

§ 350.15

specific chemical identity withheld therefrom.

(iv) The information referred to in paragraph (a)(3)(i)(A) of this section, is of value to competitors.

(v) Competitors are likely to use this information to the economic detriment of the submitter and are not precluded from doing so by a United States patent.

(vi) The resulting harm to submitter's competitive position would be substantial.

(4) The chemical identity is not readily discoverable through reverse engineering. To support this conclusion, the facts asserted must show that competitors cannot readily discover the specific chemical identity by analysis of the submitter's products or environmental releases.

(b) The sufficiency of the trade secrecy claim shall be decided entirely upon the information submitted under § 350.7, or § 350.11(a)(2)(ii).

§ 350.15 Public petitions requesting disclosure of chemical identity claimed as trade secret.

(a) The public may request the disclosure of chemical identity claimed as trade secret by submitting a written petition to the address specified in § 350.16.

(b) The petition shall include:

(1) The name, address, and telephone number of the petitioner;

(2) The name and address of the company claiming the chemical identity as trade secret; and

(3) A copy of the submission in which the submitter claimed chemical identity as trade secret, with a specific indication as to which chemical identity the petitioner seeks disclosed.

(c) EPA shall acknowledge, by letter to the petitioner, the receipt of the petition.

(d) Incomplete petitions. If the information contained in the petition is not sufficient to allow EPA to identify which chemical identity the petitioner is seeking to have released, EPA shall notify the petitioner that the petition cannot be further processed until additional information is furnished. EPA will make every reasonable effort to assist a petitioner in providing sufficient information for EPA to identify

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the chemical identity the petitioner is seeking to have released.

(e) EPA shall make a determination on a petition requesting disclosure, in accordance with § 350.11 and § 350.17, within nine months of receipt of such petition.

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

All claims of trade secrecy under sections 303(d)(2) and (d)(3), 311, 312, and 313 and all public petitions requesting disclosure of chemical identities claimed as trade secret should be sent to the following address: EPCRA Reporting Center, Environmental Protection Agency, P.O. Box 3348, Merrifield, VA 22116-3348, Attn:—.

[59 FR 43048, Aug. 22, 1994]

§ 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, Contracts and Information Law Branch, Room 3600M, LE-132G, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

The appeal shall contain the following:

(1) A letter requesting review of the appealed decision; and

(2) A copy of the letter containing EPA's decision upon which appeal is requested.

(b) Appeal of determination of insufficient claim.

(1) Where a submitter appeals a determination by EPA under § 350.11(a)(2)(i) that the trade secrecy claim presents insufficient support for a finding of trade secrecy, the General Counsel shall make one of the following determinations:

(i) The trade secrecy claim at issue meets the standards of sufficiency set forth in § 350.13; or

(ii) The trade secrecy claim at issue does not meet the standards of sufficiency set forth in § 350.13.

(2) If the General Counsel reverses the decision made by the EPA office handling the claim, the claim shall be processed according to § 350.11(a)(1).