

Substantiation to Accompany Claims of Trade Secrecy Under the Emergency Planning and Community Right-to-Know Act

Part 1: Sanitized Claim Information (Not Confidential)

This collection of information is approved by OMB under the Paperwork Reduction Act, [44 U.S.C. 3501 et seq.](#) [OMB Control No. 2050-0078]. Responses to this collection of information are required for facilities making Trade Secrecy Claims [40 CFR parts 350]. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9.5 hours per claim. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the Data and Enterprise Program Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence.

Do not send the completed form to this address.

Instructions: This form has 2 parts. You must complete both parts. Part 1 is the Sanitized Claim Information (Not Confidential) and Part 2 is the Unsanitized Claim Information (Confidential). Complete sections 1, 2, 3, and 4 in both parts of the form. Sections 4 of both parts are completed after printing, because these forms require an original wet ink signature. The questions on both forms are the same, except that Question 1.3 is unique to each part.

For more detailed guidance see the [Instructions for this Trade Secret Form](#).

Section 1. Substantiation Category

1.1 EPCRA reporting section for this substantiation:

- ☐ Section 303 Emergency Planning Notification
- ☐ Section 311 Safety Data Sheet or List Submission
- ☐ Section 312 Emergency and Hazardous Chemical Inventory Form
- ☐ Section 313 Toxics Release Inventory Report

1.2 Reporting Year:

1.3.a. Generic Class or Category:

Section 2. Facility Identification Information

2.1 Name:

2.2 Street Address:

2.3 City, State, and Zip Code:

2.4 Dun and Bradstreet Number:

Section 3. Substantiation Questions

- 3.1** Describe the specific measures you have taken to safeguard the confidentiality of the chemical identity claimed as trade secret and indicate whether these measures will continue in the future.

- 3.2** Have you disclosed the information claimed as trade secret to any other person (other than a member of a local emergency planning committee, officer or employee of the United States or a state or local government, or your employee) who is not bound by a confidentiality agreement to refrain from disclosing this trade secret information to others?

☐ Yes ☐ No

- 3.3** List all local, state, and Federal government entities to which you have disclosed the specific chemical identity. For each, indicate whether you asserted a confidentiality claim for the chemical identity and whether the government entity denied that claim.

Government Entity	Confidentiality Claim Asserted?	Claim Denied?
	☐ Asserted ☐ Not Asserted	☐ Yes - Denied ☐ No - Accepted
	☐ Asserted ☐ Not Asserted	☐ Yes - Denied ☐ No - Accepted
	☐ Asserted ☐ Not Asserted	☐ Yes - Denied ☐ No - Accepted
	☐ Asserted ☐ Not Asserted	☐ Yes - Denied ☐ No - Accepted
	☐ Asserted ☐ Not Asserted	☐ Yes - Denied ☐ No - Accepted

3.4 To what extent is the chemical claimed as a trade secret available to the public or your competitors in products, articles, or environmental releases?

3.5 In order to show the validity of a trade secret claim, you must identify your specific use of the chemical claimed as a trade secret and explain why it is a secret of interest to competitors. Therefore:

(i) Describe the specific use of the chemical claimed as trade secret, identifying the product or process in which it is used. (If you use the chemical other than as a component of a product or in a manufacturing process, identify the activity where the chemical is used.)

(ii) Has your company or facility identity been linked to the specific chemical identity claimed as trade secret in a patent or in publications or other information sources available to the public or your competitors (of which you are aware)?

☐ Yes ☐ No

If so, explain why this knowledge does not eliminate the justification for trade secrecy.

(iii) If this use of the chemical claimed as trade secret is unknown outside your company, explain how your competitors could deduce this use from disclosure of the chemical identity together with other information on the EPCRA submittal form.

(iv) Explain why your use of the chemical claimed as trade secret would be valuable information to competitors.

3.6 Indicate the nature of the harm to the competitive position that would likely result from disclosure of the specific chemical identity and why such harm would be substantial.

- 3.7** Describe the factors that influence the cost of determining the identity of the chemical claimed as trade secret by chemical analysis of the product, article, or waste that contains the chemical (e.g., whether the chemical is in pure form or is mixed with other substances).

Section 4. Certification (Read and then sign with date after printing)

I certify under penalty of law that I have personally examined the information submitted in this and all attached documents. Based on my inquiry of those individuals responsible for obtaining the information, I certify that the submitted information is true, accurate, and complete and that those portions of the substantiation claimed as confidential would, if disclosed, reveal the chemical identity being claimed as a trade secret or would reveal other confidential business or trade secret information. I acknowledge that I may be asked by the Environmental Protection Agency to provide further detailed factual substantiation relating to this claim of trade secrecy and certify to the best of my knowledge and belief that such information is available. I understand that if it is determined by the Administrator of EPA that this trade secret claim is frivolous, EPA may assess a penalty of up to \$25,000 per claim. This penalty is subject to the [Federal Civil Penalties Inflation Adjustment Act](#).

I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.

4.1 Name and official title of owner or operator or senior management official

4.2 Signature (All signatures must be original wet ink)

4.3 Date Signed:

X

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Part 2: Unsanitized Claim Information (Confidential)

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- ☐ Section 312 Emergency and Hazardous Chemical Inventory Form
- ☐ Section 313 Toxics Release Inventory Report

1.2 Reporting Year:

1.3.b.i. Chemical Abstract Service Registry Number (CAS-RN):

1.3.b.ii. Specific Chemical Identity:

Section 2. Facility Identification Information

2.1 Name:

2.2 Street Address:

2.3 City, State, and Zip Code:

2.4 Dun and Bradstreet Number:

Section 3. Substantiation Questions

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(iii) If this use of the chemical claimed as trade secret is unknown outside your company, explain how your competitors could deduce this use from disclosure of the chemical identity together with other information on the EPCRA (i.e., SARA Title III) submittal form.

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4.1 Name and official title of owner or operator or senior management official

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