

§ 350.3

other information that reveals the precise chemical designation of the substance. Where the trade name is reported in lieu of the specific chemical identity, the trade name will be treated as the specific chemical identity for purposes of this part.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction and Indian Country.

Submitter means a person filing a required report or making a claim of trade secrecy to EPA under sections 303 (d)(2) and (d)(3), 311, 312, and 313 of Title III.

Substantiation means the written answers submitted to EPA by a submitter to the specific questions set forth in this regulation in support of a claim that chemical identity is a trade secret.

Title III means Title III of the Superfund Amendments and Reauthorization Act of 1986, also titled the Emergency Planning and Community Right-to-Know Act of 1986.

Trade secrecy claim is a submittal under sections 303 (d)(2) or (d)(3), 311, 312 or 313 of Title III in which a chemical identity is claimed as trade secret, and is accompanied by a substantiation in support of the claim of trade secrecy for chemical identity.

Trade secret means any confidential formula, pattern, process, device, information or compilation of information that is used in a submitter's business, and that gives the submitter an opportunity to obtain an advantage over competitors who do not know or use it. EPA intends to be guided by the Restatement of Torts, Section 757, Comment b.

Unsanitized means a version of a document from which information claimed as trade secret or confidential has not been withheld or omitted.

Working day is any day on which Federal government offices are open for normal business. Saturdays, Sundays, and official Federal holidays are not working days; all other days are.

[53 FR 28801, July 29, 1988, as amended at 55 FR 30644, July 26, 1990]

40 CFR Ch. I (7-1-03 Edition)

§ 350.3 Applicability of subpart; priority where provisions conflict; interaction with 40 CFR part 2.

(a) *Applicability of subpart.* Sections 350.1 through 350.27 establish rules governing assertion of trade secrecy claims for chemical identity information collected under the authority of sections 303 (d)(2) and (d)(3), 311, 312 and 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986, and for trade secrecy or business confidentiality claims for information submitted in a substantiation under sections 303 (d)(2) and (d)(3), 311, 312, and 313 of Title III. This subpart also establishes rules governing petitions from the public requesting the disclosure of chemical identity claimed as trade secret, and determinations by EPA of whether this information is entitled to trade secret treatment. Claims for confidentiality of the location of a hazardous chemical under section 312(d)(2)(F) of Title III are not subject to the requirements of this subpart.

(b) *Priority where provisions conflict.* Where information subject to the requirements of this subpart is also collected under another statutory authority, the confidentiality provisions of that authority shall be used to claim that information as trade secret or confidential when submitting it to EPA under that statutory authority.

(c) *Interaction with 40 CFR part 2, EPA's Freedom of Information Act procedures.* (1) No trade secrecy or business confidentiality claims other than those allowed in this subpart are permitted for information collected under sections 303 (d)(2) and (d)(3), 311, 312 and 313 of Title III.

(2) Except as provided in § 350.25 of this subpart, request for access to chemical identities withheld as trade secret under this regulation is solely through this regulation and procedures hereunder, not through EPA's Freedom of Information Act procedures set forth at 40 CFR part 2.

(3) Request for access to information other than chemical identity submitted to EPA under this regulation is through EPA's Freedom of Information Act regulations at 40 CFR part 2.