

Appendix G. Trade Secret Submissions

G.1 Instructions for Trade Secret Submissions

For any EPCRA Section 313 chemical whose identity is claimed as trade secret, two versions of the substantiation form must be submitted to EPA as prescribed in 40 CFR Part 350, published July 29, 1988, in the *Federal Register* (53 FR 28772) as well as two versions of the EPCRA Section 313 report. Trade secret reporting must be done via hard-copy, paper reporting.

The current substantiation form is available on the TRI website at: http://www2.epa.gov/toxics-release-inventory-tri-program/tri-reporting-forms-and-instructions#Anchor_3. One set of reports, the unsanitized version, must provide the actual identity of the EPCRA Section 313 chemical. The other set of reports, i.e., the “sanitized” version, must provide a generic class or category for the chemical that is structurally descriptive of the EPCRA Section 313 chemical. If EPA deems the trade secret substantiation form valid, only the sanitized set of forms will be made available to the public.

Paper submissions must be sent to both EPA and the state or the designated official of an Indian tribe and follow the requirements for reporting trade secrets. If a report is not received by both EPA and the state (or the designated official of an Indian tribe), the submitter is considered out of compliance and subject to enforcement action. Facilities submitting paper forms must use the corresponding reporting year forms. These reporting forms can be found on the TRI website: <http://www2.epa.gov/toxics-release-inventory-tri-program/tri-reporting-forms-and-instructions>.

E-mailed submissions will not be accepted.

Form R Reporting

EPA requests that the EPCRA Section 313 chemical, chemical category, or generic name also be placed in the box marked “Toxic Chemical, Category, or Generic Name” in the upper right-hand corner on all pages of Form R. While this space is not a required data element, providing this information will help you in preparing a complete Form R report.

Form A Reporting

When making a trade secret claim on a Form A submission, EPA is requiring that a facility submit a unique Form A for each EPCRA Section 313 chemical meeting the conditions of the alternate threshold. Facilities may assert a trade secrecy claim for a chemical identity on the Form A as on the Form R. Reports submitted on a per chemical basis protect against the disclosure of trade secrets. Form As with trade secrecy claims, like Form Rs with similar claims, will be separately handled upon receipt to protect against disclosure. Commingling trade secret chemical identities with non-trade secret chemical

identities on the same submission increases the risk of disclosure.

All Submissions

A complete report to EPA for an EPCRA Section 313 chemical claimed as a trade secret must include all of the following:

- A completed unsanitized version of Form R or Form A report including the EPCRA Section 313 chemical identity (staple the pages together); and
- A sanitized version of a completed Form R or Form A report in which the EPCRA Section 313 chemical identity items (Part II, Sections 1.1 and 1.2) have been left blank but in which a generic chemical name that is structurally descriptive has been supplied (Part II, Section 1.3) (staple the pages together); and
- A completed unsanitized version of a trade secret substantiation form (staple the pages together); and
- A sanitized version of a completed trade secret substantiation form (staple the pages together).

Securely fasten all four reports together.

Some states or tribes also require submission of both sanitized and unsanitized reports for EPCRA Section 313 chemicals whose identity is claimed as a trade secret. Others require only a sanitized version. Facilities may jeopardize the trade secret status of an EPCRA Section 313 chemical by submitting an unsanitized version of the EPCRA Section 313 report to a state agency or Indian tribe that does not require unsanitized forms. You may identify an individual state or tribe’s submission requirements by contacting the appropriate state or tribe designated EPCRA Section 313 contact (see Appendix D).

Where to send your trade secret submission

Please send only trade secret submissions to the P.O. Box below. Send trade secret submissions by *regular mail* to:

Attention: EPCRA Substantiation Packages
TRI Reporting Center
P.O. Box 10163
Fairfax, VA 22038

Send trade secret submissions by *certified mail or overnight mail* (i.e. Fed Ex, UPS, etc.) to:

Attention: EPCRA Substantiation Packages
CGI Federal, Inc.
c/o EPA Reporting Center
12601 Fair Lakes Circle
Fairfax, VA 22033

Revising or withdrawing trade secret submissions

Revisions and withdrawals must be performed using paper forms.

G.2 Supplemental Form R and Form A Instructions

The sections below are supplemental instructions to Chapters C and D for completing hard copy forms submitted with a trade secret submission.

Part I. Facility Identification Information

Section 2. Trade Secret Information

2.1 Are you claiming the EPCRA Section 313 chemical identified on Page 2 a trade secret?

The specific identity of the EPCRA Section 313 chemical being reported in Part II, Section 1 may be designated as a trade secret. If you are making a trade secret claim, mark “yes” and proceed to Section 2.2. Only check “yes” if you manufacture, process, or otherwise use the EPCRA Section 313 chemical whose identity is a trade secret. If you checked “no,” you should submit your non-trade secret form data electronically using TRI-MEweb.

If facilities wish to report more than one eligible chemical on the same Form A, then all chemicals included must be non-trade secrecy claims. Any trade secrecy claims should be made on a separate form, and then the process is the same as using the Form R and as described in the following instructions.

2.2 If “yes” in 2.1, is this copy sanitized or unsanitized?

Answer this question only after you have completed the rest of the report. Check “sanitized” if this copy of the report is the public version that does not contain the EPCRA Section 313 chemical identity but does contain a generic name that is structurally descriptive in its place, and if you have claimed the EPCRA Section 313 chemical identity trade secret in Part I, Section 2.1. Otherwise, check “unsanitized.”

4.1 Facility Name, Location, TRI Facility Identification Number and Tribal Country Name

Facilities filing a trade secret paper form should leave a blank in the BIA field if the facility is not located within tribal boundaries.

Location information for a facility that has previously submitted data to EPA.

Enter your TRIFID in Part I, Section 4.1.

Location information for a facility that has previously submitted data to EPA, but has changed physical location.

If your facility has moved, do not enter your previously assigned TRIFID, enter “New Facility”. If you are filing a separate Form R or A for each establishment at your facility, you should use the same “New Facility” field for each establishment. If you are uncertain if a TRIFID has been assigned to your new facility location, use Envirofacts on the Web to look up the address or facility name at: <http://www.epa.gov/enviro>.

Location information for a facility that has changed ownership, but has not changed physical location.

The TRIFID will always stay with the physical location of a facility. If a new facility unit moves to this location it should use this TRIFID. Establishments of a facility (for facilities that report by part) that report separately should use the TRIFID of the primary facility.

Location reporting TRI releases for the first time to EPA.

If you are preparing a hard copy TRI form for the first time for your facility's location and have never reported to TRI in previous years, you should enter “New Facility” in the space on the hard copy form designated for the TRI Facility Identification number (TRIFID).

Part II. Chemical Identification Information

Section 1. EPCRA Section 313 Chemical Identity (Form R & A)

1.1 CAS Number

You must report the CAS number or category code on your unsanitized Form R or A and unsanitized substantiation form. Enter the CAS registry number exactly as it appears in Table II of these instructions for the chemical being reported. CAS numbers are cross-referenced with an alphabetical list of chemical names in Table II. If you are reporting one of the EPCRA Section 313 chemical categories (e.g., chromium compounds), you should enter the applicable category code in the CAS number space. EPCRA Section 313 chemical category codes are listed below and can also be found in Table IIc.

Do not include the CAS number or category code on your sanitized Form R or A, or sanitized substantiation form.

1.2 EPCRA Section 313 Chemical or Chemical Category Name

You must report the specific EPCRA Section 313 chemical identity on your unsanitized Form R or A and unsanitized substantiation form. Enter the name of the EPCRA Section 313 chemical or chemical category exactly as it appears in Table II. If the EPCRA Section 313 chemical name is followed by a synonym in parentheses, report the chemical by the name that directly follows the CAS number (i.e., not the synonym). If the EPCRA Section 313 chemical identity is actually a product trade name (e.g., Dicofo), the *Chemical Abstracts 9th Collective Index* name is listed below it in brackets. You may report either name in this case.

Do not list the name of a chemical that does not appear in Table II, such as individual members of an EPCRA Section 313 chemical category. For example, if you use silver chloride, **do not** report silver chloride with its CAS number. Report this chemical as “silver compounds” with its category code, N740.

Do not report the name of the EPCRA Section 313 chemical on your sanitized Form R or A, or sanitized substantiation form. Include a generic name that is structurally descriptive in Part II, Section 1.3 of your sanitized Form R or A report.

1.3 Generic Chemical Name

Section 1.3 is used only when claiming the specific EPCRA Section 313 chemical identity of the EPCRA Section 313 chemical as a trade secret.

Enter a generic chemical name that is descriptive of the chemical structure. You should limit the generic name to 70 characters (e.g., numbers, letters, spaces, punctuation) or less. Do not enter mixture names in Section 1.3.

In-house plant codes and other substitute names that are not structurally descriptive of the EPCRA Section 313 chemical identity being withheld as a trade secret are not acceptable as a generic name. The generic name must appear on both sanitized and unsanitized Form Rs and As, and the name must be the same as that used on your substantiation forms.

Section 5. Quantity of the Toxic Chemical Entering Each Environmental Medium On-site (Form R)

5.3 Discharges to Receiving Streams or Water Bodies

Enter the receiving stream(s) and water body or bodies in Column A. A total of three spaces is provided on Page 2 of Form R. If you discharge the EPCRA Section 313 chemical to more than three streams or water bodies, you should photocopy Page 2 of Form R as many times as necessary and then number the boxes consecutively for each stream or water body. At the bottom of Page 2 you will find instructions for indicating the total number of Page 2s that you are submitting

as part of the Form R as well as indicating the sequence of those pages.

Section 6. Transfer(s) of the Toxic Chemical in Wastes to Off-Site Locations (Form R)

Number the boxes for reporting the information for each sequential POTW or other off-site location in Sections 6.1 and 6.2. In the upper left hand corner of each box, the section number is either 6.1.[]_or 6.2.[]. This section is required only for paper filers (trade secret submissions only); TRI-MEweb does this task automatically for the reporting facility.

If you report a transfer of the listed EPCRA Section 313 chemical to one or more off-site locations, POTWs, you should number the boxes in Section 6.1 as 6.1.1, 6.1.2, etc. If you transfer the EPCRA Section 313 chemical to more than one POTW, you should photocopy Page 3 of Form R as many times as necessary and then number the boxes consecutively for each POTW (e.g., 6.1.2, 6.1.3, etc.). At the bottom of each page 3 that is submitted, indicate the total number of pages numbered “3” that you are submitting as part of Form R, as well as indicating the sequence of those pages. For example, your facility transfers the reported EPCRA Section 313 chemical in wastewaters to two POTWs. You would photocopy Page 3 once, indicate at the bottom of each Page 3 that there are a total of two pages numbered “3” and then indicate the first and second Page 3. The box for the first POTW on the first Page 3 should be numbered 6.1.1 and while the box for second POTW on the second Page 3 should be numbered 6.1.2.

If you report a transfer of the EPCRA Section 313 chemical to one or more other off-site locations, you should number the boxes in section 6.2 as 6.2.1, 6.2.2, etc. If you transfer the EPCRA Section 313 chemical to more than two other off-site locations, you should photocopy Page 4 of Form R as many times as necessary and then number the boxes consecutively for each off-site location. At the bottom of Page 4 you will find instructions for indicating the total number of Page 4s that you are submitting as part of the Form R as well as indicating the sequence of those pages. For example, your facility transfers the reported EPCRA Section 313 chemical to three other off-site locations. You should photocopy page 4 once, indicate at the bottom of Section 6.2 on each Page 4 that there are a total of two Page 4s and then indicate the first and second Page 4. The boxes for the two off-site locations on the first Page 4 would be numbered 6.2.1 and 6.2.2, while the box for the third off-site location on the second Page 4 should be numbered 6.2.3. Please note that section 6.2 starts on Page 3 and continues on Page 4.

Section 7. On-Site Waste Treatment, Energy Recovery, and Recycling Methods (Form R)

Section 7A: On-Site Waste Treatment Methods and Efficiency

If your facility performs more than eight sequential waste treatment methods on a single general waste stream, continue listing the methods in the next row and renumber appropriately those waste treatment method code boxes you used to continue the sequence. For example, if the general waste stream in box 7A.1a had nine treatment methods applied to it, the ninth method would be indicated in the first method box for row 7A.2a. The numeral “1” would be crossed out, and a “9” would be inserted.

Section 8. Source Reduction and Waste Management (Form R)

8.10 Did Your Facility Engage in Any Newly Implemented Source Reduction Activities for This Chemical During the Reporting Year?

Instructions on how to report source reduction activities on hard copy Form R are provided below.

- **If Your Facility Implemented Source Reduction Activities.** Source reduction activity codes must be entered in the first column of Sections 8.10.1 through 8.10.4. Next, indicate any methods to identify the reported source reduction activity using the T-codes provided below.
- If you have fewer than four source reduction codes in Section 8.10, an NA should be placed in the first column of the first unused row to indicate the termination of the sequence. If all four rows are used, there is no need to terminate the sequence.
- **If Your Facility Did Not Implement Source Reduction Activities.** If your facility did not implement any new source reduction activity for the reported EPCRA Section 313 chemical, check the “NA” box in Section 8.10.

8.11 Optional Pollution Prevention Information

In Section 8.11, you have the opportunity to provide more detail about activities your facility undertook to reduce releases of the EPCRA Section 313 chemical, including source reduction, recycling, energy recovery, treatment or other pollution controls. EPA encourages you to provide detail in Section 8.11, as it offers your organization the opportunity to showcase its achievements in preventing pollution.

While EPA welcomes submissions about recycling and pollution control activities, the Agency is most interested in collecting information about innovative and effective source reduction activities, such as green chemistry or green engineering practices. In addition, the Agency wishes to encourage reporters to provide enough detailed information about their most effective source reduction activities to spur other facilities to adopt similar practices, as well as to inform the public about such activities being implemented in their communities.

To encourage submissions with additional pollution prevention information, EPA is increasing the prominence and accessibility of this information. Visit <https://www.epa.gov/tri/p2> to learn how to access this information (e.g., through the [P2 Search](#) tool) and to view examples of optional pollution prevention information highlighted in EPA’s annual TRI National Analysis report.

The following tips can help you provide meaningful additional information.

Be Specific:

- Which processes and products were affected?
- Which technologies and materials were used?
- Which release (to air, water land) or waste management quantities changed?
- Were there other benefits (e.g., costs, product quality)?
- Who provided the idea or assisted with implementation?
- Why did you implement this activity?

Enter useful URLs:

- For equipment manufacturers
- To other information sources related to the activity described

A tip-sheet with additional guidance and sample entries can be found at http://www2.epa.gov/sites/production/files/documents/tri_p2_tipsheet.pdf. If you wish to provide additional information that is not related to pollution prevention or other environmentally friendly practices, use Section 9.1.

Barriers to Implementing Pollution Prevention Activities

You may also provide details on any barriers your facility faces in implementing additional source reduction, recycling or pollution control activities. If you choose to provide this information, EPA encourages you to refer to one or more of the barrier categories listed below and describe specifically how one of these barrier categories applies to your facility:

- B1. Insufficient capital to install new source reduction equipment or implement new source reduction activities/initiatives.

- B2. Require technical information on pollution prevention techniques applicable to specific production processes.
- B3. Concern that product quality may decline as a result of source reduction.
- B4. Source reduction activities were implemented but were unsuccessful.
- B5. Specific regulatory/permit burdens
- B6. Pollution prevention previously implemented-additional reduction does not appear technically or economically feasible.
- B7. No known substitutes or alternative technologies.
- B8. Other barriers.

EPA believes this information is valuable in giving a full picture of the source reduction activities your facility engages in and what barriers you face in the implementation of source reduction activities. EPA also believes this information may allow for an exchange between those that have knowledge of source reduction practices, such as the EPA P2 Program, and those that are seeking additional help. In addition, it will better enable EPA to identify those technological areas for which EPA can support basic research to identify alternative technologies that are less polluting.

Section 9. Miscellaneous Information (Form R)

9.1 Miscellaneous, Optional, and Additional Information for Your Form R Report

Your facility may provide additional information pertaining to any portion of your Form R submission in the box provided in

the free text box provided. Your submissions to Section 9.1 regarding miscellaneous, additional, optional information may provide the Agency and/or the public with useful data that helps explain why your facility submitted data in one or more data elements that might appear unusual or inconsistent with previous TRI Form R submissions or with other data supplied by your facility during this reporting year. Such additional data may help EPA reduce the need for additional data quality control as well as additional TRI-related enforcement and compliance efforts.

EPA suggests you consider the following topics should you provide optional information in the 9.1 box:

- Changes in Production Levels
- Calculation Methods, e.g., Emission Factors
- One-time or Intermittent Events Impacting Reported Quantities
- Issues or Difficulties Encountered in Submitting Form
- Other Regulatory Requirements Related to This Chemical
- No TRI Reports Expected for This TRIFID Next Year
- No TRI Report Expected for This Chemical Next Year

Do not submit information you consider to be CBI or otherwise protected on your Form R.