this information? If so, provide copies of such determinations.

(8) How would your company's competitive position be harmed if the Agency disclosed this information? Why should such harm be considered substantial? Describe the causal relationship between the disclosure and harm.

(9) In light of section 14(b) of TSCA, if you have claimed information from a health and safety study as confidential, do you assert that disclosure of this information would disclose a process used in the manufacturing or processing of a product or information unrelated to the effects of asbestos on human health and the environment? If your answer is yes, explain.

PART 766—DIBENZO-PARA-DIOXINS/DIBENZOFURANS

Subpart A—General Provisions

Sec.